The original documents are located in Box 38, folder "1/2/76 S95 Overseas Voting Rights Act of 1975" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
JAN 2 - 1976

THE WHITE HOUSE

WASHINGTON

DECISION

December 31, 1975 Last Day: January 2

Posted 1/2/76
TURCKNUCS
1/5/76

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Enrolled Bill S. 95 -- Overseas Voting Rights Act of 1975

This memorandum presents the background, analysis and recommendations of interested departments, agencies and advisers on Enrolled Bill S. 95. The last day for action on the measure is Friday, January 2, 1976.

DISCUSSION

Approximately 750,000 American citizens of voting age (exclusive of U. S. military and civilian employees), residing, for employment reasons, in foreign countries and being subject to U.S. tax laws and other obligations attendant to U.S. citizenship, are currently ineligible to register and vote in Federal elections.

Only 28 States and the District of Columbia have statutes allowing absentee registration and voting in Federal elections for citizens "temporarily residing" outside the United States. All 50 States and the District of Columbia impose residency requirements which private citizens outside the country for extended periods of time cannot meet. However, most States have statutes expressly allowing military personnel, and often other Federal employees and their dependents, to register and vote absentee from outside the United States.

The provisions of the enrolled bill apply to any Federal election held on or after January 1, 1976, and would establish a national right for all voting-age U.S. citizens residing outside the United States to vote by absentee ballot in Federal elections in their State of last residence even though they have no place of abode in such State and their return is uncertain, provided that the voter has:

(1) complied with all other applicable State or election district qualification requirements;

(2) not maintained a domicile or registered to vote in any election of another State; and

(3) obtained a valid passport or similar documentation issued by the Department of State for living in a foreign country.

Additionally, the bill establishes various safeguards to ensure that the rights it confers are not abridged or denied.

The constitutionality of the enrolled bill has been the subject of debate between the Congress and the Department of Justice. The issue is whether or not the Congress, as a justifiable exercise of Congressional authority to implement any of the various rights and powers conferred by the Constitution, can, by legislation and without prior amendment to the Constitution, require States to permit their former residents who have not maintained bona fide residence under State law to register and vote in Federal elections.

This issue does not, of course, lend itself to simple solution. While it is clear that under our Federal system the States have basic authority to set voter qualifications, it is equally clear that the right to vote for national elective officials is a right directly secured to citizens by the Constitution.

A detailed legal analysis appears in the OMB Enrolled Bill Memorandum at Tab A.

It should be noted that there is no discernible political conflict on the measure. Senators Scott (Hugh), Goldwater and Griffin and Representatives Rhodes, Michel and Frenzel all actively supported the bill. There is common understanding that the bill would operate to the advantage of Republican interests.

The bill passed the Senate without opposition by voice vote and the House by a record vote of 374-43.

OMB and the Department of Justice recommend disapproval of the bill for constitutional reasons. (I am advised, however, that the Attorney General has indicated to White House Counsel that he did not personally participate in the formulation of the Department's position and that he would interpose no strong objection to enactment of the bill.)

Jack Marsh, Max Friedersdorf and Phil Buchen believe that the goals of S. 95 are laudable and that the constitutional issue is an open one which should be resolved by the Judicial, rather than Executive, Branch. Moreover, Counsel's office believes the constitutionality of the bill would be sustained. Accordingly, they recommend approval of the bill.

The Department of State, the U. S. Commission on Civil Rights and the Advisory Commission on Intergovernmental Relations express no objection to the bill.

RECOMMENDATION

Because I believe that the objective of the bill is worthy and that the constitutional issue presented by the bill is one more appropriately resolved in courts of law, I recommend you approve S. 95 and that you issue an approval statement explaining your reasons therefor.

DECISION

Sign S. 95 at Tab B.

Approve signing statement at Tab C
which has been cleared by Paul Theis

Approve _____ Disapprove _____

Veto S. 95 and sign
veto message at _____
Tab D

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 2 7 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 95 - Overseas Citizens Voting Rights Act of 1975
Sponsor - Sen. Mathias (R) Maryland and 7 others

Last Day for Action

January 2, 1976 - Friday

Purpose

To require States to permit their former residents, who are now living outside the U.S., to register and vote in Federal elections.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Justice	Disapproval (Veto message attached)
Civil Rights Commission	No objection
Department of State	No objection
Advisory Commission on Intergovernmental Relations	No comment

Discussion

Summary of S. 95

The provisions of S. 95 are based on the premise that the right to vote in presidential and congressional elections is an inherent right and privilege of national citizenship, and that Congress retains the power to protect this right and privilege under both the "necessary and proper" clause of the

Constitution and the 14th Amendment. The bill passed the Senate without opposition by voice vote and the House by a recorded vote of 374-43.

The provisions of the enrolled bill apply to any Federal election held on or after January 1, 1976 and would:

-- establish a national right for all voting-age U.S. citizens residing outside the United States to vote by absentee ballot in Federal elections in their State of last residence even though they have no place of abode in such State and their return is uncertain, provided that the voter has:

    1) complied with all other applicable State or election district qualification requirements not superseded by the enrolled bill;

    2) not maintained a domicile or registered to vote in any election of another State; and

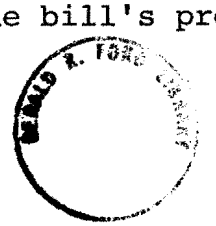
    3) obtained a valid passport or similar documentation issued by the Department of State for living in a foreign country.

-- require all States to adopt absentee registration and voting procedures for non-resident U.S. citizens in Federal elections.

-- not require registration in any State or election district which does not require registration to vote in a Federal election or prevent any such district from having less restrictive voting practices than prescribed by this Act.

-- empower the Attorney General to bring suit in any U.S. District Court to enjoin or restrain any State or election district which denies such citizens the right to vote by absentee ballot or fails to establish absentee ballot procedures for their voting in Federal elections.

