EXTENSIONS OF REMARKS

FOSTER GRANDPARENTS PROGRAM

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Friday, June 5, 1970

Mr. METCALF. Mr. President, if there is one program which has proven unqualifiably successful in the gamut of Federal projects of assistance to the disadvantaged in our society, it is the foster grandparents program. This program provides important jobs for the low-income aged and it provides loving, human guidance for children with mental or other disabilities. The results of a foster grandparent's help to a retarded child have been obvious to all who have participated in or viewed the project: An elderly citizen gains fulfilling employment, and a child's personality blossoms under the care and love of a lasting relationship.

I recently received a letter which describes in moving terms the beautiful results of one case of a foster grandparent's assistance. Unfortunately the program described in this letter has been subjected to the same blind 5 percent across-the-board cut that many excellent services have suffered during the present fiscal year. As a consequence, five people are being eliminated from a total of 35 participants. It is tragic that a program which has demonstrated its truly wonderful results for such a small cost should be chopped back by simplistic budgetary hacking—another victim of the blind flailing of Nixonomics.

Mr. Chairman, I ask unanimous consent that this touching letter from Mrs. Lawrence J. Turner be printed in the Extensions of Remarks.

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

HELENA, MONT.,
May 12, 1970.

HON. LEE METCALF,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR METCALF: It was recently called to my attention that funds for the "Foster Grandparents" program for the Helena area had been sharply curtailed for the coming year. Since I understand that these funds are entirely Federal, I feel impelled to tell you what the program has meant to one Montana family.

In the summer of 1969 I uprooted my family and moved them to Helena because of the good schools here but primarily because Helena had a program for retarded children in the school system and we had a six year old we hoped to enroll under that program. You can imagine our disappointment when we found that Helena had no class last fall to fit our Matthew! The school officials knew of our problem and our concern and put us in touch with the director of the "Foster Grandparents" program in this area, Miss Joan Duncan.

Since last September, Matthew has spent between 4 and 5 hours daily five days per week in town with his "Foster Grandmother" Mrs. Henry Strandberg. He is picked up at our door and returned home by a driver who is also a "Foster Grandparent." All of this however, would be irrelevant, were it not for the growth and change we see in Matthew. Where before he was so painfully shy that he would hide his face sometimes when I asked him a question—now he smiles and answers when spoken to even by casual acquaintances.

There will be a special education class for Matt in the regular school system next fall but without the attention and care given him by Mrs. Strandberg and others like her. His progress would have been slower and less certain. I feel that other children who have mental or emotional or environmental handicaps can benefit far beyond the dollar cost from this program.

There is another side to the program too that certainly should receive consideration. I have been strongly impressed with the caliber of people who are "Foster Grandparents" and who direct the program. How fulfilling it must be to these elderly people to be able to use a lifetime of wisdom, love, happiness and sorrows to help some youngster who desperately needs just the kind of help that they can give and have the time to give thanks to the small income the work gives them. How much better to have this marvelous work to do than to feel that life is over just because one has become gray haired and had to slow down.

Locally, the work has had another accidental dividend for Miss Duncan happens to be a Negro. This is the first contact Mattie has had with one of her race and it makes all of us happy that he has accepted her as casually as any other friend, a priceless experience for him.

I know that the pressure for funds is great but will appreciate your giving this matter some thought at least, Senator.

Sincerely,

LAWRENCE J. TURNER.

THE REPUBLIC OF ITALY: 24TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. BIAGGI. Mr. Speaker, June 2 marked the 24th anniversary of the birth of the Republic of Italy. That historic event of 24 years ago has proved of immense significance to the people of Italy, to Europe, and to the free world.

During the last war the people of Italy suffered under their Fascist leaders, and they were sadly misled. Fortunately, with the victory of the Allies, Italians felt that under Allied supervision, they had a better claim for the form of government under which they wanted to live. Their claim was not in dispute; the governments of the Allies gladly allowed the Italians to vote for the form of government they wanted, and this they did on June 2, 1946. In the plebiscite held then they voted for the establishment of a republican form of government, thereby ushering in a new era in the modern history of Italy.

Today the Republic of Italy is of age, and has become a real and dependable force in the free world's struggle against totalitarian tyranny. The Italian people are justly proud of their form of government, and have shown firm determination to maintain it.

Under the republican form of government, Italy has significantly increased her economic, cultural, and religious contributions to the nations of the free world. America in particular has enjoyed the benefits of Italian industry, art, and science as well as the spiritual leadership of the Vatican.

The exchange in trade and ideas of the last two decades has materially strengthened the ties between our two countries and has served as an inspiration to the millions of faithful Italo-Americans who look with pride to Italy, their country of national origin.

I, therefore, wish the people of the Republic of Italy fortitude in their worthy resolve and I know that, together with their American counterparts, the United States, Italy, and the free nations of the world will benefit by their endeavors.

FEDERAL INTEREST SUBSIDY NEEDED FOR MITCHELL-LAMA HOUSING

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. RYAN. Mr. Speaker, on Wednesday, June 3, it was my privilege to appear before the Subcommittee on Housing of the Committee on Banking and Currency to testify on the 1970 housing legislation. I was particularly concerned, in presenting my views, about three bills which I have introduced—H.R. 49, H.R. 14435, and H.R. 17885—which are of direct and immediate relevance to easing the disastrous plight of the thousands of tenants in Mitchell-Lama housing in New York. Because of soaring interest rates and tight money policy, these middle-income individuals and families are experiencing exhorbitant increases in rentals and carrying charges which they simply cannot afford.

Under the Mitchell-Lama middle-income housing program, New York City and New York State float bonds, the proceeds of which may be loaned to private sponsors of middle-income housing who agree to limit their rate of return. Local real estate tax abatement also helps to keep down rentals and carrying charges.

Two years ago, the Subcommittee on Housing incorporated in the Housing and Urban Development Act of 1968 my bill to make State and locally financed limited profit middle-income housing programs, such as Mitchell-Lama, eligible for section 236 interest subsidies and rent supplements. This was an important step forward.

However, already existing developments were not covered. Yet, clearly this assistance is necessary, since many Mitchell-Lama developments are still under temporary financing. To provide

this assistance, which would apply to all Mitchell-Lama-type programs—in Connecticut, Illinois, Massachusets, Michigan, New Jersey, New York, and Pennsylvania—I introduced H.R. 49 on the first day of the 91st Congress. I subsequently introduced this bill with 11 cosponsors as H.R. 4308. My colleagues who joined me in this bill were: Mr. BIAGGI of New York, Mr. CONYERS of Michigan, Mr. FARBSTEIN of New York, Mr. GAYDOS of Pennsylvania, Mr. HALPERN of New York, Mr. HELSTOSKI of New Jersey, Mr. JOELSON of New Jersey, Mr. KOCH of New York, Mr. MCCARTHY of New York, Mr. NIX of Pennsylvania, and Mr. ROSENTHAL of New York.

The aim of the bill is to allow existing housing projects to apply for the relief they need to keep rents, carrying charges and interest rates within the reach of the middle-income residents whom the projects are designed to serve. It does little good to construct new projects if facilities already in existence cannot maintain costs that are commensurate with the means of their tenants. And in light of the exorbitant interest rates that now exist, these costs are reaching such heights that in some way they must be stemmed.

An important advantage of this proposal is that it would cost the Federal Government less to subsidize the interest rate on a Mitchell-Lama housing project down to 1 percent than to subsidize a privately financed project down to an interest rate of 1 percent. This is because interest rates for the Mitchell-Lama program are already at levels which are lower than the regular market rate. Since the State does not finance the interest rate—but simply offers a below market interest return to the holders of its bonds—the Federal subsidy would not constitute a second subsidy. I should note, also, that subsidization down to 1 percent is, of course, the optimum but, as section 236 is written, subsidization could be down to 3 percent or 2 percent and the relief afforded would still be significant and welcome.

A companion bill to H.R. 49 (H.R. 4308) is H.R. 14435. This bill lowers from 25 percent to 20 percent the part of a tenant's income that is spent for rent in the section 236 program and in the rest supplement program. I offered this as an amendment to section 236 on the floor last October 22, during consideration of the 1969 housing legislation, and it was adopted then. Unfortunately, in the conference this provision was dropped.

The need for this amendment is no less today. The high costs of housing have caused serious problems for many tenants who cannot afford to pay 25 percent of their income for rent.

Finally, I have introduced H.R. 17885, which amends paragraph 2 of section 236(i) of the National Housing Act. Currently, eligibility for section 236 housing is largely limited to families whose incomes do not exceed, at the time of initial occupancy, 135 percent of the maximum income limits for public housing in the area. Only 20 percent of section 236 funds can be used for families whose income exceed this 135 percent limit, but even then, their incomes cannot exceed 90 percent of the limits set for section 221(d)(3) housing. Actually, in New York City, the 135 percent of public housing limits formula and the 90 percent of section 221(d)(3) formula come out quite close.

The simple fact of the matter is that these eligibility limitations are too stringent. There are many families for whom section 236 subsidization is necessary, yet whose incomes exceed the present statutory limits. H.R. 17885 rectifies this problem by abolishing the percentage limits now in the law, and substituting in their stead the administrative discretion of the Secretary of the Department of Housing and Urban Development to set income limits taking into account the housing costs of the area in which the project receiving subsidization is located.

Obviously, the extremely high costs in metropolitan areas will persuade the Secretary to set income limits sufficiently high to meet the needs of those families who, while possessed of income apparently sufficient in amount, actually cannot pay the rentals which follow upon these high costs.

By this approach, middle-income families whose incomes exceed the present eligibility limits, yet who cannot afford conventional housing, would be made eligible.

I want to express my appreciation to Chairman BARRETT and the other members of the subcommittee for their courtesy and concerned attention yesterday in listening to, and querying with penetrating and concerned questions, the witnesses who testified on the legislation which I have introduced to ameliorate the problem.

The members of the subcommittee commended the witnesses who appeared and testified as one of the most intelligent and articulate panels they have heard. Their abilities, expertise, and messages were, indeed, impressive. These witnesses were: The Honorable Charles J. Urstadt, New York State Commissioner of Housing and Community Renewal; the Honorable Avrum Hyman, New York State Assistant Commissioner of Housing and Community Renewal; State Senator Manfred Ohrenstein, New York State Senate; Miss Shirley Sanderson, vice president, board of directors, RNA House and chairman, joint action committee, West Side Mitchell-Lama; Warren Holder, Westgate Tenants' Association; Mrs. Edna Luftig, chairman, Mitchell-Lama Action Committee, Metropolitan Council on Housing and vice president, board of directors, Franklin Plaza; Harold Ostroff, executive vice president, United Housing Foundation, Inc.; Jack Braunstein, legislative director, Council of Limited Profit Mutual Housing Companies, Inc.; Murray Raphael, president, Council of Limited Profit Mutual Housing Co's., Inc.; and Joseph Cox, vice president, Council of Limited Profit Mutual Housing Co's., Inc.

All of the witnesses emphasized the critical situation facing tenants and cooperators of Mitchell-Lama housing. I should like to commend to my colleagues State Senator Ohrenstein's testimony, a copy of which follows. Senator Ohrenstein's cogent statement makes eminently clear the dire housing situation that now exists and the consequent urgent need for passage of H.R. 49—companion bill H.R. 4308—and H.R. 14435:

STATEMENT OF STATE SENATOR MANFRED OHRENSTEIN

I am here today to support in the strongest possible way Congressman William F. Ryan's bill, H.R. 49 (companion bill H.R. 4308), and its companion measure H.R. 14435, authorizing the extension of the FHA interest subsidy program to existing middle-income housing projects and adjusting the eligibility requirement to include tenants who spend twenty percent of their income on housing. We also are supporting H.R. 17885, which permits the Secretary to adjust the maximum allowable income requirements in accordance with local housing costs.

Although, of course, I speak particularly on behalf of my own constituents who live on the West Side of Manhattan, I want to emphasize that I am also very specifically representing the will of the entire Legislature of the State of New York. Less than two months ago the Legislature enacted a resolution I introduced urging Congress to "make interest subsidy assistance available to existing state and locally aided middle income housing." Therefore, in a very real sense, I speak today not only for my constituents, but for all the citizens of New York State. I emphasize this point because I want to make it clear that although the housing crisis is most acute and most inflammable in New York City, the same problems are rapidly reaching crisis proportions in all of our cities.

Fifteen years ago New York State recognized its obligation to provide and maintain adequate housing for its large proportion of moderate income citizens. Many of these were and are elderly people on fixed incomes; most of the rest are civil servants and others in occupations where incomes do not rise concurrently with increases in the cost of living. At its inception, and for several years thereafter, New York's Mitchell-Lama program was adequately financed through tax abatement and "low interest" loans. Drastic shifts in economic conditions over the last five years, however, have completely bankrupted the program. The old tools just cannot be stretched any further. Construction and operating costs have skyrocketed to such a degree that tenants and co-operators face increases of 15 percent or more every two years. For example, one building occupied in 1967 at about $30 a room has already had an increase, bringing the rent to $39 a room, and now is being asked to take another increase of $11.00 per room.

The single largest factor in the spiraling cost picture is the mortgage interest rate, now at an all time high. The fact that money itself is the most expensive and least adjustable item in government's effort to provide decent living conditions for its citizens is, I think, a most regrettable comment on our economy and our sense of priorities.

The city and the state have exhausted their resources for subsidizing construction and maintenance of moderate income housing. To arrange permanent financing at the present astronomically high interest rates would demand increases in rents and carrying charges so far beyond the middle income range that the Mitchell-Lama program would no longer reach any of those for whom it was designed.

Gentlemen, we absolutely *must* have an extension of the interest subsidy program to cover existing moderate income houses. We ask only that you provide the same aid to already occupied buildings as you offer to new projects. Without such aid we will be unable to continue a moderate income housing program in New York

At tne same time we are urgently seeking a chance in the federal eligibility regulations from 25 percent to 20 percent so that this subsidy program will have maximum impact. Insistence on the tenant spending more than one fourth of his gross income on housing as a pre-requisite for subsidizatoin is, in our current economy, unrealistic. Further, the program under which these projects were occupied is based on a much lower housing to income ratio. Thus, only with a twenty percent housing/income ratio requirement can H.R. 49 (comparison bill H.R. 4308) provide effective aid to existing middle income buildings and their tenants.

The extent and seriousness of the crisis in middle income housing cannot be exaggerated. If this crisis is not substantially alleviated very soon—that is within a matter of months, we believe the city may very well suffer permanent harm. Certainly flight, however reluctant—from the city by any group of its citizens cannot easily be reversed. For any city to lose a substantial number of its stable, responsible middle class is a disaster of immeasurable proportions.

As I said at the beginning of my testimony, New York—the state *and* the city—were pioneers in recognizing their obligation to provide decent housing for their citizens. For fifteen years we have provided increasingly substantial aid, often at not inconsiderable sacrifice to other programs. Now our resources are exhausted. We must have help—and we must have it now, before an already dangerous crisis becomes an irrevocable disaster.

I also include in the RECORD the very persuasive statement of Harold Ostroff, executive vice president of United Housing Foundation, Inc.:

STATEMENT OF HAROLD OSTROFF BEFORE THE COMMITTEE ON BANKING AND CURRENCY, HOUSE OF REPRESENTATIVES, JUNE 3, 1970

Mr. Chairman, members of this distinguished Committee, my name is Harold Ostroff. I am Executive Vice President of the United Housing Foundation, which maintains its offices at 465 Grand Street in New York City. Since 1951, the United Housing Foundation has been engaged in the organization and development of low and moderate cost housing cooperatives in the City of New York. Some 50,000 units of such housing have been created through the efforts of the Foundation and its member organizations.

I appreciate the invitation to testify in support of H.R. 4308. This bill could be of great assistance to tens of thousands of families who are witnessing the steady erosion of their pay checks due to the insidious inflation which has gripped the nation for the past several years. I would hope that every governor, every mayor and every housing administrator would support the passage of this legislation.

Mr. Chairman, I believe our nation is facing an economic and social disaster of unparalleled proportions. I believe only Congress can save us from such disaster. In my opinion, we face this critical situation because those who control the monetary policy of the nation don't—to use the slogan of the New York Coalition—"give a damn" for the welfare of those families with low and moderate incomes, and these are the great majority of the American people.

The high interest policy of the banks, insurance companies, the Federal Reserve System and the present Administration, has created a situation whereby people simply cannot afford to buy homes or rent apartments at today's high costs. Let me illustrate:

Today, in New York City, the cost of producing an apartment is estimated at approximately $20,000 to $25,000. Using an average figure of $22,500, the amount of mortgage funds required, after a small allocation for equity, would be $20,000.

At the current rate of interest in the conventional market, the debt service would amount to approximately 10%; in other words, at least $2,000 per year would have to be set aside out of operating income to pay for debt service. This means that each month each apartment unit would have to provide a little over $167 for the interest and amortization payments.

All other operating expenses exclusive of real estate taxes in a non-profit housing company would amount, at a very conservative estimate, to about $40 per month, bringing the monthly payment for an apartment to $207. Assuming, with the aid of real estate tax adjustment at the local level, a real estate tax payment of only 10% of shelter rent, we would have to add an additional $20 per month per apartment for taxes. This would bring the total monthly rental to $227 per apartment. This means an annual payment of $2,724 for shelter. To be able to support this rental, a family would have to earn at least $13,500 per year.

It is readily apparent, therefore, that approximately 90% of our citizens cannot afford this kind of housing.

Let us now substitute for 10% on the conventional money market a figure of close to 7%, which is the current estimate for financing in New York State under its Limited-Profit housing program. The $227 rental would be reduced by approximately $50 to a figure of $177 per month, still far above the means of the low and moderate income family in our cities.

I believe this illustrates quite dramatically the problem and suggests that the solution must focus on the ability to subsidize either the original capital cost or the annual interest payments.

In 1965 we estimated the cost for financing Co-op City, a 15,372 unit cooperative development we are building in New York City. Mr. Chairman, in four years the carrying and finance charges for this cooperative have increased from $16,700,000 to $32,900,000, a 100% increase. The cost of construction has increased from $267,000,000 to $307,000,000, a 15% increase. In four years the monthly carrying charges per room have been increased by 16%.

One final illustration: Two and a half years ago we estimated the cost for building a six thousand unit cooperative. Based on a 4.25% interest rate, the interest and amortization would amount to $6,510,000. At today's interest rates the interest and amortization costs have increased to $10,793,000—an increase of 65.8%. This and other increased costs would necessitate average carrying charges of $37.18 a room per month, instead of the proposed charges of $23.64.

Unfortunately, Mr. Chairman, these are not unique examples of what has happened under a program which was designed to produce housing at $18–20 a room under the New York State Limited-Profit Housing Companies Law. As a matter of fact, the examples I have cited are not typical because most of the housing being produced under that program today is renting from $50 to $60 a room per month. This certainly is not housing that families with moderate incomes can afford.

The housing crisis this nation is experiencing is not simply an urban problem. It is a national situation affecting rural areas, the suburbs and small as well as large cities. Many of our urban problems have their roots in rural slums and rural poverty. Unless we face up to the realities of the fact that housing is a national situation affecting all regions of the country, we are not going to solve these problems. Most states and most cities have gone about as far as they can go to meet these housing problems. I submit that once and for all it is the duty and responsibility of Congress to take effective action which will result in attaining the objectives of the Housing Acts which were passed in 1949 and 1968.

Mr. Chairman, the Housing Act of 1968 kindled the hopes of millions of Americans that the omnibus provisions of that legislation and, in particular, the sections which provided for mortgage subsidies and for rent subsidies, would alleviate the deplorable national housing situation. Frankly, those hopes have not been realized. The housing situation is worse today than it has been at any time since the end of World War II.

There is but one reason for the chaotic housing situation. It is high interest rates. It is the reason housing is not being built in quantities needed to meet the needs of the nation. It is the reason the housing which is being built is beyond the means of ninety percent of the people. No matter how much money is available for housing mortgages, it is not going to provide housing for the vast majority of people who desperately need it, as long as the present high interest rate policy is permitted to continue.

It seemed to many people that in 1968, largely through the efforts of this distinguished Committee, Congress had made a commitment for a workable program for creating low and moderate cost housing when it passed the 1968 Housing Act, which contained section 236. However, when it came time to translate the commitment into reality by appropriations, the commitment almost vanished by the meager funds which were voted to implement the Act.

In my mind it is a cruel and callous hoax for an Administration or for Congress to raise the hopes of people that a meaningful program will be initiated, and then dash them by inadequate appropriations.

The Housing Administrator of the City of New York, Albert Walsh, recently proposed an expenditure of 4½ billion dollars annually for mortgage, tax and operating payments. This amount, over what people can reasonably be expected to pay for housing, would make it possible to provide good housing for all. This is, indeed, a small fraction of our national budget.

I propose, Mr. Chairman, that over and above any presently budgeted amounts for the rebuilding of our cities, an additional 10 billion dollars be provided annually, either for direct capital cost subsidies or interest subsidies for housing, education, mass transportation and environmental improvements.

I would propose that the monies thus created be administered by a government agency. This agency would have the authority to make either outright grants or direct loans.

A direct lending program could have the competitive result of bringing down the usurious rates now in effect in the private money markets. Since the funds to be lent should be derived from general revenues and not borrowed by the government agency, it would be entirely sound, economically, to make loans at rate simply sufficient to cover administrative costs and to provide a reserve against possible losses. Experience with other similar direct lending programs clearly indicates that the government could "make money" at a 3% or even perhaps 2% lending rate.

How can our nation provide this sum? We take tremendous pride in the fact that our gross national product is fast approaching the astounding figure of one trillion dollars a year. If we are as concerned about the problem as we all declare, a 1% allocation of the gross national product, towards providing additional funds for the above purposes, would be a relatively minor sacrifice.

I have deliberately stayed away from suggesting a time period, but do suggest that this allocation be continued until we have solved the problem.

Is it asking too much to suggest that this nation's goods and services should produce a meager 1% of additional monies to tackle

on a massive basis the massive problems facing us?

I believe this Congress has an obligation and a grave responsibility to the American people to reorient the nation's priorities. It is not only the youth of this nation who are calling for an immediate end to the senseless war which is sapping the physical and moral resources of the country. It is the aged, the middle-aged, as well as the youth, who are calling for an end to an economy based on feeding an insatiable military-industrial machine.

The people are looking to Congress to be constitutional constructionists and to end a war they never declared. To end the senseless killing, maiming and mass destruction which has been going on for so long and which has cost us all over one hundred billion dollars. We are looking to Congress for constructive programs which will provide the means for using our resources to achieve decent homes, adequate schools and hospitals in all sections of the country, for mass transit facilities and for an environment free of contamination.

We look to Congress for total commitment towards these ends. Total commitment to programs of social improvement is what has made this country great. The welfare of large numbers of people were placed before the special interests of a few when, through past Congress, the nation became totally committed to such monumental projects as the Tennessee Valley Authority, the Rural Electrification system and the St. Lawrence Seaway. I submit that it is urgent for this same kind of commitment to be made to elimiinate the blight which is the shame of the nation, and to achieve the kind of a society all citizens have a right to expect.

I urge you to improve the 236 housing program by approving this bill, H.R. 4308. I urge that you keep your commitment to the American people by making the 236 program meaningful, viable and practical by providing the necessary funding to make it possible for all Americans to live in decency with dignity.

SPEAKER JOHN W. McCORMACK

HON. JOHN DOWDY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 26, 1970

Mr. DOWDY. Mr. Speaker, I would like to join my colleagues in paying tribute to our distinguished Speaker of the House, the Honorable JOHN W. McCORMACK, of Massachusetts.

In the days that have followed his announcement of plans to retire at the conclusion of the current session of Congress, Speaker McCORMACK has been honored by my colleagues in many laudatory remarks about his many outstanding attributes. I endorse and echo each sentiment so expressed.

It has been a district privilege to serve in this body with such a fine person. The gentleman from Massachusetts is a true gentleman. He has always been a kind and considerate person, and I have always valued him as a genuine friend.

Above all, JOHN McCORMACK is a great American. The House will sorely miss his leadership and his unceasing efforts to do the things he believed right for our Nation. But as he leaves this body, we may all take comfort from the fact that he shall never stop working for the good of his country.

FACULTIES AND PARENTS SHOULD REASSERT AUTHORITY

HON. BARRY GOLDWATER

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Friday, June 5, 1970

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks a letter entitled "Faculties, Parents Should Reassert Authority, History Professor Says," written by Dr. K. Ross Toole, professor of history at the University of Montana, and published in the Baltimore Evening Sun on May 11, 1970.

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

A VOICE OF THE OLDER GENERATION—FACULTIES, PARENTS SHOULD REASSERT AUTHORITY, HISTORY PROFESSOR SAYS

(By Dr. K. Ross Toole)

I am 49 years old. It took me many years and considerable anguish to get where I am—which isn't much of any place except exurbia. I was nurtured in depression; I lost four years to war; I am invested with sweat; I have had one coronary; I am a "liberal," square and I am a professor. I am sick of the younger generation, hippies, Yippies, militants and nonsense.