-- make individuals, who either interfere with the absentee registration and voting of an eligible U.S. citizen or provide false information in order to register and vote absentee under the bill's provisions,



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EMBER 27, 1973

U.S. SENATE,
S AND ADMINISTRATION,
PRIVILEGES AND ELECTIONS,
Washington, D.C.

to recess, at 10 a.m. in room 301,
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DWATER, A U.S. SENATOR FROM TERRY EMERSON, COUNSEL

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[The information referred to above fo

PRESIDENTIAL ABSENTEE VO

State	1968	
	Total votes	Total absentee [1]
Alaska	84,902	6,949
California	7,251,587	348,204
Colorado	1,256,232	75,831
Connecticut	214,367	5,431
Delaware	170,578	3,513
District of Columbia		
Hawaii		
Indiana		
Kansas	1,809,502	92,758
Missouri	297,298	24,069
New Hampshire		
New Jersey	327,350	12,638
New Mexico		
North Carolina	4,747,928	[1] 132,413
Pennsylvania		
Oklahoma	384,938	14,201
Rhode Island	666,978	16,111
South Carolina		
Vermont	1,361,491	57,890
Virginia	1,304,281	[1] 106,833
Washington		
Total United States	19,877,432 [2] 73,211,875	896,841 3,301,856

[1] Feigert, Components of Absentee Voting, 4 J. Northeastern Pc
[2] 188,589 absentee ballots issued, less 10 percent invalidated or s
[3] Scammon, 8 America Votes (1968).
[4] 31 Cong. Q. Weekly Rep. 308 (1973).

Note: The author is particularly indebted to Commander Inmar Graham, Congressional Research Service, for providing data includ

Senator GOLDWATER. Mr. Chairma
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		1972		
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204	4.79	8,367,862	406,459	4.86
		944,437	59,040	6.25
831	6.04	1,409,221	99,614	7.07
431	2.53	235,278	7,403	3.44
513	2.05	163,657	5,626	3.43
		270,274	12,409	4.59
		2,125,529	125,000	5.88
		911,907	45,000	4.93
758	5.12	1,852,589	93,590	5.05
069	8.09	315,993	29,064	9.19
		2,982,091	121,072	4.05
638	3.86	385,457	18,945	4.91
		1,502,633	50,000	3.32
413	2.80			
		1,029,900	40,932	3.97
201	3.68	411,966	14,876	3.61
111	2.42	673,960	36,385	5.40
		185,323	14,928	8.05
890	4.25	1,457,019	65,903	4.66
833	8.20	1,519,771	[1] 169,731	11.17
841	4.51	26,807,448	1,425,001	5.32
856	4.51	[1] 77,734,330	4,135,466	5.32

rn Pol. Sc. Assocs. 491, 495 (1972).
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nman, Federal Voting Assistance Task Force, and Virginia
cluded in the above table.

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Virginia, West Virginia, Wisconsin

D. States Granting Tax Credit for Amount o

Hawaii, Iowa, Montana, North Carolina. [
Canadian income tax only.]

E. States Granting Deduction for Amount o

Colorado, Arkansas

F. States With Broad Inc

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lina, South Carolina

Senator GOLDWATER. The question of
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income earned overseas, and the IRS h
no person who casts an absentee ballot f
jeopardize this exemption.

Mr. Chairman, I ask that this offic
remarks.

Senator PELL. Without objection.

[The letter referred to follows:]

DEPART

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Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: This is in re
1972, regarding the possible effect that votin
citizens residing abroad may have on thei
income provided by section 911(a)(1) of th

Section 911(a)(1) of the Code provides,
items shall not be included in gross incom
income taxation. In the case of an individu
establishes to the satisfaction of the Secret
a bona fide resident of a foreign country or
which includes an entire taxable year, an
the United States (except amounts paid
thereof) which constitute earned income
during such uninterrupted period.

You forwarded with your letter a copy o
Chamber of Commerce of Venezuela. That
cern that if a United States citizen residing
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than that he intends to return to that State

*The length of absence required to qualify a
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d Abroad by Domiciliary (13)*

, Illinois, Maine, New York, Oregon,
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Idaho, Indiana, Illinois, Iowa, Kansas,
Minnesota, Montana, Missouri, New
ota, Ohio, Oklahoma, Oregon, Vermont,

unt of Foreign Income Tax Paid (4)

na. [Massachusetts allows credit for

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Income Tax (8)

assachusetts, Mississippi, North Caro-

of State tax brings up the matter
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ARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 28, 1972.

reply to your letter dated August 16,
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s, in relevant part, that the following
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Voting Rights Act Amendments of 1
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Also, I have had prepared fo
forth the reasons why I believe
glad to share this with you.

That concludes my testimony,

Senator PELL. Thank you ver

The Chair noticed, too, that
Emerson, for whom it holds a

Senator GOLDWATER. He is the

Senator PELL. In connection
have in our bill, as you probab
postage. But the frank would n
it would not be accepted by the
he was living.

Senator GOLDWATER. I didn't

Senator PELL. So we face a
that any provision—any mail
as a whole, the postage should b

Do you think that 30 days o
any feeling about the time fra
fied about the elections ballot?

Senator GOLDWATER. I don't
fore, 60 being a popular numb
I think this has to become un
almost impossible for a perso
sentee ballot in time.

I would say 60 days would b

Senator PELL. And do you h
be a difference in handling th
gone back to the land of their
pletely our culture and the use
part of their lives aided by s
citizens who are over there
coming back?

Senator GOLDWATER. Oh, I
think the person that goes ba
origin, probably would beco
didn't show enough interest
that in itself would take care

Senator PELL. I remember
some of these citizens. The s
conscientious.

Senator GOLDWATER. Wel
as far as any money is concer

Senator PELL. On the othe
by voting in a local election;
can citizenship automaticall

Senator GOLDWATER. Well
that in my home State indic
State or another country, if

of the Voting Rights Act Amendment
and voting in all Federal elections.
rovided pursuant to such section and
all be free of postage to the sender in

a legal memorandum which sets
ill is constitutional and I will be

hairman.
indeed, Senator.
are accompanied by Mr. Terry
gh regard in his profession.
s behind all this.
the amendment you suggest, we
ow, a provision for free airmail
a citizen who is overseas because
where he was stationed or where

that. I did not know that.
em there. But I agree with you,
oes in accordance with this act,
ed.
s is enough time, or do you have
ut when citizens should be noti-

you can be as short as 30. There-
nk that is a better period of time.
oo, because some States make it
out of the State to get the ab-

period of time.
views as to whether there should
em of overseas citizens who have
nd have in some cases left com-
anguage, even, to spend the final
urity benefits, as opposed to our
for American corporations and

hat would take care of itself. I
land of his origin, his family's
izen of that country, and if he
for an absentee ballot, I think

vice consul overseas and helping
urity checks tend to keep them

ever renounce their citizenship

ometimes they do it accidentally
y do that they lose their Ameri-

bit we have been able to study
when a person moves to another
manent move, they have no fur-

ing v. New Jersey, supra. Accordingly, of voting pursuant to section 5 of the F Clause.

III. THE FREEDOM TO OF UNITED STA

The freedom to travel across State li tion fundamental to "the nature of our F cepts of personal liberty." *Shapiro v. United States v. Guest*, 383 U.S. 745, 75 35, 47 (1867).

In *Kent v. Dulles*, 357 U.S. 116, 126 (: the right of interstate travel with the rig

"Freedom of movement across frontie as well, was a part of our heritage. Tra may be necessary for a livelihood. It m ual as the choice of what he eats, or basic in our scheme of values." *In.*, at 12

Thus, the freedom to travel aboard t the citizens' liberty," guaranteed in Amendment, *Kent, supra*, at 127; *Apt* 505 (1964). Indeed freedom of mov portance, the Supreme Court has h personal liberty of travel outside the though a substantial governmental restriction on grounds of national secu

Since it is well settled that the Fou same protection against State legislat is offered by the Fifth Amendment, C of free travel against unnecessary S 310, 325 (1903).

IV. CONGRESS HAS POWER TO PROTE CITIZENSHIP UNDER BOTH THE N FOURTEENTH AMENDMENT

With respect to protection and privileges of United States citizen Congress may act under the Necess Constitution. As it was stated by Ch 92 U.S. 214, 217 (1875), the "right upon the Constitution of the United also *Strauder* v. *West Virginia*, 10 volving the reserved powers of th Congress may legislate is the class *McCulloch* v. *Maryland*, 4 Wheaton within the scope of the Constitutio a rational basis.

This principle was upheld in *Unit* striking down the poll tax system u under section 10 of the Voting Rig payment of a poll tax as a precondi tional right of citizens to vote. In t Court placed its decision squarely the fundamental rights included w Supreme Court upheld this ruling i

The same rule of *McCulloch* v. M of Congress' power to enforce the g example, *see Katzenbach* v. *Morga* the constitutionality of section 4(e hibits enforcement of the New against New York residents from P

Applying the above principles constitutional. Its end is clearly l the right of almost one million

ss is free to enforce the privilege
nth Amendment, the Enforcement

IS A PRIVILEGE
IZENSHIP

s long been held to occupy a posi-
Union and our Constitutional con-
pson, 394 U.S. 634, 639 (1969);
) ; *Crandall v. Nevada*, 6 Wallace

he Supreme Court clearly equated
ıvel abroad:
ther direction, and inside frontiers
ad, like travel within the country,
s close to the heart of the individ-
r reads. Freedom of movement is

held to be an important aspect of
ıe Process Clause of the Fifth
Secretary of State, 378 U.S. 500,
s considered of such great im-
a Federal restriction upon the
States was unconstitutional even
was asserted in support of the
cker, id., at 508.
mendment operates to extend the
ting life, liberty, and property, as
as full power to secure the liberty
raint. *Hibben* v. *Smith*, 191 U.S.

S AND PRIVILEGES OF NATIONAL
AND PROPER CLAUSE AND THE

n of the exercise of rights or
Supreme Court has ruled that
roper Clause of Article I of the
Waite in *United States* v. *Reese*,
unities created by or dependent
n be protected by Congress." See
310 (1879). As in all cases in-
he applicable rule under which
ion by Chief Justice Marshall in
319). If the end be legitimate and
can choose any means which has

Texas, 252 Fed. Supp. 234 (1966),
e case involved an action brought
965 in which Congress found that
g denies or abridges the Constitu-
the Texas poll tax must fall, the
d that the right to vote is "one of
ncept of liberty." *Id.*, at 250. The
nited States, 384 U.S. 155 (1966).
pplicable to measure the exercise
f the Fourteenth Amendment. For
41, at 650, 651 (1966), upholding
ing Rights Act of 1965 which pro-
English language literacy test

TE LEGISLATION

t legislation, it is clear S. 2384 is
object is to protect and enhance
citizens overseas to exercise the

of persons accorded the same rights by S. 2
clude that the setting of a uniform definitio
based on the same criteria applicable to serv
appropriate and workable means for protecti
Federal elections and their liberty of travel
of the vote.

VIII. THERE IS NO COMPELLING STATE INTERES
TEST AGAINST AMERICA

Though the general proposition may be ac
voters to be bona fide residents, the Supre
States may not use a test of residence as
entire class of citizens off the voting rolls u
promote a compelling State interest. For
certain classes of citizens were not reside
turned in at least three recent cases beca
not necessary to serve any compelling Stat
U.S. 89, 95, 96 (1965), *Evans* v. *Cornman*, 39
Blumstein, 405 U.S. 330, 337 (1972).