I am a professor of history at the University of Montana, and I am supposed to have "liaison" with the young. Worse still, I am father of seven children. They range in age from 7 to 23—and I am fed up with nonsense.

I am tired of being blamed, maimed and contrite; I am tired of tolerance and the reaching out (which is always my function) for understanding. I am sick of the total irrationality of the campus rebel, whose bearded visage, dirty hair, body odor and tactics are childish but brutal, naive but dangerous, and the essence of arrogant tyranny—the tyranny of spoiled brats.

AN APOLOGY

I am terribly disturbed that I may be incubating more of the same. Our household is permissive, our approach to discipline is an apology and a retreat from standards—usually accompanied by a gift in cash or kind.

It's time to call a halt: time to live in an adult world where we belong and time to put these people in their places. We owe the younger generation what all older generations have owed younger generations—love, protection to a point, and respect when they deserve it.

We do not owe them our souls, our privacy, our whole lives, and above all, we do not owe them immunity from our mistakes, or their own.

Every generation makes mistakes, always has and always will. We have made our share. But my generation has made America the most affluent country on earth; it has tackled head-on a racial problem which no nation on earth in the history of mankind had dared to do.

WAR ON POVERTY

It has publicly declared war on poverty and it has gone to the moon: it has desegregated schools and abolished polio; it has presided over the beginning of what is probably the greatest social and economic revolution in man's history.

It has begun these things, not finished them. It has declared itself and committed itself, and taxed itself, and damn near run itself into the ground in the cause of social justice and reform.

Its mistakes are fewer than my father's generation—or his father's or his. Its greatest mistake is not Vietnam; it is the abdication of its first responsibility, its pusillanimous capitulation to its youth, and its sick preoccupation with the problems, the mind, the psyche, the raison d'etre of the young.

Since when have children ruled this country? By virtue of what right by what accomplishment should thousands of teen-agers, wet behind the ears and utterly without the benefit of having lived long enough to have either judgment or wisdom, become the sages of our time?

The psychologists, the educators and preachers say the young are rebelling against our archaic mores and morals, our materialistic approaches to life, our failures in diplomacy, our terrible ineptitude in racial matters, our narrowness as parents, our blindness to the root ills of society. Balderdash!

Society hangs together by the stitching of many threads. No 18-year-old is simply the product of his 18 years; he is the product of 3,000 years of the development of mankind—and throughout those years, injustice has existed and been fought; rules have grown outmoded and been changed; doom has hung over men and been avoided; unjust wars have occurred; pain has been the cost of progress—and man has persevered.

As a professor and the father of seven, I have watched this new generation and concluded that most of them are fine. A minority are not—and the trouble is that that minority threatens to tyrannize the majority and take over.

AS A FATHER

I dislike that minority: I am against that the majority takes it and allows itself to be used. And I address myself to both the minority and the majority. I speak partly as an historian, partly as a father and partly as one fed up, middle-aged and angry member of the so-called establishment—which, by the way, is nothing but a euphemism for society.

Common courtesy and a regard for the opinions of others is not merely a decoration on the pie crust of society, it is the heart of the pie. Too many youngsters are egocentric boors. They will not listen, they will only shout down. They will not discuss but, like 4-year-olds, they throw rocks and shout.

Arrogance is obnoxious; it is also destructive. Society has drastically ostracized arrogance without the backing of demonstrable accomplishment. Why, then, do we tolerate arrogant slobs who occupy our homes, our administration buildings, our streets and parks, urinating on our beliefs and defiling our premises?

OUR FAULT

It is not the police we need (our generation and theirs); it is an expression of our disbust and disdain. Yet we do more than permit it. We dignify it with introspective flagellation. Somehow it is our fault. Balderdash again!

Sensitivity is not the property of the young, nor was it invented in 1950. The young of any generation have felt the same impulse to grow, to reach out, to touch stars, to live freely and to let the minds loose along unexplored corridors.

Young men and young women have always stood on the same hill and felt the same vague sense of restraint that separated them from the ultimate experience—the sudden and complete expansion of the mind, the final fulfillment. It is one of the oldest, sweetest and most bitter experiences of mankind.

Today's young people did not invent it; they do not own it. And what they seek to attain, all mankind has sought to attain throughout the ages. Shall we, therefore, approve the presumed attainment of it through heroin, speed, LSD and other drugs?

And shall we, permissively, let them poison themselves simply because, as in most other

respects, we feel vaguely guilty because we brought them into the world?

VAGUELY GUILTY

Again, it is not police raids and tougher laws that we need; it is merely strength. The strength to explain, in our potty, middle-aged way, that what they seek, we sought; that it is somewhere but not here and sure as hell not in drugs; that, in the meanwhile, they will cease and desist the poison game. And this we must explain early and hard and then police it ourselves.

Society—the establishment—is not a foreign thing we seek to impose on the young. We know it is far from perfect. We did not make it; we have only sought to change it. The fact that we have only been minimally successful is the story of all generations—as it will be the story of the generation coming up. Yet we have worked a number of wonders. We have changed it.

SEA OF TROUBLES

We are deeply concerned about our failures; we have not solved the racial problem but we have faced it; we are terribly worried about the degradation of our environment, about injustices, inequities, the military-industrial complex and bureaucracy. But we have attacked these things. We have, all our lives, taken arms against our sea of troubles—and fought effectively.

But we also have fought with a rational knowledge of the strength of our adversary; and, above all, knowing that the war is one of attrition in which the unconditional surrender of the forces of evil is not about to occur. We win, if we win at all, slowly and painfully. That is the kind of war society has always fought, because man is what he is.

Knowing this, why do we listen subserviently to the violent tacticians of the new generation? Either they have total victory by Wednesday next or burn down our carefully built barricades in adolescent pique; either they win now or flee off to a commune and quit; either they solve all problems this week or join a wrecking crew of paranoids.

IMPATIENT IDEALISM

Youth has always been characterized by impatient idealism. If it were not, there would be no change. But impatient idealism does not extend to guns, fire bombs, riots, vicious arrogance, and instant gratification.

That is not idealism; it is childish tyranny. The worst of it is that we (professors and faculties in particular) in a paroxysm of self-abnegation and apology, go along, abdicate, apologize as if we had personally created the ills of the world—and thus lend ourselves to chaos. We are the led, not the leaders. And we are fools.

As a professor I meet the activists and revolutionaries every day. They are inexcusably ignorant. If you want to make a revolution, do you not study the ways to do it? Of course not! Che Guevarra becomes their hero. He failed; he died in the jungles of Bolivia with an army of six. His every move was a miscalculation and a mistake.

Mao Tse-tung and Ho Chi Minh led revolutions based on a peasantry and an overwhelmingly ancient rural economy. They are the pattern-makers for the SDS and the student militants.

JEFFERSON, WASHINGTON

I have yet to talk to an activist who has read Crane Brinton's "The Anatomy of Revolution," or who is familiar with the works of Jefferson, Washington, Paine, Adams or even Marx or Engels.

And I have yet to talk to a student militant who has read about racism elsewhere and/or who understands, even primitively, the long and wondrous struggle of the NAACP and the genius of Martin Luther King—whose name they invariably take in vain.

An old and scarred member of the wars of organized labor in the U.S. in the 1930's recently remarked to me, "These radicals couldn't organize well enough to produce a sensible platform let alone revolt their way out of a paper bag." But they can, because we let them destroy our universities, make our parks untenable, make a shambles of our streets, and insult our flag.

I assert that we are in trouble with this younger generation not because we have failed our country, not because of affluence or stupidity, not because we are anti-deluvian, not because we are middle-class materialists—but simply because we have failed to keep that generation in its place and we have failed to put them back there when they got out of it.

We have the power; we do not have the will. We have the right, we have not exercised it.

SELF-APPRAISAL

To the extent that we now rely on the police, mace, the National Guard, tear gas, steel fences and a wringing of hands, we will fail.

What we need is a reappraisal of our own middle-class selves, our worth and our hard-won progress. We need to use disdain, not mace, we need to reassess a weapon we came by the hard way, by travail and labor, by firm authority as parents, teachers, businessmen, workers and politicians.

The vast majority of our children from 1 to 20 are fine kids. We need to back this majority with authority and with the firm conviction that we owe it to them and to ourselves, enough of our abdication of responsibility, enough of the denial of our own maturity and good sense.

The best place to start is at home. But, the most practical and most effective place right now, is our campuses. This does not mean a flood of angry edicts, a sudden clamp down, a "new" policy. It simply means that faculties should stop playing chicken, that demonstrators should be met not with police but with expulsions. The power to expel (strangely unused) has been the legitimate recourse of universities since 1209.

GROUND RULES

More importantly it means that at freshman orientation, whatever form it takes, the administration should set forth the ground rules—not belligerently but forthrightly.

A university is the microcosm of society itself. It cannot function without rules for conduct. It cannot, as society cannot, legislate morals. It is dealing with young men and women, 18 to 22.

But it can, and must, promulgate rules. It cannot function without order—and, therefore, whoever disrupts order must leave. It cannot permit students to determine when, what and where they shall be taught; it cannot permit the occupation of its premises, in violation both of the law and its regulation, by militants.

There is room within the university complex for basic student participation but there is no room for slobs, disruption and violence. The first obligation of the administration is to lay down the rules early, clearly and positively, and to attach to this statement the penalty for violation. It is profoundly simple—and the failure to state it—in advance—is the salient failure of university administrators in this age.

DREADED VERDICT

Expulsion is a dreaded verdict. The administration merely needs to make it clear, quite dispassionately, that expulsion is the inevitable consequences of violation of the rules. Among the rules, even though it seems gratuitous, should be these:

1. Violence, armed or otherwise, the forceful occupation of buildings, the intimidation by covert or overt act of any student or faculty member or administrative personnel, the occupation of any university property, field, park, building, lot or other place, shall be cause for expulsion.

2. The disruption of any class, directly or indirectly, or the destruction of any university property, shall be cause of expulsion.

This is neither new nor revolutionary. It is merely the reassertion of an old, accepted and necessary right of the administration of any such institution. And the faculty should be informed, firmly, of this reassertion, before trouble starts.

This does not constitute provocatism. It is one of the oldest rights and necessities of the university community. The failure of university administrators to use it is one of the mysteries of our permissive age—and the blame must fall largely on faculties because they have consistently pressured administrators not to act.

A MATTER FOR COURTS

Suppose the students refuse to recognize expulsions, suppose they march, riot, strike. The police? No. The matter, by prearrangement publicly stated, should then pass to the courts.

If buildings are occupied, the court enjoins the participating students. It has the awful power to declare them in contempt. If violence ensues, it is a violation of the court's order. Courts are not subject to fears, not part of the action.

Too simple? Not at all. Merely an old process which we seem to have forgotten. It is too direct for those who seek to employ Freudian analysis, too positive for academic senates who long for philosophical debate and too prosaic for those who seek orgiastic self-condemnation.

This is a country full of decent, worried people like myself. It is also a country full of people fed up with nonsense. We need (those of us over 30)—tax-ridden, harried, confused, weary and beat-up—to reassert our hard won prerogatives. It is our country, too. We have fought for it, bled for it, dreamed for it, and we love it. It is time to reclaim it.

VIETNAM QUESTIONNAIRE

HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. PELLY. Mr. Speaker, I am sure my colleagues of the Congress will be interested in a tabulation of responses to my latest questionnaire. First I should explain that I sent this questionnaire to the first 1,000 names in each of the nine legislative districts in my congressional district as they appeared in the telephone directory. This provided a fair balance of representative views of this predominantly urban population. From the 10,000 questionnaires sent out I have received a return of more than 22 percent. These replies have been tabulated, and the results appear hereinafter.

Of special interest is the fact that I used the exact wording of Newsweek magazine's poll which reflects intensity of public feeling. The following comparison indicates a strong similarity of these two polls:

NIXON AS PRESIDENT

How satisfied are you with the way Richard Nixon is handling his job as President?

	Percent
Very satisfied:	
Newsweek poll	30
Pelly poll	38
Fairly satisfied:	
Newsweek poll	35
Pelly poll	26

	Percent
Not too satisfied:	
Newsweek poll	18
Pelly poll	17
Not at all satisfied:	
Newsweek poll	13
Pelly poll	19

A second comparison was with the results of identical questions I included in my newsletter sent to constituents in December 1969. The President's planned phase out of the Vietnam war is still preferred by my constituents.

DISENGAGEMENT OF U.S. TROOPS FROM SOUTHEAST ASIA

Should we?	Percent
Carry on limited military action, pursue the peace talk in Paris:	
December 1969	4
June 1970	2
Follow the Nixon policy of gradually phasing out U.S. troops and replacing them with South Vietnamese:	
December 1969	63
June 1970	58
Resume and expand bombing of North Vietnam:	
December 1969	16
June 1970	10
Withdraw immediately:	
December 1969	16
June 1970	30

The other questions dealt with presently proposed Senate amendments to limit the war. The questions and results are as follows:

CONGRESSIONAL ACTION TO LIMIT U.S. INVOLVEMENT IN CAMBODIA

Senators Frank Church (D. Ida.) and John Sherman Cooper (R. Ky.) have drafted an amendment to the Foreign Military Sales Bill which would prohibit the use of any funds to retain U.S. forces in Cambodia, pay U.S. instructors there, and conduct any combat activity in the air above Cambodia in support of Cambodian forces, unless Congress authorizes such operations. The amendment is intended to prevent further U.S. involvement in Cambodia; it would not have retroactive effect on the U.S. "clean-up" operations already underway unless those activities were expanded both in scope and duration. Do you?

	Percent
Approve	36
Disapprove	64

CONGRESSIONAL ACTION TO END U.S. MILITARY INVOLVEMENT IN SOUTHEAST ASIA

Senators George McGovern (D. S. Dak.) and Mark O. Hatfield (R. Ore.) announced they planned to offer an amendment to eliminate spending for military operations in Southeast Asia by the end of 1970. Do you?

	Percent
Approve	40
Disapprove	60

Mr. Speaker, one thing is clear; namely, in spite of college campus sentiment, the majority of my constituents support President Nixon's plan to end the war.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

SWEDISH PRIME MINISTER OLOF PALME SPEAKS BEFORE NATIONAL PRESS CLUB

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. REUSS. Mr. Speaker, today, in a thoughtful speech before the National Press Club, the Swedish Prime Minister, Mr. Olof Palme, sets out the reasons for Sweden's neutrality and gives some examples of Swedish contributions to international peacekeeping and improved international cooperation. I would especially like to bring the attention of Members to Sweden's initiative in proposing and organizing the United Natons Conference on the Human Environment which will be held in Stockholm in 1972. I commend Prime Minister Palme's speech to my colleagues:

ADDRESS BY THE SWEDISH PRIME MINISTER, MR. OLOF PALME, TO THE NATIONAL PRESS CLUB, FRIDAY, JUNE 5, 1970

I would like to devote this introduction to Swedish foreign policy to some general remarks on the relations between small countries and great powers and finally a few words about our internal problems.

We usually describe the fundamental principle of our Swedish foreign policy as freedom of alliances in peacetime aiming at neutrality in case of war.

It is essential, I think, to face up to the fact that the political attitudes of the various European states—including the neutrals—are almost always motivated by their geographical and strategic position as well as their historical experience. Sweden is no exception. Our longstanding neutrality is firmly rooted in our history and is based on the requirements of our position in the center of Scandinavia between East and West. Indeed, half of the East-West border in Europe is within the Scandinavian region. It is supported by all political parties in Sweden and by an overwhelming majority of our people. We are not going to depart from it.

And why should we? There has in fact been a remarkable stability prevailing in the north of Europe during the whole postwar period. We have reason to believe that this is due to the well-balanced political system which is formed by the Nordic countries. Denmark and Norway have joined the North Atlantic Alliance. Sweden and Finland are neutrals, Finland having a special treaty on friendship, cooperation and assistance with her great neighbor. This system has a good deal of inherent logic. It has proved to be a useful element of the postwar European structure. You cannot change a part of it without endangering the total stability.

A few years ago neutrality was looked upon in some quarters if not as an aberration then at least as a sign of questionable morality. This attitude is rare today. It was a satisfying experience for me when, during my recent visits to Bonn, London and Paris, I heard the governments of these countries expressing, in more or less the same words, that it was also in their interest that our policy of neutrality should be continued because it served the interest of peace and stability in Northern Europe.

Nordic cooperation is a keystone of our foreign policy. In spite of a difference in our external policies it has been possible to bring the Nordic countries ever closer to one another. We have abolished passports within Scandinavia. We have formed a common labor market, and we have achieved a high degree of coordination in our social legislation. Through EFTA we have abolished customs barriers between our countries. As a result, inter-Scandinavian trade has increased fourfold over the last decade and a far-reaching industrial cooperation has been initiated between our countries. We have concluded negotiations on an agreement for a more advanced economic cooperation—the so-called Nordek Plan—which is, however, yet to be signed. When we now enter into negotiations and discussions on a wider cooperation within Europe it is an important objective for us that this Nordic cooperation should be maintained.

A policy of neutrality must be credible. It must be possible to rely on our sincerity when we declare that our policy of no alliances in peacetime is a demonstration of our firm resolve to maintain our neutrality in war. People should be able to feel confident that neither Swedish territory nor Swedish resources will ever be used for aggression. Our policy of neutrality requires that the world can rely on our ability to remain neutral. It is for this reason that Sweden has built up what is, for a country like ours, a relatively powerful defense. Our per capita expenditure for defense purposes makes us number four in the world, after the United States, Israel, and the Soviet Union.

Neutrality does not mean isolation. A small country cannot permit herself to be isolated. The Swedish society is becoming more and more internationalized. We export about 50 per cent of our industrial production. Immigration is increasing rapidly. Mass media bring the world's troubles into our living rooms. We naturally feel involved and cannot turn our backs on the outside world.

Our neutrality does not condemn us to silence. Participation is to hold views and take stands. This follows already from our membership in the United Nations. We do not pretend to possess any superior wisdom, nor to have deeper insight than other nations. But the opinions of a small, neutral country like Sweden can never be reasonably conceived as an expression of ambitions of power politics or as hostility toward other nations. When we express opinions on different questions they are based on our own independent judgment. This is fully compatible with a foreign policy based on strict neutrality as far as the national security is concerned.

When we express our opinions on international problems, they generally reflect the same basic values as we try to implement in our internal development, and they also reflect our positions as a small country.

In his memoirs, the late President of Finland, Mr. Paasikivi, expresses, on the basis of a life-long practical experience, some very pessimistic thoughts on the future for small nations.

"We place our trust in the law," he wrote in a memorandum in 1940, and by that we mean the law as it is written. We also believe that every sovereign state and sovereign people have equal importance. But that is not so in practice. Estonia and Finland, with populations of 1 million and 3.5 million respectively, do not enjoy the same status nor, in reality, the same value as Germany with 70 to 80 million, or England with 50 million, or the Soviet Union with 180 to 200 million. International law was born at a time when there were numerous nations of similar size and importance and with the same kind of sovereignty. In real life things appear differently. This is a sad and dangerous fact for

us small nations. Aside from the judicial equality there exists a vast difference between a small nation and a big power. The tasks and the ambitions of a big power are different from those of the small nations. History shows that small countries must yield before big powers, even endure humiliation at their hands. "But small nations," he pointed out later on, "are constantly drawn against their will into major conflicts and into the maelstrom of international events. The danger that the small shall perish is ever-present."

His conclusion was that small nations should be very careful, very humble, and should try to keep out—then they might be allowed to live in peace. If small fish are sufficiently quiet and invisible they might escape the big fish.

Paasikivi was a very wise man who gave immense service to his country. His practical policy remains unchanged. If his conclusions as a general rule are no longer wholly tenable this is because the circumstances have changed towards a growing interdependence between all states in the world.

The power and the responsibility of the superpowers, as well as the difference in importance between small and big nations, have increased immensely. The vast arsenals which the super powers possess are an expression of this inequity between nations and of a growing insecurity in the world. At the same time they signify an immense technological superiority in many fields. Because of their technological capacity the great powers have access to the enormous resources of the ocean floor. The same superiority is evident in the exploration of outer space. We now witness a trend towards a kind of duopoly between the super powers. I hasten to add that this is not a wholly negative development. These powers are fully aware of their destructive potential. They know that open conflict might make life on earth impossible and they accordingly feel a responsibility to try to prevent local conflicts from developing into major conflagrations. Thus the balance of terror is a guarantee—though an increasingly fragile one—of peace. And if duopoly means cooperation then the danger of annihilation is reduced.

But the preeminence of the superpowers also carries certain risks for smaller nations. Great power superiority gains an increasing importance through the growing interdependence in the world. This is due to the economic and technological developments; to improved communications; and to the growing awareness especially among young people of a global unity. No country can escape or insulate itself from this development. Again, the arms race is a dramatic illustration of this. Armed conflict between the great powers would directly affect the whole world and cause unimaginable destruction and suffering to all mankind.

In this world of growing interdependence the idea of national independence and state sovereignty might seem obsolete. At the same time nationalism is on the upsurge. Nationalism is very much a reality for people who live under oppression. In newly independent countries it gives social cohesion and a sense of solidarity necessary for social and economic progress. And in all smaller nations sovereignty provides a kind of shield against the overpowering political, economic and military influence of the great powers.

This is legitimate. But it should not and must not be equivalent to hostility between small and large nations. Small nations have every reason to maintain good and friendly relations with great powers, not only because of their immediate self-interest but also because the great powers hold the keys to war and peace in the world of tomorrow.

It is in cooperation with great powers that small countries can make a constructive contribution towards a peaceful development.

Let me at this point make the observation that these general principles naturally hold true in regard to the relations between the United States and Sweden. But, above all, the relations between the American and Swedish people are characterized by a long traditional friendship, of personal ties, of a wide exchange in the economic and cultural fields, of a common heritage in the development of a free and open society. Yet sometimes I have seen Sweden characterized as anti-American because we have at times been critical towards American policies. We in Sweden have not for a moment seen things this way. One would rather put the question in the following way: What kind of friends do we want? Do we want people to stand up and be counted or do we want them to stand up for their honest opinions, also, when they do not coincide with ours? For our part we will not give up the long-standing tradition of genuine friendship with the American people.

The development towards greater interdependence between nations will continue. This means that small nations must be prepared to give up more and more of their sovereignty. Otherwise their chances to survive with a degree of independence are small. But there is an important distinction to be made. Sovereignty must become gradually limited, not by the use of the tremendous might of the great powers, but by the very exercise of sovereignty, through voluntary agreements dictated by enlightened long-range self-interest. The positive alternative to national sovereignty is international agreements and international structures and regimes.

For this reason it is essential that the right of small countries to national independence and self-determination should be safeguarded. In this they share a common responsibility. Their power is not great. But small nations have to show solidarity with each other in order to defend their right to exist.

But it is even more important to stress the positive aspects of interdependence. Small nations have a duty to participate, within the limits of their possibilities, in international strivings for peace and global cooperation. For us it has been natural to seek to use as far as possible the United Nations as an instrument and to concentrate our contributions to certain special areas. Let me give a few examples.

We have taken part in virtually all of the peace-keeping operations of the United Nations—in Korea, Lebanon, Kashmir, the Congo, Cyprus, etc. Through the United Nations' effort it has been possible to limit the spread of local conflicts and to gain time for reaching a political solution. Swedish citizens have served as high officials in the United Nations, as mediators, observers and so forth.

We have taken a very active part in the disarmament negotiations, at present as one of the non-aligned nations at the Geneva Conference.

We took up the population question in the United Nations and were at first met with considerable resistance.

Sweden took the initiative to the United Nations Conference on the Human Environment which is to be held in Stockholm in 1972. Pollution and the demand for a better environment is now in the foreground of the debate. It is being increasingly recognized that effective measures can be taken only through international action and agreements.

There is a growing opinion in my country for increased aid to the developing countries. Over the last few years we have increased our appropriations for these purposes by 25 per cent annually. Also in this field we firmly believe that international cooperation in the widest possible sense provides the most effective means to prevent a widening of the gap between rich and poor nations.

Our endeavors in these areas may not be very significant. We do not feel called upon to play the role of a world conscience, to teach lessons to others, to moralize, etc. We are indeed acutely aware of our limited possibilities to influence the cause of events but we try with some consistency to take up problems that are decisive for our common future on the premise that peace and goodwill shall prevail. This would be rather meaningless if we did not keep up defiant optimism that a better future can be created.

Over the past few years we have heard many prophecies of an impending catastrophe. The scientists speak of the '70s as the decade of possible annihilation, of worldwide starvation, of destruction of our environment and of increasing violence. Their message is becoming common knowledge. And very little is done about it.

In my first speech in my present capacity I reacted against a pessimism that is somewhat dangerous when the dreadful is becoming commonplace. The catastrophe that threatens us is by no means inevitable. Armament can be turned into disarmament. Together the nations can stop the destruction of the environment. The decade of development that never came true in the '60s can become reality in the present decade. The social causes of violence can be done away with. These problems cannot be solved in 10 years. But the '70s are still the decade of possible turning points.