Congress has here determined that there i
est in restricting the right to vote and penali
overseas who possess a nexus with a particu
obvious interest in preserving the basic conc
they have successfully done this while usin
the case of servicemen and their accompa
rule than that applied to servicemen and
necessary.

Moreover, S. 2384 is applicable only to Fe
public offices. Federal elections are substan
scope and to a large extent the issues cut
country. Whatever the interests of States i
in the case of voters for State, county an
pelling need for using a stricter rule in Fe
set forth in S. 2384.

Nor will enactment of the broad definiti
abrogate all State functions with respect t
eral elections. States will retain the powe
absentee registration or voting (1) is of
reason of insanity, (3) is disqualified as a
scribed time and manner for making appli
ments made on registration or voting form
actual past residence in a particular State.

Nor can a State properly argue that it
overseas from voting in Federal elections i
will be minimally knowledgeable about th
that Americans overseas have wide and in
newspapers, journals and news programs
areas. These private sources of informatio
the Armed Forces Network, Voice of Am
well known to Americans abroad in even

The acute interest and awareness of Am
is apparent on the record. In fact, the Dep
overseas shows that at least 151,000 Ameri
or servicemen, voted in the 1972 election wi
to support an assumption that citizens ove
in Federal elections and any such argum
exclude large numbers of otherwise fully qu

Nor can a State claim that it must e
because they might hold a different viewp
absent from the State. The Supreme Court
ences of opinion may not be the basis for
the franchise. See the discussion of cases a
at 355–356.

A similar analysis is applicable with re
overseas who do not intend to return. Ac
survey of citizens overseas, this group m

84, Congress may rationally con-
of residence for voting purposes
cemen and their dependents is an
g the vote of citizens overseas in
vithout penalty by reason of loss

IN IMPOSING A STRICT RESIDENCE
S OVERSEAS

pted that a State may require its
e Court has made clear that the
technical device for sweeping an
ess the restriction is *necessary* to
ample, State determination that
for voting purposes were over-
e the residence rules were found
interest. *Carrington* v. *Rash*, 380
U.S. 419, 424, 426 (1970); *Dunn* v.

no compelling governmental inter-
g the right to travel of Americans
r State. Though the States have a
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a broad standard of residence in
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miting the definition of residence
unicipal offices, there is no com-
al elections than the one which is

of residence required by S. 2384
e qualifications of voters in Fed-
to test whether an applicant for
gal age, (2) is incapacitated by
nvicted felon, (4) meets the pre-
ion, and (5) is truthful in state-
uch as with respect to a claim to

necessary to exclude all persons
order to guarantee that its voters
lections. It is common knowledge
ediate access to English language
culated and broadcast in foreign
e supplemented by the services of
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most isolated of places.
ans overseas in Federal elections
nent of Defense survey of persons
, not including Federal employees
residing abroad. There is nothing
s are uninformed or uninterested
would crudely and impermissibly
ed voters.
de persons overseas from voting
than persons who have not been
ruled time after time that differ-
luding any group of persons from
orth in *Dunn* v. *Blumstein*, *supra*,

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include some 26,500 persons. The

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providing a unifor
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that State restri
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Reynolds v. *Sim*
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of those who mak
esberry v. *Sander*
to protect the righ
officers whose deci

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powers to facilitat
Supreme Court ha
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ER, *U.S. Senator.*

of Delaware, and

U.S. SENATOR

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for legislation to
overseas to vote

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has been marked by signi
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against millions of Ame
race, age, or residence.

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Several States disenfran
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Mr. Chairman, this
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For that reason, I w
Senator Mathias, in spo
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of fraud or administrative difficulty. The universal rule applied by States to servicemen and their dependents is one of intent. These persons do not lose or abandon the voting residence they had when the military member entered the service, nor do they acquire one at the place where he or she serves, irrespective of the duration of actual residence at such place. American Jurisprudence, 2nd, Elections, section 75.

Since all States have successfully administered their elections under the liberal test of residence applied to military personnel and since the total numbers of absentee residents so continued on the voting rolls exceeds the combined total of persons accorded the same rights by H.R. 3211, Congress may rationally conclude that the setting of a uniform definition of residence for voting purposes based on the same criteria applicable to servicemen and their dependents is an appropriate and workable means for protecting the vote of citizens overseas in Federal elections and their liberty of travel without penalty by reason of loss of the vote.

VIII. THERE IS NO COMPELLING STATE INTEREST IN IMPOSING A STRICT RESIDENCE TEST AGAINST AMERICANS OVERSEAS

Though the general proposition may be accepted that a State may require its voters to be bona fide residents, the Supreme Court has made it clear that the States may not use a test of residence as a technical device for sweeping an entire class of citizens off the voting rolls unless the restriction is *necessary* to promote a compelling State interest. For example, State determinations that certain classes of citizens were not residents for voting purposes were overturned in at least three recent cases because the residence rules were found not necessary to serve any compelling State interest. *Carrington v. Rash*, 380 U.S. 89, 95, 96 (1965), *Evans v. Cornman*, 398 U.S. 419, 424, 426 (1970); *Dunn v. Blumstein*, 405 U.S. 330, 337 (1972).

Congress has here determined that there is no compelling governmental interest in restricting the right to vote and penalizing the right to travel of Americans overseas who possess a nexus with a particular State. Though the States have an obvious interest in preserving the basic conception of their political communities, they have shown themselves able to do this while using a broad standard of residence in the case of servicemen and their accompanying dependents. Thus, a stricter rule than that applied to servicemen and their families cannot be said to be necessary.

Moreover, H.R. 3211 is applicable only to Federal elections and not to filling local public offices. Federal elections are substantially national and international in scope and to a large extent the issues cut across all areas and regions of our country. Whatever the interest of States in limiting the definition of residence in the case of voters for State, county and municipal offices, there is no compelling need for using a stricter rule in Federal elections than the one which is set forth in H.R. 3211.

Nor will enactment of the broad definition of residence required by H.R. 3211 abrogate all State functions with respect to the qualifications of voters in Federal elections. States will retain the power to test whether an applicant for absence registration or voting (1) is of legal age, (2) is incapacitated by reason of insanity, (3) is disqualified as a convicted felon, (4) meets the prescribed time and manner for making application, and (5) is truthful in statements made on registration or voting forms, such as with respect to a claim to actual past residence in a particular State.

Nor can a State properly argue that it is necessary to exclude all persons overseas from voting in Federal elections in order to guarantee that its voters will be minimally knowledgeable about the elections. It is common knowledge that Americans overseas have wide and immediate access to English language newspapers, journals and news programs circulated and broadcast in foreign areas. These private sources of information are supplemented by the services of the Armed Forces Network, Voice of America, and USIA libraries which are well known to Americans abroad in even the most isolated of places.

The acute interest and awareness of Americans overseas in Federal elections is apparent on the record. In fact, the Department of Defense survey of persons overseas shows that at least 151,000 Americans, not including Federal employees or servicemen, voted in the 1972 election while residing abroad. There is nothing to support an assumption that citizens overseas are uninformed or uninterested in Federal elections and any such argument would crudely and impermissibly exclude large numbers of otherwise qualified voters.

Nor can a State claim that it must exclude persons overseas from voting because they might hold a different viewpoint than persons who have not been absent from the State. The Supreme Court has ruled that differences of opinion may not be the basis for excluding any group of persons from the franchise. See the discussion of cases set forth in *Dunn* v. *Blumstein*, supra, at 355–356.

A similar analysis is applicable with respect to the small numbers of citizens overseas who do not intend to return. According to the Department of Defense survey of citizens overseas, this group may include some 26,500 persons. The critical fact with respect to Congress' power to secure the vote in Federal elections for these persons in that there are numerous and vital ways in which these individuals are affected by the decisions and policies acted on by Federal officers. *Evans* v. *Cornman*, *supra*, at 424.

Although they are outside the country, these persons are subject to the United States Internal Revenue Code, retirees among them may be directly affected by changes in the Civil Service retirement and Social Security programs, and they are greatly affected by trade and tariff measures, export controls, and foreign policy decisions, among many other actions and programs dealt with by the Executive and Congress jointly. These persons have distinct, direct and great interests in the election of Federal officers and Congress may protect their stake in these elections by providing a uniform procedure for implementing the exercise of their vote in these elections so long as such persons have a past nexus with the particular State in which they seek to vote.

IX. SUMMARY

Without regard to whether the Judiciary itself would find that State restrictions on the vote of overseas residents are unconstitutional, Congress may act to protect the rights to vote and travel by enacting uniform, national standards for Federal elections. Time and again, the Supreme Court has announced that "the right of suffrage is a fundamental matter in a free and democratic society" and "is preservative of other basic civil and political rights," e.g., *Reynolds* v. *Sims*, 377 U.S. 533, 561, 562 (1964); *Kramer* v. *Union Free School District*, 395 U.S. 621, 626 (1969). The Court has further indicated 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." *Westberry* v. *Sanders*, 376 U.S. 1, 17 (1964). If this is so, surely Congress can act to protect the right of Americans abroad to participate in the choice of Federal officers whose decisions affect them personally and directly.

In so acting, Congress need not assert a general power to prescribe qualifications for voters in Federal elections. H.R. 3211 is confined to Federal action against a particular problem clearly within the purview of Congress' powers to facilitate and protect the personal rights and privileges which the Supreme Court has found to be guaranteed to each citizen by the Federal Constitution.

[Appendix B]

UNITED STATES TREATIES AND STATUTES HAVING A SIGNIFICANT EFFECT UPON AMERICAN CITIZENS LIVING ABROAD

PART 1—TREATIES

Subpart A—Bilateral

Afghanistan

General Relations:
Provisional agreement in regard to friendship and diplomatic and consular representation, (Paris, 1936), 49 Stat. 3873, EAS 88, 168 LNTS 143.

Albania

Nationality:
Treaty of naturalization, (Tirana, 1932), 47 Stat. 3241, TS 892, 162 LNTS 31.

Argentina

Social Security:
Agreement relating to the payment of old-age, survivors, and disability benefits to beneficiaries residing abroad. (Buenos Aires, 1972), TIAS 7458.

Taxation:
Agreement for relief from double taxation on earnings derived from operation of ships and aircraft. (Washington, 1950), 1 UST 473; TIAS 2088; 89 UNTS 53.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Buenos Aires, 1967, 18 UST 361; TIAS 6243; 636 UNTS 95.

Agreement relating to radio communications between amateur stations on behalf of third parties. (Buenos Aires, 1967), 18 UST 365; TIAS 6244; 636 UNTS 108.

Australia

Property:
Conventions between the United States and the United Kingdom applicable to Australia from April 3, 1962.

Convention relating to tenure and disposition of real and personal property (Washington, 1899), 31 Stat. 1939; TS 146; I Malloy 774).

Supplementary convention extending the time within which notification may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899, (Washington, 1902), 32 Stat. 1914; TS 402; I Malloy 776).

Supplementary convention relating to the tenure and disposition of real and personal property, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.

Taxation:
Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on gifts, (Washington, 1953), 4 UST 2264; TIAS 2879; 205 UNTS 237.

Convention for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1953), 4 UST; TIAS 2880; 205 UNTS 253.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons, (Washington, 1953), 5 UST 92; TIAS 2093; 205 UNTS 277.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (Canberra, 1965), 16 UST 973; TIAS 5836; 541 UNTS 155.

Austria

General Relations:
Treaty establishing friendly relations, (Vienna, 1921), 42 Stat. 1946; TS 659; III Redmond 2493; 7 LNTS 156.

Property:
Agreement concerning the disposition of certain United States property in Austria, (Vienna, 1955), 7 UST 223 TIAS 3499; 272 UNTS 31.