But these changes will not come about by some anonymous forces or by the activity of some kind of elite. Catastrophe, if it comes, would essentially be a result of misguided political decisions or failure to take political decisions at all. The knowledge is growing that today's decisive problems are social and political and thus have to be solved by political and social methods. Therefore our fundamental hope lies in a democratic process within and between nations that will make possible the rather profound changes in the structure of societies and in international relations that are a condition for peace.

The roots of international tension are often to be found in internal problems. Our first contribution to international cooperation is therefore to promote the development of our own countries.

Sweden does not excite any tremendous international interest. We tend to exaggerate the interest we sometimes attract abroad as well as magnify the importance of what is said about us. By some observers we are described as a country where all essential problems have been solved. We are impeccable, but very dull—relieved only by occasional fits of collective neurosis. To others we are a nightmare state where private initiative is allowed only in the field of morals to an extent at which suicide comes as an inevitable end to a pitiful existence.

Neither of these pictures is very accurate.

Sweden is a technically advanced country enjoying a fairly high standard of living. We devote a bigger proportion of our total resources than other countries to employment policy, education, housebuilding, social security, and medical care. Consequently, we also pay higher taxes. Industry is mostly privately owned, but the importance of the public sector is growing. We are beset by the familiar problems of rising prices, the credit squeeze, imbalance in our forign trade, etc. But it is fair to say that, basically, we have a strong economy.

Of more fundamental interest is the fact that we meet the same basic problems as do other advanced industrial countries, namely: the social effects of technological development; the inequalities which largely are the result of the automatic forces of a market economy; shortages caused by the rising expectations of people; the threat to our environment; the inadequacy of traditional

democratic procedures in meeting the demand of people for participation and real influence, etc.

These problems could not be solved by seeking stability in terms of a status quo. They can only be solved by social change and determined action with the aim of achieving better guarantees for individual security and a higher degree of social equality and solidarity in our society. We do not base our action on fixed doctrine and we cannot offer any patent solutions to our problems. Politics, like many other fields of human endeavor, is a matter of innovation. We look for our innovations in the everyday problems of people, and try to transfer their demands into political actions. One such innovation is the labor market policy. The number of workers who participate in retraining every year is as high as the number of students in our universities. Another such field is educational policy, especially adult education. Another is our efforts to give handicapped people a chance to take part in productive life. Others could be mentioned with varying degrees of practical success. We have learned that in order to succeed we have to be very firm in our basic values but very undogmatic in our choice of means.

In this way—and that is the wider significance of it—we would like to prove the practical possibility of social progress. We would like to show, as has been done in the past, that it is possible to change a society by peaceful means, on the basis of a vital and participating democracy, simply on a foundation of a reformist ideology.

In this way we could possibly make a small contribution towards a more peaceful and reasonable world.

RAIL PASSENGER SERVICE ACT OF 1970

HON. DANIEL E. BUTTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. BUTTON. Mr. Speaker, in a recent editorial, the Albany Times-Union strongly endorsed the Rail Passenger Service Act of 1970, which has passed the Senate by an overwhelming vote and is now pending before the Interstate and Foreign Commerce Committee. I hope that the committee will take prompt action on this important legislation. The serious financial condition of the Penn Central Railroad and its massive discontinuance petition now pending before the ICC made it clear that if something is not done soon there will be very little, if any, passenger service remaining in the East.

I have long argued for the need for high-speed modern rail service in our urban corridors. The run from Albany to New York is 142 miles; given the volume of traffic between New York City and the State's capital, it would relieve the strain on our overcrowded airports and for distances such as this would be more economical and efficient than the airplane. I am confident that the independent corporation to be established by the pending bill would certainly maintain and improve Albany-New York service as part of a basic intercity passenger system.

Equipment and technology which is now available, such as the turbotrain, would be ideal for this route. New management, devoted entirely to serving the rail passenger and not to driving him away, would provide the type of rail service which will surely increase ridership and revenues. This new corporation, when established, will help to meet the transportation needs of Albany. I am pleased that it has already received strong editorial support from the Albany Times-Union, and I include the editorial in the RECORD at this point:

[From the Albany (N.Y.) Times-Union, May 9, 1970]

RAIL PLAN

The Senate has overwhelmingly approved bi-partisan legislation to help save the nation's intercity passenger railroad systems.

The most basic provision of the proposed plan would provide for $175-million in federal loans and grants to a semi-public corporation to operate passenger trains in heavily traveled intercity corridors.

No doubt the 15-month success of the experimental and federally subsidized, high speed "Metroliner" service over the heavily traveled industrial corridor between New York and Washington had much to do with the compromise legislation.

It has proven that customers for intercity rail travel are readily available if service is good. Aside from that, it is profitable.

The proposed legislation undoubtedly will undergo changes before it ever reaches the President's desk. But it should and must be pushed if we are to relieve the impossible traffic jams over the nation's airports and on its highways.

Large scale federal support for a modern passenger railroad system could go a long way toward encouraging railroad companies, which have in the past 25 years neglected passenger service for more lucrative freight hauling, to resume the excellent rail service this country enjoyed in pre-World War II years.

CONGRESSIONAL REPORT TO NINTH DISTRICT RESIDENTS—MAY 18, 1970

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following from my Washington report:

SOCIAL SECURITY

Congress soon will be considering new amendments to the Social Security Act, which, if enacted, will increase benefits by 5 percent and allow recipients to earn up to $2,000 a year without loss of benefits. The proposed amendments also would permit widows and dependent widowers, 65, and over to receive 100 percent of the spouses' retirement benefits.

The fact that Congress is considering new amendments—even before amendments passed last year can be put into effect—highlights the continuing dilemma over the cost vs. benefits of the Social Security Act.

Social Security was created during the Great Depression, initially to provide some measure of income for retired workers. Since its enactment in 1935, however, it has become both a tax, and a subsidy, of major social importance. It equals, and many times exceeds, the Federal income tax levy for low and moderate income families.

Benefits for dependents and survivors were added in 1939, and, through increases in both the tax rate and the earnings base, the tax has been raised 13 times over the years. Five additional steps between now and 1987 will increase the maximum amount of tax from the present $748 to $920.

These increases also have had a significant impact on the pattern of Federal tax collections. Social Security taxes accounted for less than 3 percent of all Federal tax revenues in the middle 1940s. Today they make up nearly 20 percent of the total. Correspondingly, benefit payments make up a larger component of Federal budget outlays. For Fiscal Year 1971, it is estimated that all benefits under Social Security—Old Age, Survivors, Disability, and Hospital Insurance—will amount to 35 percent of all Federal expenditures for domestic purposes.

As Social Security has grown in scope and impact upon our society, so has the controversy over its future. The argument is divided roughly into two views: (1) the moderates, who believe the present system is relatively adequate, and (2) the expansionists, who believe the system should provide full economic security for the majority of Americans.

The moderates favor the continuation of the present self-supporting financing of Social Security, believing that benefits should provide only a basic floor of protection. They oppose the drawing of money from the general revenues of the Federal government arguing that subsidies from general revenues would seriously weaken the cost controls over the program. Further, they warn that such government contributions to Social Security would not be entirely dependable under the Nation's ever-changing priorities. It is conceivable that late or reduced appropriations to the fund could affect benefit payments.

The expansionists believe Social Security should provide full economic security and they favor increases in benefit levels to the point where they would provide for many of the services now administered by public agencies. They favor a government contribution, out of general revenues, in an amount equal to 50 percent of the combined employer-employee contributions. They favor doubling the present benefit level, and expanding disability and medical care benefits.

I favor the moderate view, but with the provision that the program should be kept up to date with changes in economic conditions and that the operation of the program should be kept under continuous study.

The future issues of Social Security will center on: (1) Whether the tax burden will become unduly heavy on the working population, and the limits of the payroll tax, and (2) whether Social Security should operate on the contributory self-supporting principle, or a "social adequacy" concept, providing full economic security for most of the population.

PUBLIC SERVICE AWARD, 1970

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. EILBERG. Mr. Speaker, on Wednesday evening, May 27, 1970, the Philadelphia Public Relations Association, observing the 25th anniversary of their founding, presented their 1970 public service award to His Eminence, John Cardinal Krol, the archbishop of Philadelphia.

The Philadelphia Public Relations Association's membership is made up of public relations counsel and advertising directors of a very representative number of the major corporations in the Delaware Valley area; the newspapers, radio,

and television executive personnel; the public information officers of the city of Philadelphia and a number of the municipal agencies in the general Philadelphia area. This group makes a meaningful contribution to the economic, social, and cultural growth of one of the major metropolitan areas of this country.

I believe it is appropriate that we acknowledge the contribution of this association on its 25th anniversary and, at the same time, the contribution which their associates throughout the country make to the growth and development of our country.

Especially meaningful, in my opinion, was their selection of His Eminence, John Cardinal Krol, to be the recipient of their silver jubilee award.

In the award citation, the Association acknowledges the work of the Archbishop of Philadelphia, not only in matters pertaining to the Catholic Church itself, but also of tremendous benefit to the entire community within the jurisdiction of the Archdiocese—a five-county area embracing all of southeastern Pennsylvania.

Mr. Speaker, the citation recognized the work of the Cardinal's Commission on Human Relations, the Catholic Charities Appeal, the Economic Opportunity Program, and the Community Service Corps. As I say, each of these agencies serves the entire population in this five-county area without regard to differences among races, creeds, or color. In many instances, the creation of these agencies, under the direction of Cardinal Krol, were pioneer efforts among the many dioceses throughout the country and it was because of their initiation in the Philadelphia area and the fact that they have been used as pilot programs in other parts of the country, that the association unanimously selected Cardinal Krol for this honor.

Mr. Speaker, I request unanimous consent to have the text of the award citation and the remarks of Cardinal Krol in response to the presentation published in the CONGRESSIONAL RECORD:

CITATION

The Philadelphia Public Relations Association observing its 25th Anniversary we note our times of tension, stress and deep concern among our national and international community.

In equal terms, we acknowledge the work and efforts of purposeful men of good will to advance the recognition of human values implicit in the fundamental nature of man—the achievements of those committed to advancing the ecumenical spirit of brotherhood among all men—the dedication of those striving to reach the threshold of equality, justice and true charity for all men.

Accordingly, we offer our 1970 Public Service Award to His Eminence, John Cardinal Krol, Archbishop of Philadelphia; Metropolitan Archbishop for the Province of Pennsylvania; Vice President of the National Conference of Catholic Bishops; Member of the Secretariat which administered Vatican Council II.

We acknowledge his work through the Cardinal's Commission on Human Relations, the Catholic Charities Appeal, the Economic Opportunity Program, the Community Service Corps.

Done this twenty-seventh day of May, 1970.

ACCEPTANCE OF THE 25TH ANNIVERSARY GOLD MEDAL

From: The Philadelphia Public Relations Association.

By: His Eminence, John Cardinal Krol.

Esteemed Guests and Members of The Philadelphia Public Relations Association: It is said that speech should be an improvement on silence. We read in the Book of Proverbs (17, 27) that a man who controls his tongue has knowledge, and even a fool can pass for wise and clever if he holds his tongue. Every instinct of prudence bids me to hold my tongue—to be silent. The task of matching the eloquence of the illustrious men whom you have honored in the past, as well as the task of expressing adequately my sentiments of deep gratitude for the 25th Anniversary Gold Medal Public Service Award are as tempting as they are impossible.

Moreover, the pleasure of receiving awards is flavored with some misgivings. My life commitment is to increase the glory of God and advance man's progress in divine life. The correct balance between the secular and the sacred demands that I work for the good of mankind, but that I do so for the ultimate purpose of bringing men to God. I dare not work for self-glory or for the glory of other men. Our Lord cautioned: "Be careful not to parade your good deeds befode men to attract their notice; by doing this you will lose all reward from your Father in heaven" (Mt. 6, 1).

You were good enough to allay some of my misgivings by noting that the award was also given in recognition of the varied programs of the Archdiocese which benefit the community. I am pleased, therefore, to accept the award as a merited tribute to the dedicated work of the priests, religious and laymen of the Archdiocese for the good of the community, and for the cause of unity through a brotherhood which transcends all the accidental differences which divide men;—a brotherhood which derives from our common heavenly Father, and which impels us to acknowledge Him in truth, and to serve Him in holiness.

For the award and for the cordial motives which prompted its conferral, I am deeply grateful. On this 25th anniversary of the founding of your Association, I offer to you my sincere congratulations, and invite you to reflect briefly on some other important events that occurred in that same year—1945.

We greeted the new year 1945 with evident battle fatigue. We were in the fifth year of the global World War II and we were reeling from its increasing fury. We desired peace. We prayed for peace. We fought with the conviction that total victory would end the war and a reign of peace would automatically follow.

In the first quarter of 1945 there was a rapid succession of events. The start of massive air raids on Tokyo was followed by the invasion of Iwo Jima and later Okinawa. In March, the last of the V-rockets fell on Britain. In April, President Roosevelt died, Mussolini was killed by the partisans and the death of Hitler was reported. Atom bombs dropped on Hiroshima and Nagasaki on August 6th and 9th were followed by Japan's surrender on August 14th and with it the end of World War II.

The Yalta and Potsdam Conferences in February and July determined the terms of surrender and the reapportionment of Europe into spheres of interest and control. Millions of people in different nations were "liberated" into the Kremlin camp of captive and controlled nations. In the same year, the Independent Vietnam Republic with Ho Chi Minh as President was formed. The rupture between Chiang Kai-shek and Mao Tse-tung led to the continuing conflict between Chinese Communists and Nationalists. Egypt, Iraq, Syria and Lebanon served notice that the creation of a Jewish state in Palestine would lead to war. The Arab League was founded. In December, the Foreign Ministers of Britain, the United States and the U.S.S.R. met in Moscow to form a provisional government in Korea.

In the same year of 1945, the atom bomb—a product of our laboratories, added frightening dimensions of destructive power to wars, and the United Nations Charter—a product of our national experience—was established as an international effort to restrain and control such power.

We prayed fervently for the end of World War II. Tremendous sacrifices, including 230,173 killed and 613,611 wounded Americans, were made to bring the war to an end. We welcomed the end of the war with unrestrained joy and with the conviction that the end of the armed conflict would introduce a period of peace. Upon a reflection, however, we can now see that the end of the war was attended by certain events which contained the seed of new conflicts—including those in Indochina and the Middle East.

The events of 1945, viewed in a quarter of a century perspective, teach that war is a terrible menace. Military power can win a war, but it has failed to secure peace. Even the United Nations—an organized international effort—has not thus far achieved a lasting peace. What is the solution? Where do we look for an answer? The answer is as simple as its implementation is difficult. It is man who makes war! It is man who must make peace.

Man's continued discovery of the secrets of nature is not matched by his discovery of his own spiritual nature. Man's increasing control of the forces about him is not matched by the control of the forces within him. Pope Paul told the United Nations: "The real danger comes from man himself who has at his disposal ever more powerful instruments, which can be used for destruction as well as for lofty conquests." These powerful instruments must be used for the good of mankind. Man must destroy the instruments of death or be destroyed by them.

In a similar vein, the editorialist, David Lawrence, wrote: "We must find a way to disarm the belligerency of man himself. . . . We turn to moral force . . . as the hopeful alternative to military force . . . what we need in the world is a spiritual influence . . . a spiritual rebirth of man—responsible individualism. . . . This is nothing else than the responsibility of man to God Himself." (U.S. News & World Report, June 1, 1970 reprint from issue of June 14, 1957).

Faith is indeed a necessary condition for peace. Without faith—without a sense of responsibility to God—peace is impossible. Peace is the work of justice given life and direction by charity. These two moral ingredients of peace are rooted in man's divine origin and in the equality of his nature. The solidarity of the human family and of the international community rests ultimately on the brotherhood of men under the Fatherhood of God. We cannot deny or ignore God without denying the one necessary bond which makes all men brothers. If God and His order in the world are denied, there can be no law which would bind the international community.

To achieve and preserve peace, man must acknowledge God. He must acknowledge his dependence upon and responsibility to God. He must also acknowledge that there is a necessary and knowable order in the world which God has placed under the control and management of man. The history of mankind proves that there is no substitute for God's blueprint for world order: there is no instant or miracle formula for peace.

Peace is not a vain hope, nor a sentimental dream. It is a philosophy of action. Man must live and act with the conviction that international affairs are neither self-regulatory, nor beyond control; that international controversies can be resolved by negotiations based on mutual trust, confidence and willingness to forgive; that such negotiations must respect the right and dignity of all persons and peoples, and must enlist their cooperation in the pursuit of the shared hopes of mankind.

Peace should not be equated with pacificism. Nor can it be invoked to protect discord, injustice, or the violation of human rights or human dignity. Peace demands the courage to substitute moral strength for brute force; the courage to undertake risks and sacrifices for the common good of the human family; the courage to redirect the minds of men to go—Who in the Old Testament was called Yahweh—Shalom—God is Peace; and His Son in the New Testament was identified as the Prince of Peace—His gospel was "the gospel of peace."

Today, a gratifying increase in the awareness of the urgent need for peace is matched by a diversity of views on how peace is to be attained. Such diversity, if reasoned and restrained, can be profitable. It is no tragedy to have hawks and doves; hard-hats and long-haired dissenters; the impatient young and the determined old; interventionists and hardened isolationists; those who would abandon smaller nations to imperialistic aggression and enslavement, and those who consider the defense of such nations as the first line of defense of our own nation. In our nuclear age, with its jet system of travel and communication, there is an interdependence among nations which does not permit any nation to turn its back on the rest of the world without hurting itself.

It is good that the young are interested and articulate and that solons defend their convictions. We should not exaggerate the age gap. The world has always been peopled by young and old. Neither has a monopoly on wisdom, vision or courage. Neither is omniscient or infallible. The cause of peace needs the wisdom, knowledge and experience of the old as urgently as it needs the vision, the courage and the daring of the young. Both must work together in patience, in faith and in mutual trust. Order cannot be achieved through disorder. Peace cannot be achieved through violence—on the battle front or on the home front.

The first rung of the ladder to peace is the spiritual rebirth of man. David Lawrence labels this as "responsible individualism" and defines it in the words: "This is nothing less than the responsibility of man to God Himself." Without such a sense of responsibility military victories, international laws and treaties, and even the laudable efforts of the United Nations will avail little.

As members of the Public Relations Association, you may well appreciate the delicate and formidable task of religious leaders. Working in the sphere of our special competence, and always keeping a proper balance between the sacred and the secular, we must provide men and society with a light and a leaven—a knowledge of God and of His blueprint for individuals and for the world. We must help men to develop a sense of personal responsibility to God which must serve as a norm for all human action.

In an age when some writers are reviving the "God is Dead" theory, we must explain that light exists even though it is not seen by a blind man; that sound exists even though it is not heard by a deaf man; that the full beauty of stained glass windows is not seen from without, but from within the church. We must show that God is alive and that His commandments, even though disregarded or violated, do exist and do bind all human beings.

Since apostolic times, there has been a tendency to fashion a secular or world religion; to accept some of the tenets of the Gospel and to ignore or reject others. Truth is one and indivisible. The presentation of the truth must be adjusted to the circumstances of time, place and persons. But truth—doctrine—cannot be modified to please the listeners.

Since God is infinite and man is finite, there must be mysteries in religion. Truths revealed by God in the Scriptures are no less truths because they transcend human comprehension. Our teaching of religion, therefore, places a heavy demand upon the human mind—a demand for faith—a faith which must be lived and expressed in charity.

The teaching of religion to be effective also places a heavy demand upon the human will. It must echo Our Lord's call to penitence—a call to self-discipline and self-denial—a call to the discipleship of the cross—which to the pagans was a sign of rebuke and reproach, but to the Christians is a symbol of victory. We must echo Our Lord's call to a love which is demonstrated by the observance of the commandments—a love which calls for sacrifice. We must time and again repeat the "Thou shall not" of the commandments and of the Gospel.

Having challenged the faithful to faith in the sacred mysteries which exceed human comprehension, and having challenged them to self-discipline and to overcome the temptations of our frail human nature, we then call on the faithful to support the entire endeavor with their contributions. Would you say that ours is a formidable task of public relations?

In some quarters the Church is equated with intransigent authoritarianism and insensitivity to the people of God. There is and must be absolute fidelity to the Gospels—to the integrity and orthodoxy of doctrine entrusted by Our Lord to the Church. But absolute authoritarianism exists only in theory. Even absolute despots will not survive without some sensitivity to the people. The Church could not survive unless it had the confidence of the people. It depends entirely upon the free-willed offerings of the people.

The Archdiocese of Philadelphia, for example, depends entirely upon the free-will offerings of the faithful. It has no secure source of revenue; no taxing power; no income producing enterprises and no unrestricted reserves. Just recently it had to negotiate a loan from a commercial bank to meet the high school payroll. Yet the people of the Archdiocese help to maintain a system of elementary and high schools with an enrollment of 265,000 students. The operating cost of the Archdiocesan Schools was 40 million, but if the same children were educated at the prevailing-per student cost in public schools, the taxpayers would have to produce an additional 180 million dollars for operating costs alone. This would cost the average Philadelphia taxpayer an additional $240 annually.

The same people of the Archdiocese funded a Social Service program, which grants, reimbursements for service and contributed services had a value of 29 million dollars. These and other programs supported by the people of the Archdiocese and of the community help the Church to carry on its mission "To unite men with God and with each other". We teach men to know God and to meet his responsibility to God and to all his fellow men, because all men are made to the image and likeness of God.

I have been a citizen of Philadelphia for almost ten years. I try to take nothing for granted. I know of no city that has the natural beauty—the varied topography—the hills and rills, the mountains and valleys, the geographical enclaves with individual culture and speech inflections, the rivers and creeks, the large parks, the rich historical shrines that lie within the confines of Philadelphia. I'm certain that no bishop travels a more beautiful route to his office than does the Archbishop of Philadelphia along the river drives.

The greatest wealth and the greatest asset of our city are the people of Philadelphia. We have the widest diversity of people—many saints and some sinners; the sophisticated and the simple; the highly educated and the humble; the wealthy and the poor, but nowhere can one encounter so much good will, so much genuine cordiality and so much just plain every-day kindliness as I and my visitors from over the world have encountered in the City of Brotherly Love. Philadelphia has been and will be the target of envy—of good natured jokes. Some wags repeat the old question—Who would want to spend a week-end in Philadelphia? My answer is: "I certainly would not want to spend a week-end in Philadelphia. I would much prefer to spend the rest of my life in the City of Brotherly Love—in dedicated service to its good people—and to all of you."

JAPAN'S RISE AS WORLD INDUSTRIAL POWER

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. GAYDOS. Mr. Speaker, I offer for inclusion in the RECORD today the third in a series of articles written by Sylvia Porter about Japan's almost meteoric rise as a world industrial power.

The article, one of five appearing in the Pittsburgh Post-Gazette, concerns the spirit of the Japanese worker and its effect on the Japanese economy. According to Miss Porter, the worker in Japan saves nearly 20 percent of his take-home pay, 18 to 20 cents, out of every dollar. Compare that to the 6-percent level of savings in America.

That savings rate, the highest in the world, provides the capital, the fuel, which is driving Japan to the top of the hill in world production and trade.

The article follows:

THE JAPANESE WORKER IS A DEDICATED SAVER

(By Sylvia Porter)

TOKYO.—The Japanese worker saves 18 to 20 cents out of every $1 of take-home pay—the highest savings rate in the world and dwarfing the 6 per cent savings level in our country. This is the pool of capital which has fueled the Japanese economy's breathtaking upsurge. And this force alone is a major key to the Japanese economic miracle.

"Find out," said a U.S. Government official to me before I left for Japan, "what makes their workers willing to save that much. It's a vital factor in any economy and maybe we can learn something."

I think I've found out.

But whether we can "learn something" depends on whether we develop a new sense of national purpose and regain our pride in America's economy—and that's sort of up to you. To begin with the most obvious, the Japanese worker saves so much:

(1) Because of Japan's heritage of poverty and thus Japan's tradition of thrift. "The frugal nature of the Japanese worker is crucial," said Toshiharu Kubo, economic editor of the influential Yomiuri Newspapers, "and his nature won't change. Thus, he'll continue his high rate of savings. He saves for

his old age, he saves to finance his children's education, he saves for future luxuries."

(2) Because his annual income is climbing far more rapidly than his cost of living, so despite Japan's serious inflation today, he can still put money aside to satisfy his desire tor future higher living standards.

This annual rise in the Japanese worker's pay is built into the economic system.

The scheduled—and published—rate of rise in wages between now and 1975 is more than 12 per cent a year. Since the rise is programmed and approved by government and industry, over 12 per cent it will be.

Prices are rising sharply now, but nowhere near 12 per cent, and the target for 1975 is a rate of price rise down to under 4 per cent.

Even if this lower rate isn't achieved, workers will be getting a substantial "real" pay increase per year which will permit them to boost their standards and to save too.

"I anticipate no difficulty because of this rate of wage increase," Yusuke Kashiwagi, vice minister of finance, told me, "for worker productivity will increase up to 15 per cent a year and industry therefore will be able to offset the wage increase. Productivity will be raised by shifting workers from non-productive farm work to industry and by continued automation of plants."