Telecommunications:
Agreement relating to the operation of amateur radio station, (Vienna, 1967), TIAS 6378; 18 UST 2878; 634 UNTS 43.

Barbados

Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention amending article IV and 2d paragraph of article II of the convention of March 2, 1899 between the United States and the United Kingdom relating to the tenure and disposition of real and personal property, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.

Taxation:
Convention and supplementary protocol between the United States and the United Kingdom relating to the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1945), 60 Stat. 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol between the United States and the United Kingdom amending the convention of April 16, 1945, as amended, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1954), 6 UST 1329; TIAS 4124; 336 UNTS 330.

Agreement between the United States and the United Kingdom relating to the application of the income tax convention of April 16, 1945, as amended, to specified British territories, (Washington, 1957), 9 UST 1459; TIAS 4141; 351 UNTS 368.

Supplementary protocol between the United States and the United Kingdom amending the convention of April 16, 1945, as amended, for the avoidance of fiscal evasion with respect to taxes on income, (London, 1966), 17 UST 1254; TIAS 6089.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (Bridgetown, 1968), 19 UST 5994; TIAS 6553.

Belgium

Automotive Traffic:
Agreement regarding the facilitation of road travel in the United States for holders of Belgian driving permits and in Belgium for holders of United States driving permits, (Brussels, 1971), 22 UST 1525; TIAS 7172.

Taxation:
Agreement relating to relief from double income tax on shipping profits, (Washington, 1925), 49 Stat. 3871; EAS 87, 166 LNTS 333.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Brussels, 1970), TIAS 7463.

Agreement for the avoidance of double taxation on profits derived from the operation of aircraft, (Washington, 1953), 4 UST 2030; TIAS 2858; 180 UNTS 9.

Telecommunications:
Agreement relating to the reciprocal granting of authorization to permit licensed amateur radio operators of either country to operate their stations in the other country, (Brussels, 1965), 16 UST 869; TIAS 5824; 549 UNTS 95.

Bolivia

Telecommunication:
Agreement relating to radio communications between amateur stations on behalf of third parties, (La Pez, 1961), 12 UST 1695; TIAS 4888; 424 UNTS 93.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (La Paz, 1965), 16 UST 165; TIAS 5777; 542 UNTS 209.

Brazil

Taxation:
Arrangement providing for relief from double income tax on shipping profits, (Rio de Janeiro, 1929), 47 Stat. 2620; EAS 16; 126 LNTS 465.

Telecommunications:
Agreement relating to radio communications between amateur stations on behalf of third parties, (Washington, 1965), 16 UST 821; TIAS 5816; 546 UNTS 195.

Bulgaria

Claims:
Agreement regarding claims of United States nationals and related financial matters, with exchanges of letters, (Sofia, 1963), 14 UST 969; TIAS 5387; 479 UNTS 245.

Nationality:
Naturalization treaty, (Sofia, 1924), 43 Stat. 1759; TS 684; IV Trenwith 3972; 25 LNTS 238.

Burma

Property:
Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939; TS 156; I Malloy 774.

Property:
Supplementary convention between the United States and the United Kingdom extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899, (Washington, 1902), 32 Stat. 1914; TS 402; I Malloy 776.

Burundi

Taxation:
Convention between the United States and Belgium for the avoidance of double

taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1948), 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium modifying and supplementing convention of October 28, 1948, (Washington, 1952), 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium supplementing the convention of October 28, 1948, as modified, for the avoidance of double taxation with respect to taxes on income, (Washington, 1957), 19 UST 1358; TIAS 4280, 356 UNTS 366.

Agreement between the United States and Belgium relating to the extension of the operation of the income tax convention of 1948, as supplemented, to the Belgium Congo and the Trust Territory of Ruanda-Urundi, (Washington, 1954), 10 UST 1358; TIAS 4280; 356 UNTS 370.

Canada

Consuls:

Arrangement relating to visits of consular officers to citizens of their own country serving sentences in penal institutions, (Ottawa, 1935).

Judicial Procedure:

Arrangement relating to the admission to practice before patent offices. (Washington, 1937), 52 Stat. 1475; EAS 118; 187 LNTS 27.

Labor:

Agreement relating to unemployment insurance benefits, (Ottawa, 1942), 56 Stat. 1451; EAS 244; 119 UNTS 295.

Agreement relating to workmen's compensation and unemployment insurance in connection with construction projects in Canada, (Ottawa, 1942), 56 Stat. 1770; EAS 279; 24 UNTS 217.

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939. TS 146: I Malloy 774.

Supplementary convention providing for the accession of the Dominion of Canada to the real and personal property convention of March 2, 1899, (Washington, 1921). 42 Stat. 2147; TS 663; III REdmond 2657; 12 LNTS 425.

Social Security:

Agreement relating to Canada Pension Plan. (Ottawa 1967) 18 UST 486; TIAS 6254.

Taxation:

Arrangement relating to relief from double income tax on shipping profits, (Washington, 1928), 47 Stat. 2580; EAS 4; 95 LNTS 209.

Convention and protocol for the avoidance of double taxation and prevention of fiscal evasion in the case of income taxes, (Washington, 1942, 56 Stat. 1399; TS 983; 124 UNTS 271.

Convention modifying and supplementing the convention and accompanying protocol of March 4, 1942 for the avoidance of double taxation and the prevention of fiscal evasion in the case of income taxes, (Ottawa, 1950), 2 UST 2235; TIAS 2347; 127 UNTS 67.

Taxation:

Convention further modifying and supplementing the convention and accompanying protocol of March 4, 1942, for the avoidance of double taxation and the prevention of fiscal evasion in the case of income taxes, as modified by the supplementary convention of June 12, 1950, (Ottawa, 1956), 8 UST 1619; TIAS 3916; 293 UNTS 344.

Convention further modifying and supplementing the convention and accompanying protocol of March 4, 1942 for the avoidance of double taxation and the prevention of fiscal evasion in the case of income taxes, as modified by the supplementary conventions of June 12, 1950 and August 8, 1956, (Washington, 1966), TIAS 6415.

Convention for the avoidance of double taxation and the prevention of fiscal evasion in the case of estate taxes and succession duties, (Ottawa, 1944), 59 Stat. 915; TS 989; 124 UNTS 297.

Convention modifying and supplementing the convention of June 8, 1944 for the avoidance of double taxation and the prevention of fiscal evasion in the case of estate taxes and succession duties, (Ottawa, 1950), 2 UST 2247; TIAS 2348; 127 UNTS 57.

Convention for the avoidance of double taxation and the prevention of fiscal

evasion with respect to taxes on the estates of deceased persons, (Washington, 1961), 13 UST 382; TIAS 4995: 45 UNTS 143.

Telecommunication:

Convention relating to the operation by citizens of either country of certain radio equipment or stations in the other country, (Ottawa, 1951), 3 UST 3787; TIAS 2508; 207 UNTS 17.

Ceylon

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939; TS 146; I Malloy 774.

Chile

Amity:

Treaty of peace amity, commerce, and navigation, with additional and explanatory convention signed at Santiago September 1, 1833 (Santiago, 1832), 8 Stat. 434; TS 40; I Malloy 171.

Telecommunication:

Agreement relating to radio communications between amateur stations on behalf of third parties (Santiago, 1934), 49 Stat. 3667; EAS 72; 147 LNTS 15.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country (Washington, 1967), TIAS 6380.

China—Republic of

Language and Area Studies School:

Agreement concerning the status of the American Embassy School of Chinese Language and Area Studies at Taichung and its personnel and of Chinese Embassy personnel studying in the Washington area (Taipei, 1969), 20 UST 2856; TIAS 6759.

Colombia

Consuls:

Consular convention,[1] (Washington, 1850).

Taxation:

Agreement for relief from double taxation on earnings from operations of ships and aircraft (Washington, 1961), 12 UST 3141; TIAS 4916; 433 UNTS 123.

Telecommunication:

Agreement relating to radio communications between amateur stations on behalf of third parties (Bogota, 1963), 14 UST 1754; TIAS 5483; 494 UNTS 49.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country (Bogota, 1965), 16 UST 1742; TIAS 5899, 514 UNTS 109.

Congo—Brazzaville

Treaty Obligations:

Treaty obligations assumed by the Congo upon its independence (Brazzaville, 1961), 13 UST 2065; TIAS 5161; 603 UNTS 19.

Congo—Kinshasa

Taxation:

Convention between the United States and Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1952), 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium modifying and supplementing convention of October 28, 1948. (Washington, 1952); 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium Supplementing the convention of October 28, 1948, as modified for the avoidance of double taxation with respect to taxes on income, (Washington, 1957), 10 UST 1358; TIAS 4280; 356 UNTS 366.

Agreement between the United States and Belgium relating to the extension of the operation of the income tax convention of 1948, as supplemented, to the Belgian Congo and the Trust Territory of Ruanda-Urundi, (Washington, 1954), 10 UST 1358; TIAS 4280; 356 UNTS 370.

[1] Art. III, pars 8 and 11, abrogated by the United States as of July 1, 1916, in accordance with the Seamen's Act (38 Stat. 1164). 10 Stat. 900; TS 55; I. Malloy 314.

Costa Rica

Consuls:
Consular convention, (San Jose, 1948), 1 UST 247; TIAS 2045; 70 UNTS 27.
Nationality:
Convention to fix the conditions of naturalization of citizens who renew their residence in country of their origin, (San Jose, 1911), 37 Stat. 1603; TS 570; III Redmond 2544.
Telecommunication:
Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Washington August 13 and October 19, 1956; entered into force October 19, 1956. 7 UST 2839; TIAS 3665; 278 UNTS 65.
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at San Jose August 17 and 24, 1964; entered into force August 24, 1964. 15 UST 1787; TIAS 5649; 531 UNTS 107.

Cuba

Treaty of relations. Signed at Washington May 29, 1934; entered into force June 9, 1934. 48 Stat. 1632; TS 866; Trenwith 4054.

Cyprus

Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; made applicable to Cyprus February 9, 1901. 31 Stat. 1939; TS 146; 1 Malloy 774.
Visas:
Agreement relating to the reciprocal waiver of fingerprinting requirements for nonimmigrants. Exchange of notes at Nicosia July 11, 1962 and January 11, 1963; entered into force January 11, 1963, 14 UST; TIAS 5271; 471 UNTS 127.

Denmark

Automotive traffic:
Agreement relating to reciprocal treatment of passenger motor vehicles. Exchange of notes at Bar Harbor, Maine, September 4, 1928, and at Washington October 27, 1928, and February 2, 1929, 48 Stat. 1871; EAS 61.
Nationality:
Convention relating to naturalization. Signed at Copenhagen July 20, 1872; entered into force March 14, 1873. 17 Stat. 941; TS 69; I Malloy 384.
Taxation:
Agreement relating to relief from double income tax on shipping profits. Exchanges of notes at Washintgon May 22, August 9 and 18, October 24, 25, and 28, and December 5 and 6, 1922; entered into force December 6, 1922; operative January 1, 1921. 47 Stat. 2612; EAS 14; 113 LNTS 381.
Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington May 6, 1948; entered into force December 1, 1948; operative January 1, 1948 for U.S. tax and April 1, 1948 for Danish tax. 62 Stat. 1730; TIAS 1854; 26 UNTS 55.
Agreement for the waiver of visa requirements for American citizens entering Denmark for a temporary period, and the granting of gratis visas valid for twenty-four months to Danish subjects coming to the United States for temporary visits. Exchanges of notes at Copenhagen June 9 and 21 and July 7 and 8, 1947; entered into force July 8, 1947. 62 Stat. 4068; TIAS 2110; 132 UNTS 145.
Amendment: April 30 and May 1, 1958.