(3) Because, and this is fundamental, of the way workers in Japan are paid.

You probably are aware that paternalism is the foundation of the Japanese pay system; that employers take on the responsibility for a worker from the day he is employed until his retirement and the employee in turns repays this with an intense loyalty and pride in his work.

But basic to this story on savings is the additional fact that on top of his monthly pay, a worker receives a bonus—each averaging two to three months pay—twice a year, usually in June-July and in December. The bonuses are expected and a large chunk each time goes immediately into savings (often right at the factory).

It's really a form of compulsory savings, and this, said Bunji Kure, chief economist of the Bank of Japan, "will continue because the pay system will continue. A shortage of capital will not be our problem during the next several years."

(4) And finally, the Japanese worker saves so much because his government is asking him to save to help finance his country's economic growth, and to this he is deeply, emotionally committed.

He thinks in terms of his own contribution to his country's economic expansion and overall prosperity as few Americans in similar roles do.

The Japanese are being called—with not so pleasant connotations—"economic animals."

But the description can be a compliment too. And the Japanese I met, at all levels, certainly were not ashamed of their own aggressiveness, devotion to work, dedication to economic expansion.

You will notice I'm coming back to this intangible of Japan's "spirit" repeatedly in this week's series on Japan, for this is what struck me so profoundly in Japan and this is what I wish so much we could regain.

What happened to our spirit, my America?

SAMUEL C. SUISMAN

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. DADDARIO. Mr. Speaker, I rise to note with sadness the passing of my friend, Samuel C. Suisman of West Hartford, Conn. Sam was a fine athlete, successful businessman, and one whose philanthrophies and personal participation showed great concern for the community in which he lived.

At Hartford High School Sam starred as quarterback in football and second baseman on Hartford's State championship baseball team. After giving up contact sports, he continued to demonstrate his athletic ability as a golfer of statewide renown. He and his brother, Eddie, made a championship team on many occasions. The natural skill, determination, and ability so clearly evidenced on the athletic field was further demonstrated in Sam Suisman's business career. And all of those who dealt with him regarded him as a friend which is a rare tribute.

While Sam's athletic and business careers made him well known throughout the Hartford area, it was his unstinting contribution of his time and resources to a great variety of civic endeavors which makes his passing such a loss to the greater Hartford community. This regard is clearly expressed in an article in the Hartford Times by Art McGinley, recently retired dean of Connecticut sports writers, and an editorial and article by sports editor, Bill Lee, in the Hartford Courant.

I include these tributes to a fine citizen, whose passing was a great loss to the Hartford community, in the RECORD at this time:

[From the Hartford (Conn.) Courant, June 2, 1970]

SAMUEL C. SUISMAN

The qualities which marked Samuel C. Suisman were as diverse as they were numerous, and together it was easy to see how they had made him a leader in the community in which he had spent his life.

Mr. Suisman was prominent in the business world of Hartford, a sportsman and a former athlete, and active in a variety of civic affairs in which he held responsible posts. These activities would entitle anyone to be called an all-around citizen.

But beyond this Mr. Suisman was also an outstanding philanthropist, initiating numerous projects on his own for the benefit of the community, and contributing generously of time and money to others. He was one of the founders of Mt. Sinai Hospital and continued to serve it for years as head of some of its most important committees. In a similar way he had taken a leading role in the Hartford Jewish Federation.

Subsequently, with his brother, Edward Suisman, he was a founder of the Suisman Foundation and its president. As was pointed out in the news account of his death, through the foundation and with his brother he contributed to a wide variety of charitable causes of all faiths. Indeed, his philanthropy often helped set a pattern which accelerated the standards of charitable giving in the community.

Thus, Mr. Suisman's lifetime in the community was as dedicated as it was long. Many causes and undertakings which are the better for his help therefore will remain as monuments to him in his passing.

[From the Hartford (Conn.) Courant, June 3, 1970]

WITH MALICE TOWARD NONE

(By Bill Lee)

PASSING OF A GOOD MAN

Many persons for many different reasons mourn the passing of Sam Suisman. His unstinted labors on behalf of Mt. Sinai Hospital, his many charitable works and his stature in the business community have been extolled in Senator Ribicoff's eulogy and on the editorial page. I can speak only of the remarkable quality of his athletic youth and the bright, warm feeling he brought to the game of golf long after his football, baseball and basketball days had come to an end.

Sam had exceptional ability and leadership almost from the time he was big enough to pick up a baseball bat or throw a football 15 yards downfield. Dr. Morris Cohen, who represents Bloomfield in the Connecticut Legislature, remembers when Sam Suisman captained the West Middle School baseball team and Rube Cohen the Lawrence Street School. The grammar school rivals later were to team up at the forward positions on the HPHS quintet.

Sam passed his first tests as a competitor and leader at West Middle in a period when grammar school baseball was one of the biggest things in town and before educators decided that playing baseball in a league was a terribly damaging thing for boys of grammar school age.

TALENTED LEADER IN MAJOR SPORTS

At HPHS, Sam Suisman became something of a high school Frank Merriwell. He played shortstop on a team that won the state championship by beating Bridgeport on neutral Yale Field.

The HPHS football team he quarterbacked ended a long drought by beating New Britain High for the first time in several years, an accomplishment that so pleased Sam's father, the late Michael Suisman, that he took the entire HPHS squad to dinner.

This writer came to know Sam well in his later years, when he had turned to golf. As a player he lived somewhat in the shadow of his brother Eddie, but few had more fun playing the game. The Suisman brothers made Tumble Brook one of the toughest tandems in the Central Connecticut Golf Association four-ball league. Sam was to give the same dedication to the CCGA that he gave to so many more important things as the years advanced.

It was a joy to know Sam in those days. I regret I saw all too little of him in recent years, when his value to the community had expanded far beyond the scope of the sports pages.

[From the Hartford (Conn.) Times, June 2, 1970]

SUISMAN MORE THAN AN ATHLETE

(By Art McGinley)

When I was first in Hartford, Sam Suisman was one of the best in schoolboy sports here, his name often on the sports pages of the local newspapers.

That was the beginning of a friendship of a half century and I was one of countless friends saddened when he died late last week.

Sam Hyman, who went from high school stardom to college baseball and then to many years as a pitcher in professional baseball, had been a teammate of Sam Suisman at Hartford High in football and in baseball.

"He was a fine athlete," Sam Hyman said. "He had very good timing, fine coordination and a lot of drive. He was an infielder with the Hartford High baseball team that won the state championship in a game played at Yale and I remember Sam having had a fine day at second base; in football he was a quarterback.

"But it is not as an athlete that I shall think of Sam Suisman, it is for his fine qualities. I never have known a finer man."

There was an item in San Suisman's days as an athlete that perhaps too many do not know—when he was at Peddie School, he won the call as the prep school's No. 1 quarterback over a youthful athlete who was to become a motion picture star and who now is a U.S. Senator from California—

George Murphy. Nate Freedman told me that, when he met Sen. Murphy in California and told him he was from Hartford, George Murphy mentioned the days at Peddie and asked Nate to give Sam his best when next he should see him.

ARDENT GOLFER

Golf had been Sam's great love after he had left more strenuous sports and he became, as in all the games he ever essayed, a fine player. For years he and his brother Eddie seemed to alternate in winning the club championship at Tumble Brook Country Club.

As in all his activities, Sam did much for the promotion and general good of golf in this area as an officer of golf associations.

I never have known a stronger bond between brothers than that between Sam Suisman and his brother Eddie, when you thought of one, you inevitably thought of the other. Eddie, too, had ben a fine athlete at Hartford High and both a baseball and basketball player at Yale.

KIND AND GENEROUS

Sam Suisman was affable, kind and generous. His kindnesses on a personal basis were many and he contributed liberally to countless charitable causes and generally under the cloak of anonymity which gives such giving a special quality.

Sam had served in many capacities on the local scene, giving freely of his time and his ability. Nothing had a stronger claim on his interest than the Mt. Sinai Hospital to which he had devoted himself from its inception.

He never courted publicity, attention and the simple, dignified funeral services Sunday morning at the Morris L. Silverman Auditorium of Emanuel Synagogue seemed uniquely to fit the character of the man to whom the hundreds in attendance were saying a reluctant farewell.

All who knew Sam and the community he served so well will miss him.

LOW INCOME SUPPORT YOUTH HEALTH CARE

HON. ARNOLD OLSEN

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. OLSEN. Mr. Speaker, I wish to call your attention to an article in the Helena, Mont., Independent Record of May 17. It describes the success being enjoyed by the Lewis and Clark children and youth program. I submit it for the RECORD at this point:

LOW INCOME SUPPORT YOUTH HEALTH CARE

The task force study of the delivery of health care to low-income persons being conducted by the comprehensive Health Planning Division of the Department of Health will be terminated following hearings in eastern Montana May 25 and 26.

Hearings have been conducted in Helena, Butts, Bozeman, Mineral County, Ravalli County, Missoula, Great Falls, and Billings. Statements made by low-income persons and providers of health care are being transcribed from tapes and will form the basis for a report to Montana's Comprehensive Health Planning Advisory Council which meets in Helena, June 12, according to Robert Johnson, acting director of the health planning program.

POSITIVE ATTITUDES IN HELENA

There are many similarities, according to Johnson, between the comments made in each of the communities. However, it is worth noting that in the Helena hearings many positive attitudes were expressed by the low-income people about the quality of health care they are getting, Johnson said.

A little further investigation has revealed that one of the reasons for these attitudes in Helena, according to Johnson, is, in part, the Children and Youth Project.

The project, according to Johnson, is being observed closely by health planners because of its potential for preventing health and social problems through comprehensive services to children. "It represents one of the few federal efforts to use health dollars where they will provide society with the greatest cost benefit," Johnson said. There are only 58 such projects in the entire country.

The legislation enabling this program provides that there will be nutritional, speech and hearing, psychological, and social work services as well as medical and dental care.

The impact of the program has been felt by Helena's low-income population, Johnson believes, because of the project's emphasis on creating behavior patterns conducive to the maintenance of good health.

Diagnostic workups are provided by members of the Children and Youth staff and the treatment of conditions found—and illness of the child between visits—is done by the child's own physician or dentist. In later years, it is expected that this pattern of behavior—of seeing a physician or dentist regularly—will prompt the person to use his own initiative to seek regular and adequate care.

OUTSTANDING FEATURE

The most outstanding feature about the program to a health planner, according to Johnson, is its comprehensiveness. "For instance, a four-year-old deaf boy in Helena has been receiving valuable therapy by the staff's speech therapist in language learning. The value of this and the therapy given the four-year-old cleft palate child, and numerous others in the program, is not entirely understood until one realizes that, as Dr. Sheppard Kellam put it at a recent meeting of health planners in Chicago, 'if a child isn't feeling good and 'making the scene' in the first grade, chances are great that he won't make it at all in this educating stage of his life.' It is the speech therapist's job to see to it that these children have a greater chance of making it, by preventing speech problems, as early as possible, from influencing or hindering necessary maturation and development. This is part of a comprehensive approach to a health problem," Johnson stated.

Closely related to this example would be the child who isn't receiving proper nutrition and is either hungry or fat as a result. Both children stand much greater chances of not being able to "make it". The C & Y nutritionist is able to work with the family, the child and appropriate agencies to re-educate the family in sound eating habits.

Follow-up by public health nurses and other professional C & Y staff ensures that the child gets to the care he needs; later, an understanding of how this care helps the child grow healthy, perform better in school and be happier, leads parents to follow through by themselves.

DOING THINGS THEMSELVES

"It's getting people to do things for themselves and avoiding the monetary and social costs of poor heatlh by attacking the problem of poor health at a point in time—during childhood—when there is the greatest opportunity for preventing the problem," Johnson said.

The importance of these allied health activities, coupled with medical and dental treatment, is in their capacity to make meaningful the word "health" to Helena children by acting on many of the factors that make up total health, Johnson believes. "A health program which does not take into consideration environment and behavior patterns is not comprehensive, and if it's not comprehensive it will not, in the long run, affect the total health of those involved," Johnson said.

"Helena should feel fortunate that it has a Health Board backing this comprehensive approach to health care delivery to low-income persons," Johnson said.

LETTER FROM A KENT STATE FRESHMAN

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. WHALEN. Mr. Speaker, recently one of my constituents took the time to express his views on polarization in a most thoughtful letter addressed to me. This young man, Michael E. Seitz, is a freshman mathematics major at Kent State. He was present at the tragedy on May 4.

Reading Michael's unemotional, yet perceptive, account of what happened at Kent State, one cannot help but feel that by failing to listen to our young people, we are surely ignoring many voices of reason and understanding.

As Michael points out, "The solutions to this trend that is dividing the Nation are not easily implemented." Nevertheless, he offers suggestions for restoring order to our campuses and for ending the polarization which, I believe, are worthy of consideration by those on both sides of this dilemma.

Therefore, I insert the letter at this point in the RECORD, and I commend it to the attention of my colleagues:

DAYTON, OHIO,
May 22, 1970.

DEAR CONGRESSMAN WHALEN: The recent deaths at Kent State University is a tragedy of which I am gravely concerned, not only because the dead were my fellow classmates, but for the extent of polarization as well.

Standing along the parking lot aside Prentice Hall (on May 4), I was among the crowd of students on which the Guard opened fire. After the salvo a state of shock existed among the students. The idea of a group of well armed Guardsmen firing a volley of shots into an unarmed crowd, many of whom were bystanders like myself, without warning and without apparent provocation was too unbelievable. Only the blood and cries of the wounded relayed the reality of the situation. As the dead and wounded were carried off, the mood of the majority of students present changed to a somber anger. Could some shop windows and a twenty-three year old R.O.T.C. building be so important?

Admittedly the destruction of public and private property can not be condoned, but the crass overreaction by the Guard is no way to instill order. Indeed, the dispatching of troops on campus to enforce an injunction barring all rallies was a disgracefully naive display. The Guardsmen were sent on a task that was impossible for them to fulfill, and this futility in unison with the Guard's antipathy toward the student movement precipitated the tragedy. In perspective, both the students' destruction of property, and the Guardsmen's use of their position to en-

act their enmity for student demonstrations illustrate this nation's continued polarization.

The solutions to this trend that is dividing the nation are not easily implemented. Limited use of the Guard on campuses with the bulk of the responsibility for peace keeping on campus in the hands of the students and faculty is a temporary solution to the present crisis on our colleges. If the students and faculty are unable or unwilling to keep things "cool" then the university should close. Nationally, we must reexamine our commitment with a new emphasis on the welfare of man. Nothing constructive can be accomplished, however, until American involvement in Vietnam is ended. Its drain on the economy and damage to the spirit of this nation necessitates the war's termination before all else. Whether our withdrawal is immediate and total or phased by Vietnamization, the crux of the matter is withdrawing as fast as possible without anymore reversals like Cambodia.

I am hopeful that you will continue your dedication to the withdrawal of our troops from Vietnam, and I respectfully urge you to support the amendments before the House that would prevent such reversals from occurring again. In so doing, the power of the Congress would be reaffirmed, and our college campuses may once again be restored to peace.

Respectfully,

MICHAEL E. SEITZ.

BUFFALO MARINE RECEIVES NAVY CROSS FOR HEROISM

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 5, 1970

Mr. DULSKI. Mr. Speaker, many men have served their country in the armed services over our Nation's history. Many have given their lives in service.

Combat service imposes great responsibilities upon individuals. Some are called upon to go beyond the call of duty.

The Secretary of the Navy has informed me of the President's recognition of the extraordinary heroism of S. Sgt. Victor J. Guerra, a U.S. marine, while on duty in Vietnam.

The President has conferred upon him the coveted Navy Cross, our Nation's second highest award for gallantry in combat action.

Mr. Speaker, Sergeant Guerra is a resident of my congressional district. He resides at 19 Andover Avenue, Buffalo, N.Y.

This is a high honor, a deserved recognition for Sergeant Guerra. It is a proud day for men, and all Buffalonians in particular, as well as the Nation in general.

The citation by the President tells the story of the sergeant's valor:

NAVY CROSS CITATION

The President of the United States takes pleasure in presenting the Navy Cross to Staff Sergeant Victor J. Guerra, United States Marine Corps, for service as set forth in the following citation:

For extraordinary heroism while serving as a Platoon Sergeant with Company L, Third Battalion, First Marines, First Marine Division in connection with combat operations against the enemy in the Republic of Vietnam. On the night of 27 October 1969, while Staff Sergeant Guerra was returning to the Company Patrol Base with his men, he saw an enemy grenade land before him on the road in proximity to three of his companions. Fully aware of the possible consequences of his actions, he shouted a warning and then unhesitatingly threw himself over the grenade. Although realizing that every second's delay increased his chances of being mortally wounded, he remained in a prone position over the grenade until he was satisfied that the other Marines had attained covered positions. Then, rising to his knees, he hurled the grenade away from the Marines where it detonated harmlessly. His heroic and determined actions inspired all who observed him and undoubtedly saved three comrades from serious injury or possible death. By his courage, bold initiative, and selfless devotion to duty in the face of great personal risk, Staff Sergeant Guerra upheld the highest traditions of the Marine Corps and of the United States Naval Service.

For the President,

JOHN H. CHAFEE,
Secretary of the Navy.

DEDICATION OF LAPEL PIN

HON. HENRY C. SCHADEBERG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. SCHADEBERG. Mr. Speaker, someday very soon each and every Member of this Congress will be receiving a small lapel pin which is the product of a young man and his brother and sister in my district.

Joe Pregont, 11, and his brother Dan, 14, and his sister Ann, 12, have been swept up by a rare feeling among our young people for patriotism. Their father, an industrialist in Janesville, Wis., has provided some materials and some tools and a little of his own ingenuity and together they have designed these red, white, and blue lapel pins.

This week the young Americans have been working hard to hand-produce these lapel pins in order that each Member of Congress may receive one. I hope that you will wear yours proudly.

The children's father Jack E. Pregont has asked that I publicly declare his dedication of this original pin as a product of and for the American people:

DEDICATION

This dedication dated 25 May, 1970, witnesseth:

Whereas I, Jack E. Pregont verily believe myself to be the originator of an ornamental design for a patriotic emblem comprising the words GO USA GO on a red, white and blue background: and

Whereas the aforesaid emblem has recently received considerable publicity in various news media and has been the subject of inquiries from a number of organizations wishing to use the same: and

Whereas my principle interest in the subject emblem is directed to its use for expressing the patriotic theme of the basic soundness of the United States way of life and system of government, rather than to the exploitation of said emblem for personal gain:

Now therefore, I hereby dedicate to the public any rights of exclusivity that might be available to me with regard to the subject design or emblem under the patent or copyright laws of the United States or under any other State or Federal laws, for the purpose of enabling any person or entity to reproduce the same, for profit or otherwise, without any obligation to me.

In witness whereof I have hereunto set my hand and seal this 25 day of May, 1970.

JACK E. PREGONT,
DAURE STEPHENSON.

State of Wisconsin, County of Rock.

Subscribed and sworn to before me this 25 day of May 1970.

MEXICAN AMERICANS AND THE ADMINISTRATION OF JUSTICE IN THE SOUTHWEST

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. ROYBAL. Mr. Speaker, the U.S. Civil Rights Commission recently released a comprehensive report entitled "Mexican Americans and the Administration of Justice in the Southwest," concluding, as a result of an extensive series of hearings and surveys conducted over a period of 2 years, that Mexican Americans in the southwestern United States are subject to widespread patterns of discrimination and denial of the equal protection of the laws in the administration of justice.

The Commission found evidence which indicated patterns of police misconduct against Mexican-Americans in the Southwest, including excessive police violence, discriminatory treatment, and abuse of the arrest power. The Commission also found underrepresentation of Mexican-Americans on State and local juries and bail abuses.

Serious deficiencies also exist in legal representation for Mexican-Americans. Many Spanish-speaking persons have difficulty communicating with law enforcement officials who speak only English. Interpreters are readily available and employment of Mexican-Americans by law enforcement agencies and other agencies charged with administration of justice is disproportionately low.

The Commission's report makes a number of recommendations. Among them are: That Congress enact legislation authorizing civil actions by the Attorney General to enjoin law enforcement officers and agencies from discriminatory treatment of persons on account of race, color, or national origin, and that Congress enact legislation to insure that no person is excluded from service on State juries on account of race, color, religion, sex, national origin, or economic status.

And in a covering letter of transmittal to the President and to the Congress, the Commission declares:

Our investigations reveal that Mexican American citizens are subject to unduly harsh treatment by law enforcement officers, that they are often arrested on insufficient grounds, receive physical and verbal abuse, and penalties which are disproportionately severe. We have found them to be deprived

of proper use of bail and of adequate representation by counsel. They are substantially underrepresented on grand and petit juries and excluded from full participation in law enforcement agencies, especially in supervisory positions.

Our research has disclosed that the inability to communicate between Spanish-speaking American citizens and English-speaking officials has complicated the problem of administering justice equitably.

We urge your consideration of the facts presented and of the recommendations for corrective action in order to assure that all citizens enjoy equal protection as guaranteed by the Constitution of the United States.

Mr. Speaker, I would like to include at this point in the CONGRESSIONAL RECORD news articles from the Washington Star and Washington Post, as well as an editorial from the Washington Post, on the Civil Rights Commission's report, together with the conclusion, and major findings and recommendations of the report.

The items follow:

[From the Evening Star]

RIGHTS FOR MEXICAN-AMERICANS PUSHED

(By Philip Shandler)

Stronger safeguards for the legal rights of Mexican-Americans have been demanded by the U.S. Commission on Civil Rights in a report today to President Nixon and Congress.

Investigation has produced "widespread evidence that equal protection of the law in the administration of justice is being withheld from Mexican-Americans," the commission said.

It called for new laws by Congress to permit federal suits against patterns of discrimination, to broaden liability for mistreatment and to bar bias in jury selection.

At the state and local level, the commission called for independent review of complaints against police, compensation for injuries by police, bail-reform and legal-defense systems.

FULLER PROBES URGED

It also urged fuller investigations by the Justice Department and the FBI of civil rights complaints and the hiring of more Mexican Americans by them and state and local police, especially as supervisors.

Both the patterns of treatment described and the remedies suggested parallel earlier circumstances in which blacks were the subjects of concern.

The CRC report is the second expression in recent weeks of attention by federal agencies in the Nixon administration for Mexican Americans and other minorities in the South and West. The Equal Employment Opportunity Commission recently announced a public hearing, due in June, on job discrimination in Houston, Tex.

The CRC report covers Mexican-American conditions in Texas, New Mexico, Colorado, Arizona and California. All of the investigation leading up to it was conducted in 1967 and 1968, during the Johnson administration. Says the report:

CALLED UNDERREPRESENTED

"Our investigation reveals that Mexican-American citizens are subject to unduly harsh treatment by law-enforcement officers, that they are often arrested on insufficient grounds, receive physical and verbal abuse, and penalties which are disproportionately severe."

"We have found them to be deprived of the proper use of bail, and of adequate representation by counsel," the report added.

"They are substantially underrepresented on grand and petit (trial) juries and excluded from full participation in law-enforcement agencies, especially in supervisory positions," the commissioners said.

Some of the troubles of the Mexican-Americans are attributable to the fact that many of them speak little English, the commission said. One remedy for this would be the appointment of more translators, it said, as well as the hiring of more Mexican-Americans.

But it also cited demeaning, and deliberate abuse in law-enforcement and judicial processes.

Police, for example, use excessive force and make frequent arrests for investigation, and in retaliation for complaints—which often must be made at police stations and rarely are reviewed by independent bodies, the report said.

In courts, Mexican-Americans are often held on usually high bail, have trouble getting lawyers, and rarely are chosen for juries, according to the report.

Both the FBI and the Texas Rangers come in for criticism. FBI agents investigating alleged civil rights abuses "have often failed to interview important witnesses," or interviewed them in a "perfunctory and hostile manner." And the Rangers have harassed protesters, the report asserts.

[From the Washington Post]

U.S. UNIT REPORTS POLICE BRUTALITY—MEXICAN-AMERICAN ABUSE CITED

(By William Greider)

The U.S. Commission on Civil Rights painted "a bleak picture" yesterday of abusive and violent treatment that Mexican-Americans receive from law enforcement agencies in the five Southwestern states, ranging from casual insults to brutal beatings.

As a result, the commission warned, Mexican-American citizens are "Distrustful, fearful and hostile. Police departments, courts, the law itself are viewed as Anglo institutions in which Mexican-Americans have no stake and from which they do not expect fair treatment."

The commission's survey of police and courts covered Arizona, California, Colorado, New Mexico and Texas where the more than 4 million residents with Spanish surnames constitute the largest minority group.

Federal agencies, particularly the FBI and the Justice Department, also drew criticism in the report both for not employing more Mexican-Americans and for not pursuing their complaints of police brutality more vigorously.

The commission cited a general pattern of under-representation for Mexican-Americans in the legal machinery—trial juries and grand juries, police forces and sheriff's departments, courts and prosecutor's staff. The report recommended federal legislation both to insure better representation on juries and grand juries and to strengthen the hand of federal officials in halting discrimination by local and state police.

In the four-year period from 1965 to 1969, the report said, the Justice Department received 256 complaints of police abuse from Spanish-surname residents in the five states. In the last two years, 174 complaints of "serious police brutality" against Mexican-Americans were also filed with the American Civil Liberties Union of Southern California.

While the commission said it cannot assert that each complaint was valid, it cited example after example from recent years to suggest that a serious problem exists.

In Denver, an elderly man complained that a police beating resulted in a broken jaw. A Los Angeles resident testified that when he protested the arrest of his children, he was hospitalized by a police beating. In San Antonio, a woman said her 13-year-old son had 40 stitches in his scalp from a clubbing by police.

In addition to the lack of local review boards which might act against police brutality, the commission complained that federal officials should strengthen their enforcement "by more intensive investigations." In recent years, the report said, only two prosecutions have resulted from the 256 complaints.

In one case cited by the commission, a San Antonio resident was shot and killed by a city policeman, but two years later the Justice Department closed its investigative file with the notation that "prosecution of a white police officer for the shooting of a Mexican would have little chance of successful prosecution in the Southern District of Texas."

The commission concluded, "More aggressive investigations, taking into account prior complaints against the same officer and showing less deference to local action, can make this sanction (of federal prosecution) more effective." It also recommended new federal legislation to permit the Justice Department to seek civil injunctions against local authorities who display a pattern of discrimination against minorities.

The picture of Mexican-American representation varied sharply from community to community, but a survey of 243 police departments in the five states found only 5.7 per cent of police employees were Mexican-Americans, though they make up 11.8 per cent of the population.

On the federal level, 7.3 per cent of the Justice Department employees in the five-state area were Mexican-Americans, according to the report.

However, none of the legal division employees from GS12 to 18—the lawyers and top professionals—was Mexican-American. The Federal Bureau of Investigation had 1,137 employees in GS9 to 18 in the five states, but only six of them were Mexican-Americans.

[From the Washington Post]

THE RISING MEXICAN AMERICAN

Among the nation's minorities who are increasingly less silent about their lot is the one of 6½ million Mexican-Americans. The poverty they suffer is as bad or worse as the bleakest conditions endured by the blacks, Appalachians or Indians. Unemployment is roughly twice the rate of Anglo Americans. In the Southwest, more than a third live below the poverty level. In 1968, only 600 of 22,000 graduates of the Southwest's five main universities were Mexican-Americans. Last week, the U.S. Commission on Civil Rights added another dismal fact about Mexican-Americans: they suffer large amounts of abuse and violence from law enforcement agencies, ranging from casual insults to brutal beatings. The commission's survey covered the Southwest, where more than four million Mexican-Americans live.

None of this information is new, either to the victimized themselves or to those who work to help them. What is new is that a growing number of organizations are being formed by Mexican-Americans to confront and change the powers and institutions that deal with them so unfairly either directly or indirectly.

The test of the coming years is not so much how the Mexican-Americans will use their growing power—violently or non-violently—but whether the larger Anglo society continues to ignore their rights and needs. Commissioner Vicente Ximenes of the U.S. Equal Employment Opportunities Commission warned last June, "You must have a rising awareness in the nation, and especially in the Southwest, of the obligations of government officials and certainly the people, the obligation to a very important segment of the population. It would seem to me that we are taking five million people in this area for granted at our own peril. It would be a tragedy if we had to wait for something explosive to happen before we acted."

The Mexican-Americans are basically the old story of the poor wanting in, the longest running drama on the American stage. The hope this time around is that perhaps the old story, through public legislation and private compassion, will have a new ending.

CONCLUSION

This report paints a bleak picture of the relationship between Mexican Americans in the Southwest and the agencies which administer justice in those States. The attitude of Mexican Americans toward the institutions responsible for the administration of justice—the police, the courts, and related agencies—is distrustful, fearful, and hostile. Police departments, courts, the law itself are viewed as Anglo institutions in which Mexican Americans have no stake and from which they do expect fair treatment.

The Commission found that the attitudes of Mexican Americans are based, at least in part, on the actual experience of injustice. Contacts with police represent the most common encounters with the law for the average citizen. There is evidence of police misconduct against Mexican Americans. In the Southwest, as throughout the Nation, remedies for police misconduct are inadequate.

Acts of police misconduct result in mounting suspicion and incite incidents of resistance to officers. These are followed by police retaliation, which results in escalating hostilities.

The jury system is also not free from bias against Mexican Americans. At times, bail is set discriminatorily and inequalities in the availability of counsel lead to other injustices in trial and sentencing. Skilled interpreters, sensitive to the culture background of Mexican Americans, are rare in areas of the Southwest where Mexican Americans predominate. Finally, Mexican Americans have been excluded from full participation in many of the institutions which administer justice in the Southwest. Mexican Americans are underrepresented in employment in police departments, State prosecutor's offices, courts, and other official agencies. Consequently, these agencies tend to show a lack of knowledge about and understanding of the cultural background of Mexican Americans.

The Commission recognizes that individual law enforcement officers and court officers have made positive efforts to improve the administration of justice in their communities. The fact however, that Mexican Americans see justice being administered unevenly throughout the Southwest tends to weaken their confidence in an otherwise fair system. In addition, the absence of impartial tribunals in which claims of mistreatment can be litigated to a conclusion accepted by all sides tends to breed further distrust and cynicism.

This report is not intended to burden the agencies of justice with responsibilities which lie with society as a whole. The police and the courts cannot resolve the problems of poverty and of alienation which play a large part in the incidence of crime which they attempt to control; and the police and the courts often treat legitimate demands for reform with hostility because society as a whole refuses to see them as justified. The Commission recognizes that the job of law enforcement is extremely difficult. Nevertheless, it finds no justification for illegal or unconstitutional action by the very persons who are responsible for the enforcement of the law.

This report shows that Mexican Americans believe that they are subjected to such treatment again and again because of their ethnic background. Moreover, their complaints bear striking similarities to those of other minority groups which have been documented in earlier Commission studies of the administration of justice. The inequalities suffered by black Americans and Indians described in the Commission's 1961 "Justice" report and its 1965 "Law Enforcement" report, are of a similar nature. Consequently, the Commission's recommendations in this report are designed to be sufficiently broad to be applicable to all minority groups.

The essence of this situation is summed up in the words of a Mexican American participant in the California State Advisory Committee meeting, who said: "I think that my race has contributed to this country with pride, honor, dignity, and we deserve to be treated as citizens today, tomorrow, and every day of our lives. I think it is the duty of our Government to guarantee the equality that we have earned."

FINDINGS

1. POLICE MISCONDUCT

There is evidence of widespread patterns of police misconduct against Mexican Americans in the Southwest. Such patterns include:

(a) incidents of excessive police violence against Mexican Americans;

(b) discriminatory treatment of juveniles by law enforcement officers;

(c) discourtesy toward Mexican Americans;

(d) discriminatory enforcement of motor vehicle ordinances;

(e) excessive use of arrests for "investigation" and of "stop and frisk";

(f) interference with attempts to rehabilitate narcotics addicts (pp. 2–12).

2. INADEQUATE PROTECTION

Complaints also were heard that police protection in Mexican American neighborhoods was inadequate in comparison to that in other neighborhoods (pp. 12–13).

3. INTERFERENCE WITH MEXICAN AMERICAN ORGANIZATIONAL EFFORTS

In several instances law enforcement officers interferred with Mexcian American organizational efforts aimed at improving the conditions of Mexican Americans in the Southwest (pp. 14–18).

4. INADEQUACY OF LOCAL REMEDIES FOR POLICE MALPRACTICE

Remedies for police malpractice in the Southwest were inadequate:

(a) in most Southwestern cities the only places where individuals can file complaints against the police are the police department themselves. Internal grievance procedures did not result in adequate remedies for police malpractice;

(b) some cities in the Southwest have established independent or quasi-independent police review boards but these have not provided effective relief to complainants;

(c) civil litigation by Mexican Americans against police officers accused of civil rights violations is infrequent;

(d) there are few instances of successful local prosecutions of police officers for unlawful acts toward Mexican Americans;

(e) there have been instances of retaliation against Mexican Americans who complain about law enforcement officers to the local police department or to the FBI (pp. 20–21).

5. FEDERAL REMEDIES

(a) Agents of the Federal Bureau of Investigation have often failed to interview important witnesses in cases of alleged violation of 18 U.S.C. 242 or interviewed such witnesses in a perfunctory and hostile manner.

(b) More aggressive efforts to implement 18 U.S.C. 242 by the Department of Justice are needed (pp. 28–33).

6. UNDERREPRESENTATION OF MEXICAN AMERICANS ON JURIES

There is serious and widespread underrepresentation of Mexican Americans on grand and petit State juries in the Southwest:

(a) neither lack of knowledge of the English language nor low-incomes of Mexican Americans can explain the wide disparities between the Mexican American percentage of the population and their representation on juries;

(b) judges or jury commissioners frequently do not make affirmative efforts to obtain a representative cross section of the community for jury service;

(c) the peremptory challenge is used frequently both by prosecutors and defendants' lawyers to remove Mexican Americans from petit jury venires.

The underrepresentation of Mexican Americans on grand and petit juries results in distrust by Mexican Americans of the impartiality of verdicts (pp. 36–46).

7. BAIL

Local officials in the Southwest abuse their discretion:

(a) in setting excessive bail to punish Mexican Americans rather than to guarantee their appearance for trial;

(b) in failing to give Mexican American defendants an opportunity to be released until long after they were taken into custody;

(c) by applying unduly rigid standards for release of Mexican Americans on their own recognizance where such release is authorized.

In many parts of the Southwest, Mexican American defendants are hindered in their attempts to gain release from custody before trial because they cannot afford the cost of bail under the traditional bail system (pp. 48–52).

8. COUNSEL

There are serious gaps in legal representation for Mexican Americans in the Southwest:

(a) the lack of appointed counsel in misdemeanor cases results in serious injustices to indigent Mexican American defendants;

(b) even in felony cases, where counsel must be provided for indigent defendants, there were many complaints that appointed counsel often was inadequate;

(c) where public defender's offices are available to indigent criminal defendants, they frequently did not have enough lawyers or other staff members to adequately represent all their clients, many of whom are Mexican Americans;

(d) in parts of the Southwest there are not enough attorneys to provide legal assistance to indigent Mexican Americans involved in civil matters;

(e) many lawyers in the Southwest will not handle cases for Mexican American plaintiffs or defendants because they are "controversial" or not sufficiently rewarding financially;

(f) despite the enormous need for lawyers fluent in Spanish and willing to handle cases for Mexican American clients, there are very few Mexican American lawyers in the Southwest (pp. 54–59).

9. ATTITUDES TOWARD THE COURTS

Mexican Americans in the Southwest distrust the courts and think they are insensitive to their background, culture, and language. The alienation of Mexican Americans from the courts and the traditional Anglo-American legal system is particularly pronounced in northern New Mexico (pp. 60–62).

10. LANGUAGE DISABILITY

Many Mexican Americans in the Southwest have a language disability that seriously

interferes with their relations with agencies and individuals responsible for the administration of justice:

(a) there are instances where the inability to communicate with police officers has resulted in the unnecessary aggravation of routine situations and has created serious law enforcement problems;

(b) Mexican Americans are disadvantaged in criminal cases because they cannot understand the charges against them nor the proceedings in the courtroom;

(c) in many cases Mexican American plaintiffs or defendants have difficulty communicating with their lawyers, which hampers preparation of their cases;

(d) language disability also adversely affects the relations of some Mexican Americans with probation and parole officers (pp. 66–71).

11. INTERPRETERS

Interpreters are not readily available in many Southwestern courtrooms:

(a) in the lower courts, when interpreters were made available, they are often untrained and unqualified;

(b) in the higher courts, where qualified interpreters were more readily available, there has been criticism of the standards of their selection and training and skills (pp. 71–74).

12. EMPLOYMENT BY LAW ENFORCEMENT AGENCIES

Employment of Mexican Americans by law enforcement agencies throughout the five Southwestern States does not reflect the population patterns of these areas:

(a) neither police departments, sheriffs' offices, nor State law enforcement agencies employ Mexican Americans in significant numbers;

(b) State and local law enforcement agencies in the Southwest do not have programs of affirmative recruitment which would attract more Mexican American employees;

(c) failure to employ more Mexican Americans creates problems in law enforcement, including problems in police-community relations (pp. 78–83).

13. COURTS AND PROSECUTORS

Other agencies in charge of the administration of justice—courts, district attorneys' offices, and the Department of Justice—also have significantly fewer Mexican American employees than the proportion of Mexican Americans in the general population (pp. 84–86).

RECOMMENDATIONS

LAW ENFORCEMENT

Recommendation 1—Federal Civil Actions

The Commission recommends that Congress enact legislation authorizing civil actions by the Attorney General against law enforcement officers and agencies to enjoin patterns of discriminatory treatment as well as interference with lawful organizational efforts of minorities in furtherance of their civil rights.

Justification

There is at present no authority in the Department of Justice to deal with patterns of police misconduct. The criminal statutes designed to prevent violations of citizens' rights by State and local officers acting under color of law, 18 U.S.C. 241 and 242, only apply to individual acts of misconduct or to conspiracies to commit such acts. The Department receives many complaints of violations of individual rights, such as unlawful arrest, unreasonable detention for investigation, or the excessive use of force which may not warrant prosecution or show the existence of a conspiracy, but which do show a pattern of police misconduct. In these cases, if the local law enforcement agencies do not take steps to prevent the recurrence of such practices, the authority proposed herein would enable the Attorney General to remedy this situation.

Systematic patterns of discriminatory police action have been the basis for lawsuits by individual plaintiffs as members of a class. In *Lankford v. Gelston*, 364 F. 2d 197 (4th Cir. 1966), the Fourth Circuit held that the Civil Rights Act of 1966 (42 U.S.C. 1983) authorized an injunction against the police commissioner of Baltimore, forbidding the continuation or repetition of widespread warrantless searches of Negro homes on the basis of unverified anonymous tips. Several current suits involve similar complaints. *Kidd v. Addonizio*, D.C.N.J. No. 899–68, July 1967; *Robinson v. Los Angeles Police Department*, D.C. Cal. Civ. No. 68–1763–R Nov. 1968 and *Figueroa v. County of Riverside*, CA 9th Cir. No. 23931, June 1969. Since these complaints allege denials of equal protection of the laws under the 14th amendment, the Attorney General may have power to intervene in these suits under Title IX of the Civil Rights Act of 1964, which permits such intervention in cases of "general public importance." This power, however, does not negate the need for independent authority in the Department of Justice to initiate such law suits. Authorizing the Attorney General to sue would make the resources of the Department of Justice, which are superior to those of individual plaintiffs (especially in respect to investigation of departmental policies of law enforcement agencies), available at a much earlier stage. In addition, the Attorney General is informed concerning patterns or practices of discrimination through complaints filed with the Department and can make a more informed judgment than an individual on where to initiate such actions. Congress similarly recognized the limitations of private litigants to deal with discriminatory patterns in the areas of public accommodations, employment, and housing by empowering the Attorney General in the Civil Rights Acts of 1964 and 1968 to bring suits on his own initiative.

Recommendation 2—Municipal liability

The Commission recommends that Congress amend 42 U.S.C. § 1983, which provides Federal civil remedies for police malpractice, to make the governmental bodies who employ officers jointly liable with those officers who deprive persons of their civil rights.

Justification

This recommendation was made in the 1961 and 1965 Commission reports dealing with justice and law enforcement. It seeks to assure the victim in a police misconduct case as adequate Federal remedy against a defendant (the city or county) who has the money to pay a judgment for damages (as individual officers often do not), who, like other employers, bears some responsibility for the actions of persons he has employed, and who is in a position to take corrective action to prevent further violations of the kind complained of. At present, although a Federal court may issue an injunction against governmental bodies under § 1983, no liability in damages exists. *Monroe* v. *Pape*, 365 U.S. 167 (1961).

It has been argued that public entities are liable for police malpractice under 42 U.S.C. § 1983 to the same extent that they would be liable under State law, *Figueroa* v. *County of Riverside* (supera) but this position has not been generally adopted by the courts. In any event although the principle that governmental bodies should be liable for the torts of their employees has gained increased adherence in recent years,[1] immunity under State law is still quite prevalent and, where governmental liability for police misconduct exists, it varies in kind and extent.

Federal power to enforce the equal protection clause of the 14th amendments would appear sufficiently broad to reach governmental bodies. The Supreme Court has held that Congress may use any rational means to protect citizens from denials of equal protection. *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966). This proposal would not only give citizens an effective remedy against denials by individual governmental officials, but it might have the effect of inducing governmental entities to take steps to prevent such violations.

Several State bar associations have recommended that States and municipalities may be induced to take such steps in exchange for a relaxation of the rule excluding illegally obtained evidence from criminal proceedings. The purpose of the exclusionary rule is to curb one variety of illegal police action, namely unconstitutional searches and seizures, *Mapp* v. *Ohio*, 367 U.S. 643 (1961). The New York County Lawyers Association and the Federal Bar Associations of New York, New Jersey, and Connecticut have suggested that where municipalities assume liability for police malpractice and establish effective procedures for redress of violations, important evidence obtained illegally but in good faith may be admissible in criminal prosecutions under careful safeguards. *Hearings of the Sub. on Criminal Laws and Procedures, Senate Committee on the Judiciary*, 91st Cong., 1st Sess., at 225 to 227 (1969); 3 Criminal Law Bulletin 630 (1967).

Recommendation 3—Improved Federal investigations

The Commission recommends that the Department of Justice review and revise its procedures for ascertaining whether there have been violations of 18 U.S.C. 241, 18 U.S.C. 242, and Title I of the Civil Rights Act of 1968, the statutes which impose criminal penalties for misconduct of police officers toward citizens. Such measures should include:

(a) the requirements of a full, rather than merely a preliminary investigation, by the Federal Bureau of Investigation in a higher percentage of cases before a decision is made that a complaint lacks prosecutive merit;

(b) increased supervision of the Bureau's investigative practices, including more frequent reinvestigation of complaints by the Department's attorneys.

Justification

In its 1961 *Justice* Report, the Commission discussed the need for a more vigorous policy of investigating and prosecuting violations of 18 U.S.C. 241 and 242. In 1965, the Commission noted some improvement but also noted that the number of prosecutions was still very low. U.S. Commission on Civil Rights *Justice* at 67; U.S. Commission on Civil Rights, *Law Enforcement* (1965) at 117. In the Southwest, the criticisms and suggestions of the Commission to the Department of Justice in 1961 and 1967 are still applicable. These recommendations follow Commission views expressed in those reports:

(a) a large number of cases are closed by the Department of Justice because of inadequate evidence in support of the plaintiff's complaint. Often, however, this inadequacy results from insufficient investigation of the complaint. In many cases, a full investigation could result in corroboration of the victim's allegations;

(b) the adequacy of the FBI's search for witnesses and general investigative practices can only be ascertained by more frequent reinvestigation by the attorneys of the Department of Justice.

Recommendation 4—Federal enforcement program

The Commission recommends that the Civil Rights Division increase the manpower available for prosecuting violations of 18

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U.S.C. 241 and 242 by law enforcement officials, including:

(a) the hiring of a number of criminal lawyers specializing in prosecution and

(b) the establishment of a unit of independent investigators.

Justification

(a) In 1961, the Commission criticized the Department of Justice for not assigning sufficient priority to enforcement of 18 U.S.C. 241 and 242 (see n. 3, p. iv). Additional manpower was suggested. At present, although the Civil Rights Division is much larger than it was in 1961 [its authorized strength in the fall of 1960 was 117 attorneys] it has not assigned sufficient manpower for an effective, continuous program to enforce the statutes and to reinvestigate many complaints or to initiate investigations. In addition, until now few of the Division's lawyers have had specialized experience in criminal prosecutions. As a result, areas such as law enforcement in the Southwest have been comparatively neglected.

Under the September 24, 1969 reorganization of the Division, for the first time 15 attorneys and two research analysts have been assigned to the new Criminal Section with full-time responsibility to enforce a number of Federal criminal civil rights statutes, including 18 U.S.C. 242. Between 1964 and 1968, the Civil Rights Division received approximately 1,600 complaints of police brutality each year. Unless the complaint load decreases, it will be extremely difficult for 15 attorneys to implement a vigorous enforcement program.

(b) A recommendation for the establishment within the FBI of a special unit of investigators trained in civil rights work was made by the President's Committee on Civil Rights [the Truman Committee] in 1947 in its report "To Secure These Rights." The Commission's recommendation is a variation on that recommendation. A special unit is required because of the inadequacies which now exist in the investigation of civil rights complaints and the absence of manpower to reinvestigate many complaints. Enforcement of the criminal statutes in this area can only be as effective as the investigations conducted under them. However, the 1947 Committee's recommendation did not go far enough. The investigators should be directly responsible to the office in charge of enforcing the statutes. They may be detailed from within the FBI or hired from outside sources.

Recommendation 5—State remedies

The Commission recommends that States take steps to control and lessen the injuries to individual rights created by police abuse of authority. Such steps should include administrative procedures for rapid and adequate compensation of claims for injuries suffered through police malpractices.

Justification

States share with the Federal Government responsibility for providing equal protection of the laws to their citizens. Administrative compensation for malpractice claims is suggested because a complaint to the police department or to a police review board can only result in disciplinary action against an officer, which does not compensate the victims of police misconduct for medical expenses, pain, suffering, and other damages. Liability of municipalities under 42 U.S.C. 1983 (recommended above) is a somewhat similar remedy to this but more difficult and expensive for an individual to obtain. The State remedy would be in addition to the Federal remedy, although a victim could not recover twice for the same injuries.

Recommendation 6—Local remedies

The Commission recommends that internal complaint procedures of police departments be handled by independent agencies or boards within the departments with an independent investigative staff and the power to recommend appropriate disciplinary action against officers guilty of misconduct. A complainant should have a right to be present at the hearings of such agencies or boards and be represented by counsel who may cross-examine witnesses.

Justification

Similar recommendations were made by the President's Commission on Law Enforcement and the Administration of Justice (the Crime Commission) and endorsed by the National Advisory Commission on Civil Disorders (the Kerner Commission).

The Crime Commission emphasized the need for adequate procedures for full and fair processing of citizen grievances. The same Commission's Task Force on the Police stated that police investigative procedures and hearing procedures needed substantial improvement to achieve fairness to all parties. More recently, the Kerner Commission specifically recommended independent investigations and complaint participation in hearings.

JURIES

Recommendation 1—Federal legislation relating to State juries

The Commission recommends that Congress enact legislation to insure that no person be excluded from service as a grand or petit juror on State juries on account of race, color, religion, sex, national origin, or economic status. This statute should require the revision of State jury selection systems, substituting random selection of jurors on the basis of objective and comprehensive lists, such as voter registration lists or actual voting lists, for keyman systems or other systems vesting undue discretion in judges, jury commissioners, or clerks. The Federal statute should also:

(a) require State courts to keep records of jury selection by race and major ethnic categories, including Spanish surname. Such records also should include the race and major ethnic category of jurors peremptorily challenged;

(b) require State courts, where representative panels result in an unrepresentative jury because members of a group are eliminated by English language disability, to call a proportionately larger number of persons from that group as veniremen, to insure a fair chance of a representative jury;

(c) require the State to increase the pay of jurors and shorten the terms of grand juries, to facilitate service by poor people.

Justification

The Commission's findings indicate that the same rationale which led to the adoption of legislation requiring random selection for Federal juries is applicable to State juries: discrimination in selection can only be avoided by eliminating the bias inherent in the keyman system of selection and the substitution therefore of a system of random selection. Federal power to guarantee nondiscrimination in juries, under the 14th amendment, is broad enough to allow Congress to fashion any rational means to remedy discrimination including changes in the States' methods of selection of jurors (*South Carolina v. Katzenbach*, 383 U.S. 301 (1966); *Katzenbach v. Morgan*, 384 U.S. 641, (1966)).

(a) the recordkeeping requirement is necessary to insure enforcement of the law's basic purpose, to insure representative juries. It is particularly important to keep records of the use of the peremptory challenge by race or other census category because it is not possible to prove the discriminatory use of the challenge without such records:

(b) the proposal to call a proportionately higher number of Mexican American veniremen would go into effect in those counties in which even under random selection a disproportionate number of Mexican Americans are disqualified from jury service by their inability to meet the English language requirement. Affirmative efforts to select representative juries, which take into account the race of veniremen, have been upheld in court decisions. (See *Brooks v. Beto*, 366 F.2d 1 (5th Cir. 1966), *cert. den.*, 386 U.S. 975 (1967); *Rabinowitz v. U.S.*, 366 F.2d 34 (1966));

(c) the proposal to increase jury pay is based on the theory that to set jury pay levels so low as to make it practically impossible for poor people to serve on juries without considerable financial hardship results in juries which are not representative of all elements of the community. The proposal to shorten terms is based on the fact that some States, for example, California, require grand jurors to sit for a whole year. Poor people cannot afford to serve for such long periods of time at low pay.

BAIL

Recommendation 1—Bail Reform

The Commission recommends that the States should enact bail reform legislation designed to ensure that indigent defendants will not be unfairly detained in jail until trial because they are unable to afford the traditional cash bail.

Justification

The traditional bail system, which requires a defendant to make a cash deposit or bond before he can be released, unfairly discriminates against those defendants who are too poor to meet such financial conditions. As a result, many indigent defendants who probably would appear for trial remain in jail until trial while other defendants charged with similar crimes go free because they can afford bail. In addition, defendants who cannot afford bail and remain in jail until they are tried are hampered in their efforts to prepare for trial and their family lives and employment are unnecessarily disrupted.

The President's Commission on Law Enforcement and Administration of Justice recommended that the States enact bail reform legislation patterned after the Federal Bail Reform Act of 1966.[2] That act requires that every person charged with a noncapital offense must be released on his personal recognizance unless a judicial officer determines, upon showing of good cause, that the release will not assure the appearance of the accused for trial.

In order to ensure reform of their bail practices, the States will need personnel to evaluate defendants' eligibility for release, and to supervise them after their release. Funds for such programs are available from the Law Enforcement Assistance Administration of the Department of Justice (LEAA).[3]

Recommendation 2—Prompt proceedings

All persons should be brought before a judicial officer to be charged and given an opportunity to seek release on bail or on their own recognizance without unnecessary delay.

Justification

In some communities criminal defendants are held for periods of time ranging from a few hours to several days before being charged or given an opportunity to seek release on bail or on their own recognizance. Each arrested person should have an opportunity to secure his release from custody without unnecessary delay in order to avoid disruption of his life and the life of his family and to prevent improper detention. The Federal rule requires judicial presentation "without unnecessary delay"[4], and has been interpreted as ordinarily requiring production of the accused in less than 24 hours.[5] According to the President's Crime Commis-

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sion it is the practice in 29 States as well.[6] The ultimate responsibility for determining what is "unnecessary delay" must remain with the courts and will be determined in the light of all the facts and circumstances of each case.

REPRESENTATION BY COUNSEL

Recommendation 1—Legal assistance

Legal assistance should be made available to every indigent defendant immediately after his arrest in all criminal cases arising in State and local courts regardless of the nature of the charge.

In order to implement this recommendation, the State should establish statewide systems of legal representation for defendants in all criminal cases.

Justification

Serious injustices arise in the lower courts because of the lack of adequate legal representation for indigents. It has been recognized by most people familiar with the administration of criminal justice, including the Supreme Court of the United States, *Powell* v. *Alabama,* 287 U.S. 45 (1932), *Gideon* v. *Wainwright,* 372 U.S. 335 (1963), that representation by counsel is a necessary part of a fair trial in serious criminal cases. Yet, the consequences of even minor fines or short sentences can be extremely serious, too, and disproportionately so for indigent defendants and their families. For these reasons the States should provide adequate counsel for all indigent defendants, no matter what the offense with which they are charged.

The legal assistance to be provided by the States should be available immediately after the defendant's arrest to ensure that he is given an opportunity to be released on bail or on his own recognizance and to protect his rights through other early, but critical, stages of the judicial process.

The initial responsibility for the establishment of programs of adequate legal representation rests with the States. California, for example, provides counsel to all indigent criminal defendants who request such assistance, either through the public defender's office or by assigned counsel. Federal funds are currently available from LEAA for such programs.[7] State planning agencies should include such programs in their requests. In Fiscal Year 1969 only a small amount of the approximately $25 million distributed by LEAA was designated for use in a few States in programs to provide indigent defendants with legal assistance.

Some of the States might have an initial problem providing legal assistance to all indigent criminal defendants because of manpower shortages. The Commission suggests that States and localities consider, among other possible sources of manpower, using law students under proper supervision to assist in representing defendants in lower courts. This has already been done in some communities. The Boston University Roxbury Defender Project provided legal representation by third year law students for indigent defendants in misdemeanor cases under faculty supervision. A similar project has been underway at Harvard University Law School.[8]

The American Bar Association, the Urban Coalition, and other groups concerned about the quality of legal services for indigents are urged to continue their efforts to see that such assistance is provided wherever it is necessary.

Recommendation 2—Legal Services Programs

Congress should amend the Economic Opportunity Act of 1964 to repeal the provision which prohibits Legal Services Programs (LSP) funded by the Office of Economic Opportunity (OEO) from representing defendants in criminal cases.

Justification

A possible source of legal manpower to represent criminal defendants is the OEO Legal Services Program. Under existing legislation, however, these lawyers are barred from representing anyone indicted (or proceeded against by information) for the commission of a crime, except in extraordinary circumstances where the Director of the Office of Economic Opportunity has determined that adequate legal assistance will not be available for an indigent defendant unless such services are made available.[9]

Recommendation 3—Training programs for Mexican American lawyers

Congress should substantially increase the funds available to the Office of Economic Opportunity (OEO) for programs designed to help law schools recruit and train Mexican American law students.

Justification

There is a severe shortage in the Southwest of Mexican American and, generally, Spanish-speaking lawyers. Currently there are some programs, both publicly and privately financed, designed to recruit and train minority group lawyers, including Mexican Americans. The Council on Legal Education Opportunity (CLEO) has received grants of $493,530 from the Office of Economic Opportunity and a Ford Foundation grant of $450,000. The Mexican American Legal Defense Fund also gives law scholarships. However, if the gap between the actual number of Mexican American lawyers and the number needed is to be closed these programs will have to be substantially increased.

LANGUAGE DISABILITY AND INEQUALITY BEFORE THE LAW

Recommendations 1—Interpreters

The States in the Southwest should establish programs for the recruitment, training and employment of court interpreters to be used in areas where there are large concentrations of Mexican Americans.

Justification

A serious problem in the Southwest is the absence of qualified interpreters in courtrooms handling large numbers of Mexican Americans who have difficulty communicating in the English language. A minimum of fairness requires that all persons concerned be able to understand what is being said. In some communities, however, the courts do not have interpreters or merely rely on untrained citizens or on regular court or law enforcement personnel to act as official interpreters. Comparable problems arise in other parts of the United States for primarily Spanish-speaking Puerto Ricans and Cubans. In areas with large concentrations of such groups similar steps should be taken to overcome the problems of language disability.

Federal funds for the recruitment, training and employment of court interpreters are available from LEAA.[10]

Recommendation 2—Bilingual personnel

(a) State and local governments in the Southwest should establish programs for training in conversational Spanish for those individuals responsible for the administration of justice in areas of the Southwest where there are large concentrations of Mexican Americans.

(b) Bilingual capability in Spanish and English should be recognized by Federal, State, and local agencies responsible for the administration of justice as a special qualification for employment in areas of the Southwest where there are large concentrations of Mexican Americans.

Justification

Many Mexican Americans in the Southwest have difficulty with English and are most comfortable using Spanish, while most law enforcement officers and court officials do not speak Spanish. This fact has led to misunderstanding and has sometimes resulted in injustices to Mexican Americans. Justice cannot be administered fairly or effectively if the officials responsible for its administration cannot communicate with a substantial segment of the community. Law enforcement officers, probation and parole officers, judges, and other officials responsible for the administration of justice in the Southwest should be trained in conversational Spanish in order to help bridge this gap.

Federal funds for the training of personnel in conversational Spanish are currently available from LEAA.[11]

Another step that can be taken to improve communication between Mexican Americans and agencies adminstering justice is the employment of bilingual personnel. In order to attract such personnel it is necessary to recognize that their bilingual capabilities are a unique advantage that makes them particularly well qualified for the job. Special steps must be taken to attract them to these positions. This can be done through a variety of methods such as incentive pay, employment bonuses, or other programs that recognize their special qualification.

PARTICIPATION

Recommendation 1—Affirmative recruitment program

The Commission recommends that State and local law enforcement agencies establish:

(a) affirmative recruitment programs specially designed to increase the number of Mexican American law enforcement personnel;

(b) training programs to increase the ability of Mexican Americans and other minority persons employed by law enforcement agencies to obtain promotions to supervisory positions.

Justification

Additional Mexican American officers can contribute significantly in reducing the present feeling of apprehension and distrust which generally pervades the Mexican community toward law enforcement agencies. Such officers often can serve as on-the-spot interpreters and thus ease tense situations even, in some instances, preventing miscarriages of justice which result from misunderstandings.

In the report of the Kerner Commission a reference is made to the Crime Commission Police Task Force's finding that Negro policemen help provide insight into ghetto problems; often can provide advance information in anticipation of tensions and grievances that might lead to disorders; and are particularly effective in bringing disorders under control once they do break out.[12] The Kerner Commission's report continued by pointing out that more Negro police officers were needed at all levels and ranks, and recomemnded that police departments intensify their efforts to recruit more Negroes, review their promotion policies to ensure that Negro officers are afforded equitable promotion opportunities, and ascertain that Negro officers are assigned on a fully integrated basis visible to the Negro community.[13] These findings and recommendations by the Kerner Commission support the Commission's recommendation for efforts to increase the number of Mexican American law enforcement officers at all levels of authority. In its recent report on State and local employment, the Commission discussed in detail the component elements of a successful affirmative action program. That discussion may be useful to agencies seeking to implement this recommendation.[14]

We recognize that in some cases police departments will have difficulty recruiting members of minority groups. The recent report of the Commission on equal employment opportunity in State and local government, indicated that . . . "The tension, suspicion, and hostility which exists between

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the Negro community and the police department are obstacles to the recruitment of black policemen."[15]

Nevertheless, those departments that have made an effort to reverse their image in the minority communities and who have used special recruiting efforts designed to attract minority applicants have had a degree of success.[16] The Commission believes that similar efforts especially designed to attract Mexican American applicants will have a similar effect in increasing the number of Mexican American law enforcement personnel.

Recruitment of more Mexican Americans by law enforcement agencies would not affect the agencies' policies unless Mexican Americans also have opportunities to be promoted to supervisory positions. If they are not qualified for promotion because of lack of education or training, agencies should provide them with opportunities to make up for such deficiencies. Such programs should offer training both to recruits and to present law enforcement officers desirous of advancing to supervisory positions. Federal funds under LEAA are available for this purpose.[17]

Recommendation 2—Qualifications

Law enforcement agencies should review their qualifications for appointment and eliminate those who may not be job-related and which may tend to discriminate against Mexican American applicants.

Justification

Both Federal and private industry officials have informed the Commission in the past that many job requirements have little or no relationship to the actual work to be performed. For example, many private companies have abolished some of their application requirements, since they have determined that they had little or no bearing on actual job performance. Rather, the majority of the job requirements of new employees was readily attainable through on-the-job training. If such techniques can be utilized to train semi-skilled and skilled technicians, the Commission believes that similar techniques can be developed and employed to properly train Mexican American law enforcement applicants.

In its report *For ALL the People*, the Commission on Civil Rights has pointed out the difficulty that many police applicants encounter in taking lengthy written intelligence tests. Furthermore, the validity of such tests has not been proven and at least one police department in a major city—Detroit—is now using a general intelligence test, which takes only 12 minutes to complete, in contrast to the former 2½-hour intelligence test.[18]

Age, weight, height and vision requirements are invariably more stringent for police applicants than elsewhere in State or local government employment. However, when police departments have made special efforts to recruit minorities they have seen fit to make many of these requirements more flexible. For example, in an effort to recruit more Negro officers, Detroit has recently liberalized its age, height, and vision requirements.[19] Other large cities have reduced their height requirements from 5'9" to 5'7", in response to pressure from their Spanish-speaking communities.[20]

The elimination of lengthy written tests and the substitution of shorter, more meaningful job-related tests, together with the relaxation of certain physical qualifications, can result in the ultimate hiring of greater numbers of Mexican American applicants.

Recommendation 3—Judges

The President of the United States and the Governors of the five Southwestern States of Arizona, California, Colorado. New Mexico, and Texas should use their power to appoint qualified Mexican American attorneys to the Federal and State courts.

Justification

The Commission is aware that, with the execption of Colorado, virtually all of the State judges and justices are elected. However, deaths, resignations, and retirements do afford Governors some opportunity for judicial appointments, and the Commission urges them to use their appointive powers to increase the number of Mexican American judges.

Recommendation 4—Department of Justice

The Department of Justice, including the Federal Bureau of Investigation, should take affirmative action under its continuing equal employemnt opportunity program both to hire additional Mexican Americans in the Southwest and particularly to train and promote their present Southwestern Mexican American employees into supervisory and profressional level positions. The Civil Service Commission should review and evaluate the equal employment opportunity of the Department of Justice to ensure that this program will:

". . . provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities: . . ."[21]

Justification

The employment statistics furnished the Commission on Civil Rights by the Department of Justice clearly show the disparity that exists in the middle and higher grade categories, which include supervisors, lawyers, and other professional personnel. Virtually no Spanish surnamed employees are found in any of these categories.

Robert E. Hampton, Chairman of the United States Civil Service Commission, stated on August 8, 1969:

"Despite significant gains in overall employment of minority group persons in the Federal service, too many of our minority employees are concentrated at the lower grade levels, victims of inadequate education and discrimination. . . ."

On this same date, August 8, 1969, President Nixon issued Executive Order 11478, which restated the long standing Federal Government policy of equal employment opportunity, pointing out that each department and agency had the duty and responsibility of establishing and maintaining affirmative action programs designed to achieve the goals of equal employment opportunity. In this same Executive order, the President ordered the Civil Service Commission to provide leadership and guidance in the operations of such programs, and to review and evaluate such programs periodically to determine their effectiveness.

FOOTNOTES

[1] McQuillan, *Municipal Corporations*, Vol. 18, 53, 29a. The Federal Government is liable for many torts of its agents under the Federal Tort Claims Act of 1948, 28 U.S.C. 2671 *et seq*. Eight States—Idaho, Illinois, Indiana, Kentucky, Minnesota, Ohio, Oregon, and Pennsylvania—have enacted statutes relating specifically to police activities which waive to some extent municipal immunity in this area. McQuillan, Vol. 18, 53, 79d. Of the five Southwestern States involved in this study, Texas and Arizona have not waived governmental immunity for torts. California has made public entities liable on a respondent superior basis in those cases in which their employees are liable. Cal. Gov. Code §§ 815, 815.2 (West 1966). In Colorado, public entities are authorized to insure their employees and agents against liability although immunity of the entity is not waived. Colo. Rev. Stats. § 72–16–2 (1963). New Mexico has a similar insurance statute, which provides that the employing public entity shall be liable for torts to the extent that it is covered by insurance. N. Mex. Stats. Ann. § 5–6–20. (1953).

[2] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society*, at 132 (1967).

[3] U.S. Department of Justice, Law Enforcement Assistance Administration, *Guide for State Planning Agency Grants* (1968) at 2 (hereinafter cited as SPA Guide). For the text of the act under which such grants are made, see Appendix A.

[4] Fed. R. Crim. Pro., 5(b).

[5] *Mallory* v. *United States*, 354 U.S. 449 (1957).

[6] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Courts* 84 (1967).

[7] SPA guide at 2.

[8] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Courts* (1967) at 62.

[9] 42 U.S.C. 2809(a)(3).

[10] SPA guide at 2.

[11] *Id.*

[12] Report of the Advisory Commission on Civil Disorders at 165.

[13] *Id.* at 166.

[14] For ALL The People at 121–23.

[15] *Id.* at 72.

[16] *Id.* at 72–73.

[17] Section 301(b) and 406(b) of the Omnibus Crime Control and Safe Streets Act of 1968.

[18] For ALL the People at 74.

[19] *Id.* at 75.

[20] *Id.* at 76.

[21] Sec. 2, E.O. 11478, Aug. 8, 1969.

PIGS ARE BEAUTIFUL

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. MIKVA. Mr. Speaker, political crises seem to have a way of generating their own peculiar phraseology. Of late, the rhetoric of polarizations—with slogans to rouse the faithful and epithets to hurl at the opposition—has been a source of dismay and sometimes amusement to many of us. "Tomentose," which means, for those who have not lately perused the dictionary: covered with densely matted hair," "impudent snobs," "yippies," "fascists," and "pigs"—all have become part of the lexicon of current political brand names. Like brand names, these words are symbols, in this case, symbols of certain products of our political system—all too often products of misunderstanding, alienation, and hatred which accompany the deep rifts within our society.

As dissension and violence has escalated both at home and abroad, so too has the political rhetoric. A most popular target for absolute praise and absolute blame have been the law-enforcement officers of this country. As the personal representatives of governmental authority at times of physical confrontation, the police have on the one side been praised and on the other denounced for their actions—correct or incorrect. The tragedy of such absolutism on both sides has been that the real problems both for and of law enforcement officials in this

country have gotten lost in the rhetoric. However, in the following article Lieutenant Governor of Illinois Paul Simon has added a moderate, and much needed, sensible twist to this area of debate. He has voiced concern for those times when police behavior has been less than exemplary, while emphasizing that the job of the policeman is a difficult and crucially important service to this Nation's citizenry—made more difficult in the face of lack of concern and desire not to "get involved" on the part of many citizens.

The article follows:

PIGS ARE BEAUTIFUL!

(By Paul Simon)

After speaking to a recent meeting of the Illinois Farmers Union, I was presented with a large picture of two hogs by the Illinois Park Producers Association. Underneath the picture it said "Pigs Are Beautiful."

Very frankly, I don't like the use of names which are in any sense derogatory to describe a group of people. I don't like the use of the word "pig" to describe Police. I don't like the use of the word "niggers" to describe our black population, I don't like the use of the word "Dagos" to describe our Italian population, nor the use of the word "Polack" to describe our Polish population. Generally speaking people who use this kind of phraseology tell more about themselves than of the group they are trying to run down.

But to those who insist on referring to policemen as "pigs," my response would be the same as the words on the bottom of the picture I received: "Pigs Are Beautiful."

I do not suggest that there have not been policemen who have done wrong, just as there have been those in other professions. I do not suggest that there has not been a time when there was a deficiency in the training of policemen in the state of Illinois, both as far as professional police background and in the field of human relations. But I am also keenly aware of the fact that my life is safer because of the police, and the life of every other citizen in the state is safer because of the work that the police have done.

My responsibility in government and the responsibility of all citizens is to support the police in their endeavors to protect the rights of all human beings. I think there are practical ways of doing this:

1. Whenever we are witnesses to a crime or an accident, we should be willing to testify.

2. When a crime occurs, we should call the police immediately.

3. We should support efforts to increase the salaries and to improve working conditions for the police.

4. We should support efforts to improve the pension funds and pension available to both local and state police.

5. Because of the special hazards which a policeman has (as well as a fireman), we should make sure that the benefits to the families of the policemen who may be killed or permanently disabled are more adequate.

These things by themselves will not, of course, massively reduce crime. We should not expect a policeman to do what we have failed to do in the home; we should not expect a policeman to do what we have failed to do in the schools; we should not expect a policeman to do what we have failed to do in our churches.

Probably the most effective support we can give the police, in addition to the items I have mentioned already, is to tackle the basic problems that affect society.

By making sure that job opportunities and a good education are available to all Americans, we will be reducing crime rates. Our prison rehabilitation programs also need improvement.

Other social problems need to be tackled honestly.

But in the meantime as we tackle these problems we can be extremely grateful for the protection and assistance that the police are giving our cities, our counties and our state.

I, as one citizen, am deeply grateful.

FOREIGN TRADE EFFECT ON UTAH EMPLOYMENT

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. BURTON of Utah. Mr. Speaker, there are 22 counties in my district. Twelve of them are areas of substantial unemployment. In 1968 a total of 20,040 of my constituents were employed in manufacturing jobs in 12 industries with establishments in the district. Nationally, nine of these 12 industries suffered a loss of employment in the first quarter of 1970 compared with average employment in 1969. In two of these industries, employment in the first quarter of 1970, either in the months of March or April, depending upon which appeared in the latest data published by the Bureau of Labor Statistics, was lower than in the year 1964. In two other industries, employment in the first quarter of 1970 was lower than the average employment in the year 1967.

This loss of jobs in these industries nationally has also been felt in my district. The job impacted industries are food and kindred products, apparel and other textile products, lumber and wood products, stone, clay, and glass products, fabricated metal products, electronic semiconductors, motor vehicles and equipment, and engines and parts for aircraft.

The total job loss in these nine industries nationally, March or April 1970 compared with the average employment for 1969, is as follows:

[In thousands]

Food and kindred products	74.9
Apparel and other textile products	34.1
Lumber and wood products	33.9
Stone, clay, and glass products	12.5
Primary metal industries	26.4
Fabricated metal products	40.6
Electronic semiconductors	2.3
Motor vehicles and equipment	39.0
Aircraft engines and parts	11.7
Total	275.4

Employment in my district in 1968 in these job loss industries totaled 9,978. The national decline in employment in these industries has been registered in my district to the tune of about 400 jobs. There is every indication that this job loss will continue.

Foreign trade trends are a major factor in this unemployment both nationally, and in my district. Every one of these nine industries has been heavily impacted by sharply rising imports during the past 5 years. Here are the facts:

U.S. IMPORTS OF PRODUCTS LIKE OR COMPETITIVE WITH THOSE PRODUCED BY THE MAJOR MANUFACTURING INDUSTRIES WITH ESTABLISHMENTS IN THE 1ST CONG. DIST., UTAH, 1964-69

[Data in millions of units, as indicated, except aircraft engines, in units]

Industry	Units	1964	1967	1969	Percent change 1964-69	Percent change 1967-69
Food and kindred products	Dollars	2,991.2	3,577.9	3,953.7	+32	+11
Apparel and other textile products	Square yards	560.7	877.3	1,518.1	+171	+73
Lumber and wood products	Dollars	686.0	750.9	1,161.1	+69	+55
Stone, clay, and glass products	do	277.1	354.2	533.0	+92	+50
Primary metal industries	do	1,794.3	2,935.2	3,353.4	+87	+14
Fabricated metal products	do	306.6	459.5	689.1	+125	+50
Electronic semiconductors	Number	76.9	654.4	1,534.4	+1,895	+134
Motor vehicles and equipment	Dollars	754.7	2,480.9	4,838.9	+541	+95
Aircraft engines and engine parts	Number of engines	281.0	944.0	23,279.0	+8,184	+2,366

In addition to the import problems faced by these manufacturing industries, which adversely affect employment in my district, the wool textile problem is hurting the wool growers in my district and State. We are an important wool producing area, and the very heavy volume of imported wool textiles is injuring those textile and apparel establishments which consume domestically produced wool. You have been supplied with the detailed facts on the wool textile problem, so I shall not repeat them here. Suffice it to say that wool textile imports hurts my people where they are least able to fight back—the independent sheep rancher who is suffering the double impact of wool textile and lamb imports.

Sources of data cited:

1. Areas of substantial unemployment, U.S. Dept. of Labor, Manpower Administration, Area Trends in Employment and Unemployment, April 1970.

2. Major industries with establishments, and the amount of employment in such establishments, in the 1st District of Utah, U.S. Dept. of Commerce, Bureau of the Census, 1968 County Business Patterns, CBP 68-46.

3. National employment in the major industries with establishments in the 1st District of Utah, U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings Statistics for the United States, 1909-68; Employment and Earnings, March 1968 and 1970, May 1970; U.S. Department of Commerce, Bureau of the Census, 1967 Census of Manufactures (employment in the electronic semiconductor industry estimated based on the ratio of employment in 1963 and 1967 in industry 3674 to industry 3674.9).

4. U.S. Imports of products like or competitive with those produced by the major industries with establishments in the 1st Congr. District, Utah, U.S. Dept. of Commerce, Bureau of the Census, IM 146, December 1969; FT 210, Annual volumes, 1964 and 1967; FT 124, December 1969, annual volumes 1964 and 1967.

CALIFORNIA SUPREME COURT UPHOLDS RIGHT TO VOTE FOR AMERICAN CITIZENS WHO ARE LITERATE IN THE SPANISH LANGUAGE

HON. EDWARD R. ROYBAL
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 4, 1970

Mr. ROYBAL. Mr. Speaker, I want to take this opportunity to call to the attention of my colleagues in the House of Representatives a recent landmark decision of the California State Supreme Court upholding the right to vote for American citizens who are literate in the Spanish language, though not in English, on the ground that there is sufficient political information available through Spanish language newspapers, periodicals, and radio and television to assure an informed electorate.

This decision, in the case of *Castro* v. *State of California*, 85 Cal. Rptr. 20, 466 P. 2d 244 (1970), has the immediate effect of providing full voting rights to some 200,000 Spanish-speaking Californians, by ruling that the State's present English literacy requirement violated the guarantee of equal protection of the laws under the 14th amendment to the U.S. Constitution.

In a significant reference to California's rich Spanish/Mexican cultural, linguistic, and historical heritage, the court added this note:

> We cannot refrain from observing that if a contrary conclusion were compelled, it would indeed be ironic that petitioners, who are the heirs of a great and gracious culture, identified with the birth of California and contributing in no small measure to its growth, should be disenfranchised in their ancestral land, despite their capacity to cast an informed vote.

The ruling, however, has even broader implications in extending the franchise, in that the court applied its holding not only to Spanish-speaking citizens, but also "to any case in which otherwise qualified prospective voters, literate in any language other than English, are able to make a comparable demonstration of access to sources of political information."

Briefly, the case held that the requirement of the California Constitution conditioning the right to vote on literacy in English could not be used to keep from registering and voting persons who were literate in another language when such persons had access to political materials in newspapers and periodicals and in radio and TV broadcasts in the language.

The basis for the holding was that the right to vote is such a prime right that a state distinction between classes of persons with regard to the right to vote bears an extremely heavy burden of justification not to fall afoul of the equal protection clause of the 14th amendment.

Here, the justification traditionally cited was the necessity for an intelligent electorate able to gain knowledge of the questions and the candidates to be voted on.

But, since persons literate in another language with access to information in that language, were as able to inform themselves as persons literate in English, the court ruled it was unconstitutional to deny them suffrage.

Because of the importance of this case, Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD the text of this landmark California voting rights decision:

[In the Supreme Court of the State of California, in Bank, L.A. 29693]

GENOVEVA CASTRO ET AL., PLAINTIFFS, PETITIONERS, AND APPELLANTS, *v.* STATE OF CALIFORNIA ET AL., DEFENDANTS AND RESPONDENTS

In this case we are called upon to determine whether that portion of article II, section 1 of the California Constitution which conditions the right to vote upon an ability to read the English language is constitutional as applied to persons who, in all other respects are qualified to vote, are literate in Spanish but not in English. As we explain, *infra*, we have concluded that the challenged provision, as so applied, violates the equal protection clause of the Fourteenth Amendment and is, therefore, a constitutionally impermissible exercise of the state's power to regulate the franchise.

Insofar as is here relevant, article II, section 1 provides ". . . no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privilege of an elector in this State; . . . " Various sections of the California Election Code implement the constitutional exclusion. Section 100 limits eligibility to vote to those persons who qualify "under the provisions of Section 1 of Article II of the Constitution of this State and who [comply] with the provisions of this code governing the registration of electors. . . ." Section 200 requires each prospective voter to complete, in the presence of a county clerk, an affidavit of registration as a precondition to inclusion in the register of voters and section 310 prescribes that the affidavit set forth, inter alia, "Whether the elector is able to read the Constitution in the English language and to write his name. . . ." (Elec. Code, § 310, subd. (h).)[1]

Plaintiffs-petitioners (petitioners)[2] are adult, native born United States citizens residing in Los Angeles County. Both are fully qualified to vote except for their inability to read English and both were denied registration on this basis alone.[3] Defendant-respondent (respondent) Frank M. Jordan is the Secretary of State of respondent State of California and is charged specifically with the enforcement of its electoral laws, including article II, section 1 of the Constitution and the Election Code sections just referred to. Respondent Ben Hite is the Registrar of Voters and County Clerk of Los Angeles County and is charged with the supervision of the registration of voters in that county.[4] Authorized representatives of respondent Hite refused to register petitioners because of their inability to prove literacy in English and sign the required affidavit attesting to such literacy.

After having thus been denied registration, petitioners instituted the present action challenging the constitutionality of the English literacy requirement and seeking the following relief: (a) A declaration that the English literacy requirement of article II, section 1 is unconstitutional as applied to them and to other Spanish literates; (b) mandatory relief requiring respondents to register petitioners; and (c) mandatory relief requiring respondents to print a reasonable percentage of the ballots at each election in Spanish, or otherwise to facilitate their ability to vote in Spanish.

The case was tried on the basis of the pleadings, evidence contained in a stipulation of facts, and documentary evidence submitted by the petitioners. Petitioners sought to prove that they have access to Spanish language periodicals, newspapers and other communication media adequate to inform themselves about local, state and national issues and candidates. Included in the stipulation, for this purpose, were the names, estimated circulations, and brief descriptions of 17 newspapers and 11 magazines printed wholly or partially in Spanish and available to residents of Los Angeles County. Petitioners also sought to prove that the historical purpose of the English literacy requirement was to disenfranchise immigrant groups on the basis of their ancestry and national origin. To this end, petitioners introduced substantial documentary evidence setting forth debates in the State Assembly regarding the proposed constitutional amendment which added the literacy requirement to article II, section 1, contemporary newspaper editorial comment, and letters purporting to demonstrate the popular attitude toward the requirement.[5] Respondents introduced no evidence on either issue. They included, however, in the stipulation of facts, a list of the schools maintained by the Los Angeles Unified School District at which instruction in English as a second language is provided, without tuition, for non-English speaking adults.

The trial court gave judgment for respondents. It refused petitioners' proposed finding to the effect that residents of Los Angeles County who were literate only in Spanish would be able adequately to identify and familiarize themselves with political candidates and issues from Spanish-language news media, on the ground that the record did not contain sufficient evidence as to the contents of and coverage afforded by such media.[6] It likewise refused petitioners' proposed finding on the issue of discriminatory legislative and popular intent in enacting the literacy requirement. Viewing *Lassiter* v. *Northampton Election Bd.* (1959) 360 U.S. 45, as dispositively upholding the constitutionality of literacy tests, the court concluded that a requirement of literacy in English is a rational state policy, that the challenged provision is designed to serve a legitimate state interest, that its classifications are valid and nondiscriminatory and that it is, accordingly, constitutional on its face and as applied both to petitioners and to all persons who are literate in Spanish but not in English.[7]

We do not propose to consider in detail the substantial evidence which petitioners introduced in an effort to establish that the English literacy requirement was a direct product of the narrow and fearful nativism rampant in California politics at the end of the Nineteenth Century.[8] We refrain from doing so in part because inquiry into legislative intent or motive is a perplexing conceptual and epistemological problem and, for the judiciary, a "hazardous" undertaking at best. (Fleming v. Nestor (1960) 363 U.S. 603, 617; see also discussion in *Developments in the Law—Equal Protection* (1969) 82 Harv. L. Rev. 1065, 1091–1097.) A more practical reason for our restraint is, as petitioners concede, that the question of motive is not determinative of the present constitutionality of the literacy requirement. (See United States v. O'Brien (1968) 391 U.S. 367, 382–386.) We cannot accept, however, respondents' contention that because the requirement is fair on its face and not unfairly administered, evidence of a discriminatory purpose in its enactment is irrelevant.

One of the primary purposes of the Fourteenth Amendment was to strike down discriminatorily motivated state legislation directed against racial minorities.[9] (McLaughlin v. Florida (1964) 379 U.S. 184, 192.) Thus "Irrespective of the express terms of a statute, particularly in the area of racial dis-

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crimination, courts must determine its purpose as well as its substance and effect. . . . '[A]cts generally lawful may become unlawful when done to accomplish an unlawful end.' [Citation.]" (Fn. omitted.) (Hall v. St. Helena Parish School Board, 197 F. Supp. 649, 652, affd. per curiam (1962) 389 U.S. 515.) In Katzenbach v. Morgan (1966) 384 U.S. 641, the court mentions "evidence suggesting that prejudice played a prominent role in the enactment of [New York State's English literacy] requirement" (Fn. omitted.) (384 U.S. at p. 654), as among the grounds upon which Congress could reasonably have concluded that the requirement violated the Fourteenth Amendment.[10] Just last term, in a case involving a challenge to Ohio's electoral laws, the court stated, "In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, . . ." (Williams v. Rhodes (1968) 393 U.S. 23, 30. See also this court's discussion of the relevance of historical context in Mulkey v. Rietman (1966) 64 Cal.2d 529, 534, affd. (1967) 387 U.S. 369.) The following summary of the evidence, therefore, is intended simply to provide a brief account of the origin of the California literacy requirement. It is relevant to an understanding of our ultimate conclusion that the requirement violates petitioners' rights under the Fourteenth Amendment, but it is in no way crucial to that holding.

The English literacy requirement was introduced as a proposed constitutional amendment in the State Assembly in 1891. Its author was Assemblyman A. J. Bledsoe who, five years previously, had been a member of the vigilante Committee of Fifteen which expelled every person of Chinese ancestry from Humboldt County.[11]

Assemblyman Bledsoe was forthright about the purposes of his amendment. In introducing it he quoted from article V of the 1890 platform of one of the major political parties:

"We look with alarm upon the increased immigration of the illiterate and unassimilated elements of Europe, and believe that every agency should be invoked to preserve our public lands from alien grasp, to shield American labor from this destructive competition, and to protect the purity of the ballot-box from the corrupting influences of the disturbing elements . . . from abroad." [12] He continued: "If we do not take some steps to prevent the ignorant classes, who are coming here from Europe, unloading the refuse of the world upon our shores, from exercising the right of suffrage until they have acquired knowledge of our Constitution, our system of government, and our laws, it will soon come to pass that this element will direct in our politics and our institutions will be overthrown." [13] Nevertheless, the Assembly remained unconvinced and the proposal was defeated on January 21, 1891. (Assembly Journal (1891) p. 143.) This setback was only temporary; an immediate flood of petitions to the Assembly favoring the literacy requirement resulted in passage of legislation which placed it up for an advisory vote at the 1892 election. (Assembly Journal (1891) pp. 332, 387, 425, 448, 623; Senate Journal (1891) p. 684.)

The advisory vote showed overwhelming support for the Bledsoe proposal and in 1893 the Legislature hastened to adopt it as a constitutional amendment subject to ratification at the next general election. (Assembly Journal (1893) p. 178; Senate Journal (1893) p. 214.) The English literacy requirement was again approved by the people in 1894 and became part of article II, section 1, which set forth existing voter qualifications.[14]

It is obvious that fear and hatred played a significant role in the passage of the literacy requirement. Perhaps a genuine desire to create an intelligent and responsible electorate was equally important for many of its supporters. We, no more than the trial court, need decide this issue. Our primary task is to determine whether the challenged provision is compatible with the demands of equal protection as they apply in contemporary society. Its historical origin, whether odious or admirable, cannot fully answer that question.

The last decision of the Supreme Court to rule directly [15] upon the constitutionality of state literacy requirements under the equal protection clause is Lassiter v. Northampton Election Bd., *supra*, 360 U.S. 45, relied on by the courts below. In *Lassiter*, a Negro resident, qualified to vote except for her refusal to submit to a literacy test, challenged the provision of the North Carolina Constitution which required it. A unanimous court upheld the constitutionality of the test. Pointing out that states "have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised," the court held that the right to vote, while guaranteed by the federal Constitution, was subject to the imposition of nondiscriminatory state standards. Since the ability to read and write was "neutral on race, creed, color and sex" and bore "some relation to standards designed to promote intelligent use of the ballot" literacy (like age, citizenship, residency, and previous criminal record) could legitimately be considered in determining voter qualifications. (360 U.S. 45 at pp. 50–51.)

Putting to one side for the moment the court's subsequent ruling on state laws which restrict or dilute voting power, it is nevertheless apparent that *Lassiter* does not control our decision here. The appellant in *Lassiter* made no claim to literacy in any language other than English or to access to news media written in any other language. The constitutional issue, therefore, was whether the distinction between literate citizens and those totally illiterate was a permissible one upon which to condition access to the polls. We do not here face the general question of a nondiscriminatory literacy requirement which *Lassiter* upheld; we confront a provision which discriminates *among* literate citizens, disenfranchising all who are literate in languages other than English, as well as those literate in no language. Justice Douglas, the author of the opinion in *Lassiter*, made the distinction explicit in his dissent in Cardona v. Power, *supra*, 384 U.S. 672, stating "A State has broad powers over elections; and I cannot say that it is an unconstitutional exercise of that power to condition the use of the ballot on the ability to read and write. That is the only teaching of *Lassiter*. . . . But we are a multi-racial and multi-linguistic nation; . . . And so our equal protection question is whether intelligent use of the ballot should not be as much presumed where one is versatile in the Spanish language as it is where English is the medium." (384 U.S. at pp. 675–676.) [16]

However, although *Lassiter* does not govern the constitutionality of excluding literate persons from the polls, it does identify the permissible state interest to be served by excluding illiterates: the promotion of an "'independent and intelligent' exercise of the right of suffrage." (Fn. omitted.) (360 U.S. at p. 52.) What we must decide in this case is whether, applying the constitutional standards which have evolved since *Lassiter*, California's presumed desire for "intelligence" and "independence" in voting may be satisfied by the exclusion of those of its citizens who, while unable to read the dominant language, English, nonetheless have access to, and the ability to utilize, those materials available through Spanish language publications.

Lassiter did not overtly adopt a standard by which the compatibility of the legislative classifications with the equal protection clause was to be determined. After having assured itself that no racially discriminatory purpose or application was involved, however, the court gave only a cursory examination to the relationship between literacy and intelligent voting.[17] No effort was made to rationalize the admitted lack of congruity between the class of intelligent voters and the classes of literate citizens and illiterate citizens. Nor was there an attempt to balance the detriment imposed on those excluded from voting against the gain in the quality of the franchise reasonably to be expected from their exclusion. In sum, the court invested the legislation with a presumption of constitutionality and deferred to a legislative decision for which rational grounds could be suggested—the posture traditionally associated with review of fiscal and economic regulatory matters.[18]

Commencing with the reapportionment decisions following Baker v. Carr (1962) 369 U.S. 186, the high court has given ever-increasing recognition to the importance of the franchise and has abandoned the tolerance of *Lassiter* in favor of strict scrutiny of restrictions on it. For example, in Wesberry v. Sanders (1964) 376 U.S. 1, the court observed that "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. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right." (376 U.S. at pp. 17–18.) In Reynolds v. Sims (1964) 377 U.S. 533, the court made explicit the need for more rigorous and critical analysis of legislation restricting or denying the right to vote. Comparing such restrictions on the right to vote to the compulsory sterilization laws struck down by Skinner v. Oklahoma *ex rel* Williamson (1942) 316 U.S. 535, the court characterized the right of suffrage as "a fundamental matter in a free and democratic society. Especially since the right . . . is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." (377 U.S. at pp. 561–562.) More significant than the language used was the result in *Reynolds*, i.e., the invalidation under the equal protection clause of classifications despite the fact that such classifications were supported by a "clearly rational state policy of according some legislative representation to political subdivisions, . . ." (377 U.S. 581.) *Reynolds* signaled the end to approval of restrictions on the right to vote once a rational connection between the constraint and a legitimate state policy was demonstrated.

The following year, in Carrington v. Rash (1965) 380 U.S. 89, the court for the first time held state voter qualifications subject to the equal protection clause. (See the dissenting opinion of Harlan, J., 380 U.S. at pp. 97–99.) *Carrington* held invalid a provision of the Texas Constitution prohibiting all members of the armed forces from voting in any election, on the conclusive assumption that they were not state residents. While restricting the franchise to Texas residents was considered a legitimate state objective, the disenfranchising classification was invalid since it was both under-inclusive and over-inclusive (see, fn. 17, *ante*.) Less restrictive alternatives were available and, although more costly and difficult to administer, were required by the equal protection clause.

In Harper v. Virginia Bd. of Elections (1966) 383 U.S. 663, the court struck down as violative of the equal protection clause of the Fourteenth Amendment a provision of the Virginia Constitution and implementing Virginia statutes conditioning the right to

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vote upon the payment of a poll tax. Declaring that "Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process," the court termed such a requirement an "'invidious' discrimination [citation] that runs afoul of the Equal Protection Clause." (383 U.S. at p. 668.) Yet both dissenting opinions proposed justifications for a poll tax which are certainly rational. (E.g., Justice Harlan's suggestion that the "payment of some minimal poll tax produces civic responsibility, weeding out those who do not care enough about public affairs to pay $1.50 . . . a year for the exercise of the franchise.") (383 U.S. at p. 685.) The clear implication of *Harper* is that more than "rationality" must be demanded of state voter qualifications. The case thus represents the conjunction between the more exacting standard of review set out in *Reynolds, supra,* and the extension of the equal protection clause to cover voter qualification laws accomplished by *Carrington, supra.*[19]

The necessity to impose more stringent equal protection standards to disenfranchising legislation, implicit in *Harper,* was stated explicitly in two cases decided last term, Kramer v. Union School District (1969) 395 U.S. 621 and Cipriano v. City of Houma (1969) 395 U.S. 701. The court announced the new consitutional standard in a terse paragraph in *Kramer:* "Statutes granting the franchise to residents on a selective basis always pose the danger of denying some citizens any effective voice in the governmental affairs which substantially affect their lives. Therefore, if a challenged state statute grants the right to vote to some bona fide residents of requisite age and citizenship [20] and denies the franchise to others, the Court must determine whether the exclusions are *necessary* to promote a compelling state interest." (Fn. omitted.) (Italics added.) (395 U.S. 621, 626–627.)[21] At issue in *Kramer* was a New York statute which limited the vote in local school district elections to owners or lessees of taxable property, their spouses, and parents or guardians of children attending district schools—that is to those persons thought to be "'primarily interested' in school affairs" including those "'directly' affected by property tax changes. . . ." (395 U.S. at p. 631.) Without deciding whether a state could properly limit voter eligibility in certain elections to those considered to have a unique interest in the outcome, the court held the statutory restrictions invalid. Assuming that New York could legitimately limit the franchise in school district elections to those primarily concerned with school affairs, the statute failed to accomplish that purpose with adequate "precision." Noting that the classifications "permit inclusion of many persons who have, at best, a remote and indirect interest" while excluding others "who have a distinct and direct interest" the court held the statutes invalid since they did "not meet the exacting standard of precision [required] or statutes which selectively distribute the franchise." (395 U.S. at p. 632.)[22]

The issue before us, therefore, is whether California's restriction of the right to vote to those literate in English is necessary to achieve a compelling state interest.

The most obvious nondiscriminatory [23] purpose which a literacy test serves (and one which *Lassiter* intimated was the *only* permissible purpose, 360 U.S. at p. 51) is to confine participation in the electoral process to those who, because of their access to printed sources of political and electoral information, are thought capable of some degree of intelligence and independence in their voting. Since *Lassiter,* the Supreme Court appears to have implicitly accepted the purpose of ensuring informed voting as a valid justification for restricting the franchise. *Harper* held the poll tax unconstitutional precisely because it did *not* measure "ability to participate intelligently in the electoral process." (383 U.S. at p. 668.) Similarly, in the instant case, we believe that California's concern that those of her citizens who are eligible to vote likewise be capable of informed decisions on matters submitted to the electorate, constitutes a "compelling" state interest.[24]

Whether this conceded state interest is an informed electorate necessitates a literacy requirement is less obvious today than when *Lassiter* was decided, in light of the wider availability and greater sophistication of nonwritten modes of communication (i.e., radio and, especially, television). The question of the validity of literacy requirements per se is not before us, however, and we intimate no opinion in the matter. The question which is raised is whether this interest necessitates that literacy, if required, be limited to literacy in *English.* The answer, after *Kramer* and *Cipriano,* depends on whether those excluded—residents literate in Spanish—are substantially more isolated from political events and issues (hence more likely to exercise the franchise in an uninformed manner) than are those whom the law includes. This, of course, in turn depends upon the amount of politically relevant information available to them in Spanish.

At trial, the petitioners introduced evidence of a substantial network of Spanish language news media to which, as residents of Los Angeles County, they have ready access.[25] This evidence, the accuracy of which was stipulated to by respondents, reveals that eight Spanish language newspapers are published in Los Angeles County, two of which are published daily, the remainder at weekly intervals.[26] Nine additional Spanish language newspapers which are published elsewhere in the United States, in Mexico, or in South America also circulate in Los Angeles County.[27] Eleven Spanish language magazines are available, two of which, *Grafica* and *La Raza,* are published in Los Angeles and are devoted primarily to discussion of national and local political affairs. The nine remaining include Spanish translations of Life (*Life en Espanol*) and Reader's Digest (*Selecciones*). Apart from what has been set forth above, the stipulation contained only fragmentary information as to the content or quality of the Spanish language news media and the trial court made no finding as to the availability of political information to those situated as are petitioners.

Petitioners contend on appeal, as they did in the court below, that their proof of access to 17 Spanish language newspapers and 11 Spanish language magazines was sufficient to shift to respondents the burden of producing evidence to show that the newspapers involved do *not* provide their readers with information about political candidates, events and issues. (Evid. Code, § 550.) In the absence of such rebutting evidence, they assert, the trial court erred in not finding that some of the material in evidence was devoted, at least to the degree that typical English language newspapers are, to news of political signficance.[28] We concur. In the light of the evidence presented by this record, the facts required to be judicially noticed by us,[29] and in the absence of any evidence [30] indicating any substantial difference between the newspapers described in the stipulation of the parties and those English language publications commonly denominated as "newspapers," we are satisfied that petitioners have demonstrated access to materials printed in Spanish which communicate substantial information on matters, not only of national, but also of state and local political concern.

It is in this factual context that the necessity of excluding petitioners from any orderly and effective expression of their political preferences must be judged.

Respondents argue that the question as to how much information is necessary or desirable for a voter to have access to, in order to insure his intelligent and independent exercise of the franchise, is one to be determined by the Legislature and that California has decided that voters should "have access to that quantum of information, comment and argument concerning candidates and issues as is available only to those who can read English." This, of course, simply begs the question. More importantly, it fails to recognize that the issue is not what is "desirable" nor whether the legislative judgments are reasonable. "A more exacting standard obtains" (Kramer v. Union School District, *supra,* 395 U.S. at p. 633), which respondents' argument fails to meet.

First, respondents appear to misapprehend the permissible state goal. No case has intimated that a "compelling state interest" requires restriction of the franchise to persons manifesting the political acumen generated by the use of even a fraction of that "quantum of information, comment and argument . . . available only to those who can read English." (See fn. 24, *ante.*)

Elaborate educational qualifications for voters are incompatible with our commitment to full and equal participation in the political life of the nation. (See, e.g., Baker v. Carr, *supra,* 369 U.S. 186; Harper v. Virginia Bd. of Elections, *supra,* 383 U.S. 663; Williams v. Rhodes, *supra,* 393 U.S. 23.) The state may have a compelling interest in establishing standards which tend to ensure a minimal degree of competence and capacity to become informed. It has no such interest in excluding voters who meet these standards on the ground that they do not also have access to mammoth quantities of information which the state does not and could not demand that other voters utilize. Exclusion of all who cannot read English is obviously *necessary* to accomplish the goal of creating an electorate which can read all material of political significance printed in English. While that may be a desirable state policy it is hardly so compelling that it justifies denying the vote to a group of United States citizens who already face similar problems of discrimination and exclusion in other areas and need a political voice if they are to have any realistic hope of ameliorating the conditions in which they live.[31]

Second, respondents have in no way demonstrated that access to the full range of political commentary available in English is *necessary* to achieve an electorate capable of informing itself sufficiently to make intelligently self-interested choices at the polls—which is the more modest state interest we accept as compelling. In light of evidence disclosing a significant number and diversity of sources of political information available in Spanish to petitioners, it is futile to contend that they are substantially less able than are most voters literate in English to inform themselves about candidates for elective office or issues whose resolution is submitted to the people. It is only such a substantial distinction between classifications that will satisfy the "exacting standard of precision" demanded by the United States Constitution of state laws which "selectively distribute the franchise." (Kramer v. Union School District *supra,* 395 U.S. 621, 632; Cipriano v. City of Houma, *supra,* 395 U.S. 701, 706.)

Although accorded only the briefest mention by respondents, there is another source of potential state interest in preserving the absolute quality of the English literacy requirement. We refer, not to the state's concern with standards for voter qualification, but to its professed desire to avoid the cost and administrative complexity entailed in providing a bilingual electoral system. Most

Footnotes at end of article.

significant would be the expense of translating, printing and distributing ballots, sample ballots, and ballot pamphlets (which contain texts of proposed measures, an analysis of them prepared by public counsel, and arguments in support and in opposition) in both English and Spanish.

In addition, increased difficulties in the counting and reporting of returns reasonably could be anticipated.[32] It is clear, as respondents appear to concede, that the question of constitutionality cannot turn on this issue alone. Avoidance or recoupment of administrative costs, while a valid state concern, cannot justify imposition of an otherwise improper classification, especially when, as here, it touches on "matters close to the core of our constitutional system." (Carrington v. Rash, *supra*, 380 U.S. 89, 96. See also Shapiro v. Thompson, *supra*, 394 U.S. 618, 633; Griffin v. Illinois (1956) 351 U.S. 12.)

Whether such a radical reconstruction of our voting procedures is constitutionally compelled, however, is a separate question. It is clear that the goal of efficient and inexpensive administration, while praiseworthy, cannot justify depriving citizens of fundamental rights. But this does not imply that the state must not only provide all qualified citizens with an equivalent opportunity to exercise their right to vote, but must also provide perfect conditions under which such right is exercised. The equal protection clause does not require, for example, that California provide explanatory material (see Elec. Code, § 3566) of varying degrees of complexity and sophistication even though the ability to comprehend an analysis of a technical ballot measure may vary widely among voters.

Similarly, California is not required to adopt a bilingual electoral apparatus as a result of our decision today that it may no longer exclude Spanish literates from the polls. The state interest in maintaining a single language system is substantial and the provision of ballots, notices, ballot pamphlets, etc., in Spanish is not necessary either to the formation of intelligent opinions on election issues or to the implementation of those opinions through the mechanics of balloting. It reasonably may be assumed that newly enfranchised voters who are literate in Spanish can prepare themselves to vote through advance study of the sample ballots with the assistance of others capable of reading and translating them. In addition, such voters will have access to the translations of ballot provisions and electoral commentary afforded by the Spanish news media.

We hold, therefore, that as applied to petitioners (and to all residents of Los Angeles County who are otherwise qualified to vote and literate in the Spanish language) the English literacy requirement of article II, section 1 of the California Constitution violates their right to the equal protection of the laws. Our holding, of course, will apply to any case in which otherwise qualified prospective voters, literate in a language other than English, are able to make a comparable demonstration of access to sources of political information.

In this regard, we emphasize that our holding is *not* confined to residents of Los Angeles County. We do not intend to introduce into our jurisprudence the anomalies of geographically determined degrees of constitutional protection or county-by-county adjudications of eligibility to vote. Voter qualifications have traditionally been matters of statewide concern and application.[33] There is no indication that, had those who initially drafted and approved the literacy provision contemplated its unenforceability in a major area of the state,[34] they would have desired its continued application elsewhere. Rather, it seems more likely that they would have preferred the uniform enfranchisement of a foreign language minority once it became clear that it was no longer realistic to equate literacy in that language alone with political ignorance. It thus appears that the unconstitutional *application* of article II, section 1 in Los Angeles County (See Hamer v. Town of Ross (1963) 59 Cal. 2d 776, 789) enters so entirely into the pattern of the law as it governs those literate in Spanish, that it cannot be severed from its statewide application. (See Danskin v. San Diego Unified Sch. Dist. (1946) 28 Cal.2d 536, 555; People v. Lewis (1939) 13 Cal.2d 280, 284. See also Mulkey v. Reitman, *supra*, 64 Cal.2d 529, at pp. 543–544.) Accordingly, we hold that the English literacy requirement of article II, section 1 cannot be applied, consistently with the Fourteenth Amendment, to California citizens, wherever resident, who are literate in Spanish and in all other respects qualified to vote.[35]

We add one final word. We cannot refrain from observing that if a contrary conclusion were compelled it would indeed be ironic that petitioners, who are the heirs of a great and gracious culture, identified with the birth of California and contributing in no small measure to its growth, should be disenfranchised in their ancestral land, despite their capacity to cast an informed vote.

The judgment is reversed and the cause is remanded with directions to amend the findings of fact and conclusions of law and to enter judgment ordering the issuance of a peremptory writ of mandate commanding respondents to determine the qualifications of petitioners to vote in accordance with the views herein expressed.

SULLIVAN, J.

We concur: Tobriner, Acting C.J.; McComb, J.; Peters, J.; Mosk, J.; Burke, J.

FOOTNOTES

[1] The California Constitution also requires that a voter be a citizen of the United States, at least 21 years of age and a resident of California for at least one year, of the county in which he claims his vote for at least 90 days, and of the election precinct at least 54 days. (See Cal. Const., art II, § 1.) Petitioners meet these citizenship, age, and residency requirements and do not challenge them.

[2] A "Complaint for Declaratory Judgment and Petition for Alternative and Peremptory Writs of Mandate" was filed in the court below on September 13, 1967, by Genoveva Castro and Jesus E. Parra, "Plaintiffs-Petitioners" against State of California, Frank M. Jordan as Secretary of State, State of California, and Ben Hite as Registrar of Voters and County Clerk, County of Los Angeles "Defendants-Respondents." On the same day, an alternative writ of mandate issued, directed to all respondents. Strictly speaking, the record discloses no return filed to the alternative writ either by answer or demurrer. But the record does show that all "defendants-respondents" filed an answer to the *complaint*.

The cause appears to have proceeded to trial on the above pleadings, the parties being referred to throughout by their respective dual designations. The court below made no attempt to isolate the proceeding as one exclusively a civil action for declaratory relief (see Code Civ. Proc., pt. 2, §§ 1060–1062) with issues framed by a complaint and answer, or as one exclusively a special proceeding of a civil nature for a writ of mandate (see Code Civ. Proc., pt. 3, §§ 1084–1097) with issues framed by a petition (§ 1086) and answer (§ 1089). Indeed the answer filed although directed to the complaint appears to have served the double purpose of a response to the initial pleading howsoever regarded. (See 3 Witkin, Cal. Procedure (1954) pp. 2555–2556.) The trial court thus seems to have fused both forms of civil proceeding into one with dual aspects and to have carefully preserved this integration in the findings of fact and conclusions of law, and in the judgment, designating the parties throughout by their dual titles. To be consistent we will do the same, although for the sake of brevity we will refer to "plaintiffs-petitioners" as "petitioners" and to "defendants-respondents" as "respondents."

[3] It was stipulated that both petitioners are able to read an accurate Spanish translation of the California Constitution and to write their names. For purposes of this case, they may thus be considered literate in Spanish. "Literacy," as generally defined, requires both the ability to read and the ability to write a language. (Webster's Second New Internat. Dict.) Article II, section 1, however, requires merely an ability to read and to write one's name. Thus when we refer, *infra*, to "literacy" or to the constitutional provision as an "English literacy requirement" we use the term in the narrower sense consistent with the Constitution's actual requirements.

[4] After this action was filed, the office of the registrar of voters was joined with the office of the recorder and Ray Lee appointed to the consolidated position of registrar-recorder. Mr. Lee was substituted by stipulation as a party respondent in place of Ben Hite.

[5] It was stipulated that the materials introduced were true and correct copies of writings or portions of writings, the originals of which are located at the Bancroft Library of the University of California at Berkeley and the State Library at Sacramento. (See Evid. Code, §§ 1401, 1500.)

[6] The court's findings of fact on this issue stated simply: "The amount of written material in Los Angeles County relating to public or political issues printed in English exceeds that printed in Spanish."

[7] No charge is made that the literacy requirement is applied in any but an impartial manner. On the contrary, it was stipulated that respondent Hite, "to the best of his ability, administers the English literacy requirement of Article II, Section 1 of the California Constitution fairly and uniformly." Thus we need not stop to consider the argument (made not by petitioners but by an amicus curiae) that because of the lack of standards set out in the constitutional provision, the provision under review is equivalent to a grant of uncontrolled discretion to county voting registrars to determine who is and is not literate in English. Such discretion in administrative officials over fundamental rights is traditionally suspect (see Saia v. New York (1948) 334 U.S. 558, 560–562) and was condemned in the context of literacy tests in Louisiana v. United States (1965) 380 U.S. 145, 153.

[8] California was a stronghold of the American Protective Association (A.P.A.), a powerful anti-immigrant political party which advocated an English literacy requirement as a method of disenfranchising voters of foreign ancestry. (D. Kinzer, An Episode of Anti-Catholicism (University of Washington Press, 1964), pp. 15–16; B. Soloman, Ancestors and Immigrants (Harvard University Press, 1956), pp. 115–117, 196–198.) During its heyday, 1890–1897, two of the A.P.A.'s national officers were Californians and the nativist group published several newspapers and magazines in the state. (Kinzer, *op. cit.*, pp. 254–258.)

[9] The United States Supreme Court has applied the Fourteenth Amendment to bar state-imposed discrimination based upon ancestry, whether racial or national. (See, e.g., Loving v. Virginia (1967) 388 U.S. 1, 11 ("race"); Hernandez v. Texas (1954) 347 U.S. 475, 482 ("national origin or descent"); Hirabayashi v. United States (1943) 320 U.S. 81, 100 ("ancestry" and "race"); Truax v. Raich (1915) 239 U.S. 33, 41 ("race or nationality"); Yick Wo v. Hopkins (1886) 118 U.S. 356, 369 ("race, color, or nationality").)

[10] The evidence to which the court referred included statements made by the sponsor of the measure, "reinforced by an understanding of the cultural milieu at the

time of proposal and enactment, spanning a period from 1915 to 1921—not one of the enlightened eras of our history." (384 U.S. 654, fn. 14.)

[11] Carranco, *Chinese Expulsion From Humboldt County* (1961) 30 Pacific Historical Review, pp. 329, 332. Both the Chinese and Japanese were subjected to widespread and systematic discrimination. The Constitution adopted in 1879 excluded "natives of China" from voting. In 1891 the children of those thus excluded were nearing voting age and, since the Chinese tended to retain their language and customs, partly as a response to intense discrimination, the proposed literacy test would serve to prevent them from voting as well. (See Gaylord, "History of the California Election Laws," West's Elec. Code, p. 41.) The judiciary was not immune from anti-Chinese prejudices. Chief Justice Murray termed the Chinese a "distinct people . . . whose mendacity is proverbial; a race of people whom nature has marked as inferior, and who are incapable of progress or intellectual development beyond a certain point, as their history has shown; . . ." (People v. Hall (1854) 4 Cal. 399, 404–405.)

[12] The debate in the Assembly was not recorded. Mr. Bledsoe's remarks are derived from the record of the debate printed in the Sacramento Record Union, January 20, 1891. Where there is no official record of debate "newspaper articles [quoting debate] are admissible to show purpose." (United States v. State of Louisiana (1963) 225 F. Supp. 353, 375, fn. 59, affd (1965) 380 U.S. 145.)

[13] Fear of growing influence of alien classes appears to be a traditional impetus for literacy requirements. "Throughout the greater part of its history the literacy test for voters has been used as a weapon against specific groups which . . . were considered dangerous to the dominant group. Its convenience as a method of restricting the suffrage without violating the fundamentals of democratic dogma . . . was recognized as early as 1795, when it was incorporated into the constitution of the year III in order to keep the sansculottes from the polls. . . . In the United States it was first introduced in Connecticut in 1855 and two years later in Massachusetts, the occasion being the inpour of tumultuous Irish immigrants and the organizers of native American indignation being the Know-Nothing party." H. Sullivan, "Literacy and Illiteracy," 5 Encyclopedia of the Social Sciences (Macmillan 1937) pp. 511, 520.

[14] Newspaper editorial support for the proposal prior to the crucial 1892 advisory vote followed the tenor of the earlier debate in the Assembly. It appears, from the evidence in the record, that scant attention was given to discussion of the merits of the literacy requirement as a neutral method of promoting an informed electorate. Rather, adoption was urged in order to "Wipe out the ignorant foreign vote" (Redlands Facts, September 23, 1892), to exclude, from voting at least, the "increasing flood of debased and ignorant Europeans" (Anaheim Gazette, September 8, 1892), the "thousands of ignorant and vicious, illiterate and reckless [immigrants]," (The Argonaut, November 7, 1892) and the "ignorant and vicious foreigners who are a constant menace to our free institutions." (San Bernardino Weekly Courier, October 8, 1892).

[15] The court has considered the issue of English language literacy tests as applied to those literate only in Spanish in two cases decided subsequently to *Lassiter:* Katzenbach v. Morgan, *supra,* 384 U.S. 641 and Cardona v. Power (1966) 384 U.S. 672. In those cases, however, the court did not itself pass on the constitutionality of such tests under the equal protection clause. *Katzenbach* involved section 4(e) of the Voting Rights Act of 1965, which invalidated state English literacy requirements as applied to certain foreign language literates—principally Spanish-speaking residents of New York State.

The decision was limited to holding that section 4(e) was a proper exercise of the power vested in Congress under section 5 of the Fourteenth Amendment and that Congress could reasonably have concluded that the imposition of such tests on those literate in Spanish in the geographic area to which the section in fact principally applied was a violation of equal protection. *Cardona* was initiated by a Spanish literate before the enactment of section 4(e). The New York Court of Appeals held (4 to 3) that the English literacy requirement was constitutional. (261 N.Y.S.2d 78.)

The Supreme Court remanded for the purpose of determining whether the case had been rendered moot by the enactment of section 4(e) and the issue presented by the instant case was specifically left open by the majority opinion (See Bikel, *The Voting Rights Cases,* 1966 Sup. Ct. Rev. 79, 96.) Four members of the court would have reached the constitutional issue Justices Douglas and Fortas would have held New York's literacy requirement unconstitutional as applied to those literate in Spanish (384 U.S. 675–677.) Justices Harlan and Stewart would have held the literacy requirement constitutional under the equal protection clause. (384 U.S. 659–664.)

[16] See also United States v. County Bd. of Elections of Monroe Co., N.Y. (W.D.N.Y. 1965) 248 F.Supp. 316, 322, which correctly anticipated the distinction drawn in *Cardona:* "In *Lassiter* . . . the English-language aspect of the [literacy requirement] law was not before the Court since no claim was made that the plaintiff was literate in a foreign language."

[17] In fact, the court admitted that the correlation between the purpose and the classifications used to achieve it was not perfect. "Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters." (360 U.S. at p. 52.) The other proposition, left implicit in the opinion, is also obvious—literate people may vote very unintelligently. No explanation was considered necessary to justify the under-inclusiveness and over-inclusiveness of the statutory scheme. (See Tussman and ten-Broek, *The Equal Protection of the Laws* (1949) 37 Cal. L. Rev. 341, 344–353, wherein the authors propose that a "reasonable classification is one which includes all persons who are similarly situated with respect to the purpose of the law" and excludes all others.) (*Id.* at p. 346.)

[18] See, e.g., Williamson v. Lee Optional Co. (1955) 348 U.S. 483, 489; *Developments in the Law—Equal Protection, supra,* 82 Harv. L. Rev. 1077–1087 and cases cited therein.

[19] We noted the significance of *Harper* in Otsuka v. Hite (1966) 64 Cal. 2d 596, a case involving a challenge to another of the disenfranchising provisions of article II, section 1 of our state Constitution. We there observed: "In ruling on the validity of state-imposed restrictions on this fundamental right the United States Supreme Court has in effect tended to apply the principle that the state must show it has a compelling interest in abridging the right, and that in any event such restrictions must be drawn with narrow specificity." (64 Cal. 2d at p. 602.)

[20] The omission of literacy from this list of requirements is significant. Previously, in cataloging permissible state grounds for voter disqualification, the court had included literacy along with age, citizenship and residence. The inference seems inescapable that statutes imposing literacy requirements are among those to which courts must apply the analysis indicated in *Kramer*

[21] *Kramer* also provided an additional justification for the "special scrutiny" to which the New York statute was subjected, a justification obviously relevant to the case at hand. The usual doctrinal rationale is that the franchise occupies a unique position in a democracy. (See, e.g., Carrington v. Rash, *supra,* 380 U.S. 89, 96: "close to the core of our constitutional system"; Reynolds v. Sims, *supra,* 377 U.S. 533, 555: "of the essence of a democratic society.") *Kramer* observed that judicial deference to legislative judgments and the approval given "rational" classification is based on the assumption that "the institutions of state government are structured so as to represent fairly all the people. However, when the challenge to the statute is in effect a challenge of this basic assumption" the traditional deference of the judiciary is illogical and inappropriate. (395 U.S. 621 at p. 628. See also *The Supreme Court, 1968 Term* (1969) 83 Harv L. Rev. 7, 81–82.)

[22] Cipriano v. City of Houma, *supra,* 395 U.S. 701 was decided on the same ground of imprecision of classification. The court in *Cipriano* held that a Louisiana law confining the vote in a municipal utility revenue bond issue election to "property taxpayers" denied equal protection to those excluded who were equally interested in or affected by the election results. See also Hall v. Beals (1969) 396 U.S. 45, which involved a challenge to state durational residency requirements in presidential elections. The majority dismissed the case as moot. Dissenting, Justices Marshall and Brennan would have reached the merits and declared the residency requirement unconstitutional: "[I]f it was not clear in 1965 it is clear now that once a State has determined that a decision is to be made by popular vote, it may exclude persons from the franchise only upon a showing of a compelling interest, and even then only when the exclusion is the least restrictive method of achieving the desired purpose. *Harper* v. *Virginia Board of Elections,* 383 U.S. 663, 667 (1966); *Kramer* v. *Union School District,* 395 U.S. 621, 626–628 (1969). (396 U.S. at p. 52.)

[23] See footnote 13, *ante.*

[24] The only extended judicial discussion of the history of the "compelling interest" doctrine is that of Harlan, J., dissenting in Shapiro v. Thompson (1969) 394 U.S. 618 [22 L.Ed.2d. 600, at pp. 627–631]. The contours of compulsion are not clearly discernible. *Compare* Korematsu v. United States (1944) 323 U.S. 214 (wartime conditions of "direct emergency and peril" (*id.* at p. 220) did constitute "pressing public necessity" (*id.* at p. 216)); Otsuka v. Hite, *supra,* 64 Cal. 2d 596, 602–603 (need to prevent election frauds which could affect election outcome held to be a "compelling state interest.") *with* Bates v. Little Rock (1960) 361 U.S. 516, 524 (occupational licensing tax administration held not sufficiently "compelling" to warrant compulsory disclosure of association's membership list); Sherbert v. Verner (1963) 374 U.S. 398, 406 (preventing fraudulent welfare claims not compelling enough to support infringement on First Amendment religious rights); McLaughlin v. Florida, *supra,* 379 U.S. 184, 192–193 (restraining sexually indecent conduct not an "overriding statutory purpose" so as to justify racial classification); Williams v. Rhodes, *supra,* 393 U.S. 23, 31–33 (state desire for two-party system, majority rather than plurality election, and prevention of voter confusion not "compelling" enough to support limiting rights of voting and association); Shapiro v. Thompson, *supra,* 394 U.S. 618, 634–638 (facilitation of budgetary planning, providing objective residency standards, encouraging rapid entry into work force and minimizing welfare frauds not adequately "compelling" to permit restriction on right to travel).

[25] The parties stipulated that the question of petitioners' access to Spanish language political information be determined on the basis of materials available in Los Angeles County alone, without regard to the balance of the state.

[26] The daily newspapers published in Los

Angeles County are *La Opinion* and *El Mexicano*. Those published weekly include *El Pueblo*, Mexican American Sun, Eastside Sun, Wynerwood Chronicle, Eastside Journal and Belvedere Citizen. The five last mentioned papers are only partially printed in Spanish. During election campaigns, however, the amount of Spanish language material increases due to advertising by political figures.

[27] These papers are *Excelsior, La Prensa, Diario las Americas, Novedades, El Tiempo El Sol de Mexico* (all of which are published daily) and *La Nacion, El Heraldo*, and *El Fronterizo*, which are published weekly.

[28] Petitioners rely, in support of this contention, on Evidence Code section 451 which provides, in pertinent part, that "Judicial notice *shall* be taken of: . . . (e) The true signification of all English words and phrases. . . ." (Italics added.) Webster's Third New International Dictionary of the English Language, Unabridged defines a "newspaper" as "a paper that is printed and distributed daily, weekly, or at some other regular and usu[ally] short interval that contains news, articles of opinion (as editorials), features, advertisements, or other matter regarded as current or new." Magazines, on the other hand, do not as a matter of definition devote themselves in part to political matters and petitioners' showing in this regard is limited to the stipulated degree of political coverage in *Grafica* and *La Raza*. But a publication which, appearing at daily or weekly intervals, consistently and studiously ignores political news is simply not a "newspaper" in the common understanding of that term in our language and culture.

[29] Evidence Code section 459 provides in relevant part as follows: "(a) The reviewing court *shall* take judicial notice of (1) each matter properly noticed by the trial court and (2) each matter that the trial court was required to notice under Section 451 or 453 [of the Evid. Code]." (Italics added.)

[30] Evidence Code section 550 provides in pertinent part: "The burden of producing evidence as to a particular fact is on the party against whom a finding on that fact would be required in the absence of further evidence."

[31] Respondents suggest additional goals to be served by the English literacy requirement. *First*, they advance the notion that restricting the franchise in this manner permits only those who can "mingle" with and "have contact with" the entire electorate to vote, and excludes those who confine their business and social contacts to a small minority group. Presumably, this results in a more knowledgeable electorate.

But while such catholic intermingling may be an admirable ideal, it does not appear *necessary* to achieve an electorate which has access to sufficient information to make intelligent electoral decisions. And to the extent that it indicates a fear of and effort to preclude the unified expression of minority community political sentiment, it is constitutionally unacceptable. (See Carrington v. Rash, *supra*, 380 U.S. 89, 94: " 'Fencing out' from the franchise a sector of the population because of the way they may vote is constitutionally impermissible.")

Second, respondents suggest that limiting the franchise to English literates will exclude those "so indifferent to the language and political affairs of their country . . . that they would not exercise the franchise with responsibility." Exclusion of the indifferent, however, is far from a compelling state interest, especially since it is left to conjecture how indifference leads to a serious lack of "perspective."

In any event, the indifferent may, presumably by definition, be relied on to exclude themselves with far greater precision than is possible through legislation and without legislation's concomitant exclusion of those who, like petitioners, are vitally interested but unable to read English. Precision is crucial to the constitutionality of any state effort to select out for interest. (See Kramer v. Union School District, *supra*, 395 U.S. 701, 704–706.)

Finally, respondents maintain that this limitation on eligible voters excludes those "so . . . intellectually incapable" that they, too, could be expected to exercise the franchise without perspective. The mysterious quality of "perspective" remains undefined, but even assuming an adequate definition were provided, the argument is unpersuasive.

California has already established minimum standards of mental acuity required of eligible voters; it excludes "idiots" and "insane persons." (Cal. Const., art. II, § 1.) Should California desire additional, more stringent, intellectual standards, it must adopt a far more accurate method of measuring the relevant quality, intelligence, than is provided by the crude and psychologically unsupported expedient of equating linguistic ability with intelligence.

[32] The difficulties in efficient distribution of both English and Spanish electoral materials may not be as severe as respondents intimate. For instance, prospective voters could be required to inform the registrar at the time they registered whether they would use the English or the Spanish system. Thus the state could anticipate the requisite number of Spanish language ballots that would be needed at specific precincts, and it would know the addresses to which sample ballots and ballot pamphlets should be mailed in each language.

Other states have adopted such bilingual systems. In Hawaii, where literacy in either English or Hawaiian suffices, candidates' names may be printed in both languages. (Hawaii Rev. Laws, § 11–38.) (1963 Supp.) New Mexico statutes provide that ballots and instructions are to be printed in both Spanish and English and authorize personal assistance in voting for those literate in neither language. (New Mexico Stat. Ann., §§ 3–2–11, 3–2–41, 3–3–7, 3–3–12, 3–3–13.) In Louisiana, one can vote if he can read either English or his "mother tongue." (La. Rev. Stat., tit. 18, § 31.) And, of course, the problem of assuring intelligent and accurate balloting has been met by those more than 30 states which have no literacy requirement at all. Florida, for example, permits voters not literate in English to request assistance of any person, including but not limited to official voting inspectors, who may enter the polling booth with the voter in order to provide such assistance. (Fla. Stats. Annot. § 101.051.)

[33] Indeed, we note that a contemplated amendment to article II, section 1 proposes an extension of the franchise to *all* California citizens who are literate in Spanish, on a *statewide* basis. (Assembly Constitutional Amendment No. 7, Resolution ch. 308, 1969 Stats., pp. 3983–3984.)

[34] Los Angeles County is by far the most populous county in the state, with over 35 percent of all Californians residing therein. As of January 1969, the population of Los Angeles County was estimated at 7,140,100. (1969 Cal. Roster of Federal, State, County, and City Officials, p. 115.)

[35] Unless respondents decide to adopt a new method of determining literacy (see, for example, that employed by New York, which is described by McGovney, The American Suffrage Medley (1949) at p. 63 and reprinted in Katzenbach v. Morgan, *supra*, 384 U.S. 641 at pp. 663–664) literacy in Spanish is to be determined by the same standard as is currently employed to determine literacy in English. That is, applicants must demonstrate an ability to read the California Constitution either in English or in an accurate Spanish translation. This assumes, of course, that the respondent registrar-recorder (and his counterpart in other counties) will require an identical level of competence in either language and will employ sections of comparable difficulty in estimating this level of competence.

HOUSE OF REPRESENTATIVES—*Monday, June 8, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The spirit of the Lord is upon me because He hath sent me to heal the brokenhearted, to preach deliverance to the captives, and to set at liberty them that are bruised.—Luke 4: 18.

O God and Father of us all, whose concern for the welfare of Thy children never fails and who calls us to be concerned about the well being of our people, prosper, we pray Thee, the labors of those who seek to minister to the needs of our countrymen, especially our prisoners of war. For these prisoners we offer a special prayer. Comfort them with Thy heavenly grace, strengthen them in their trials, and keep alive in them the hope of release from capture and a reunion with their families.

May the replicas picturing the state of our prisoners in our Capitol crypt arouse our people to the need of doing all we can to relieve their suffering and may we not rest until it is done.

In the name of Him who is the strength of our lives, we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, June 4, 1970, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 10184. An act to provide for the disposition of judgment funds of the Sioux Tribe of the Fort Peck Indian Reservation, Mont.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14300. An act to amend title 44, United States Code, to facilitate the disposal of Government records without sufficient value to warrant their continued preservation, to abolish the Joint Committee on the Disposition of Executive Papers, and for other purposes.