Dominican Republic

Labor:
Agreement relating to workmen's compensation in connection with certain projects under construction or operation in the Dominican Republic. Exchange of notes at Ciudad Trujillo October 14 and 19, 1943; entered into force October 19, 1943. 57 Stat. 1180; EAS 353; 21 UNTS 295.
Telecommunication:
Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Santo Domingo April 18 and 22, 1963; entered into force May 22, 1963. 14 UST 817; TIAS 5360; 487 UNTS 169.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Santo Domingo January 28 and February 2, 1965; entered into force February 2, 1965. 16 UST 93; TIAS 5766; 542 UNTS 117.

Ecuador

Telecommunication:
Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Quito March 16 and 17, 1950; entered into force March 17, 1950. 3 UST 2672; TIAS 2433; 177 UNTS 115.
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Quito March 26, 1965; entered into force March 26, 1965. 16 UST 181; TIAS 5779; 542 UNTS 237.

El Salvador

Labor:
Arrangement relating to workmen's compensation and unemployment insurance for American citizens employed on projects in El Salvador, (San Salvador, 1943), 7 Bevas 586.
Nationality:
Convention to fix the condition of naturalized citizens who renew their residence in the country of their origin. Signed at San Salvador March 14, 1908; entered into force July 20, 1908. 35 Stat. 2038; TS 503; II Malloy 1570.
Telecommunication:
Arrangement relating to radio communications between amateur stations on behalf of third parties.
Exchange of notes at San Salvador April 5, 1962; entered into force May 5, 1962. 13 UST 411; TIAS 5001; 442 UNTS 41.
Agreement relating to the granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country.
Exchange of notes at San Salvador May 24 and June 5, 1967; entered into force June 5, 1967. TIAS 6309; 18 UST 1661.

Ethiopia

Trade and commerce:
Treaty of amity and economic relations, and related notes. Signed at Addis Ababa September 7, 1951; entered into force October 8, 1953. 4 UST 2134; TIAS 2864; 206 UNTS 41.

Fiji

Consuls:
Consular convention between the United States and the United Kingdom, (Washington, 1951), 3 UST 3426; TIAS 2494; 165 UNTS 121.
Agreement continuing in force between the United States and Fiji the consular convention of June 6, 1951 (3 UST 3426) between the United States and the United Kingdom, (Suva and Washington, 1972).
Property:
Convention relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939.
Supplementary convention amending article IV and paragraph 2 of Article VI of the convention relating to the tenure and disposition of real and personal property of March 2, 1899, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.
Agreement continuing in force between the United States and Fiji the convention of March 2, 1899 and May 27, 1936 between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Suva and Washington, 1971), 22 UST 1806; TIAS 7222.
Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (London, 1965), 16 UST 2047; TIAS 5941; 561 UNTS 193.
Agreement extending to certain territories the application of the agreement of November 25, 1965 relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (London, 1969), 20 UST 4089; TIAS 6800.

Agreement continuing in force between the United States and Fiji the agreement of November 25, 1965 between the United States and the United Kingdom relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (Suva and Washington, 1972), TIAS 7417.

Finland

Nationality:
Convention regulating military obligations of persons having dual nationality. Signed at Helsinki January 27, 1939; entered into force October 3, 1939. 54 Stat. 1712; TS 953; 201 LNTS 197.

Taxation:
Convention with respect to taxes on income and property, (Washington, 1970), 22 UST 40; TIAS 7042.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances. Signed at Washington March 3, 1952; entered into force December 18, 1952. 3 UST 4464; TIAS 2595; 177 UNTS 141.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Helsinki December 15 and 27, 1967; entered into force December 27, 1967. TIAS 6406; 18 UST 3153.

Trade and Commerce:
Treaty of friendship, commerce, and consular rights, and protocol. Signed at Washington February 13, 1934; entered into force August 10, 1934. 49 Stat. 2659; TS 868; IV Trenwith 4138; 152 LNTS 45.

Protocol modifying art. IV of the treaty of friendship, commerce, and consular rights of February 13, 1934. Signed at Washington December 4, 1952; entered into force September 24, 1953. 4 UST 2047; TIAS 2861; 205 UNTS 149.

France

Consuls:
Consular convention, with protocol and exchanges of notes. Signed at Paris July 18, 1966; entered into force January 7, 1968. TIAS 6389; 18 UST 2939.

Nationality:
Agreement relating to the fulfillment of military obligations during the wars of 1914–1918 and 1939–1945 by persons with dual nationality. Exchange of notes at Paris December 22, 1948; entered into force December 22, 1948. 62 Stat. 3621; TIAS 1876; 67 UNTS 38.

Extension:
November 18 and December 31, 1952 (3 UST 5345; TIAS 2741; 185 UTS 396).

Taxation:
Agreement relating to relief from double income tax on shipping profits. Exchange of notes at Washington June 11 and July 8, 1927; entered into force July 8, 1927; operative from January 1, 1921. 47 Stat. 2604; EAS 12, 114 LNTS 413.

Convention for the avoidance of double taxation and the prevention of evasion in the case of taxes on estates and inheritances, and modifying and supplementing the convention relating to income taxation signed July 25, 1939. Signed at Paris October 18, 1946; entered into force October 17, 1949. 64 Stat. (3) B3; TIAS 1982; 140 UNTS 23.

Protocol modifying the convention signed October 18, 1946, for the avoidance of double taxation and the prevention of evasion in the case of taxes on estates and inheritances, and modifying and supplementing the convention relating to income taxation signed July 25, 1939. Signed at Washington May 17, 1948; entered into force October 17, 1949. 64 Stat. (3) B28; TIAS 1982; 140 UNTS 50.

Convention supplementing the conventions of July 25, 1939 and October 18, 1946 relating to the avoidance of double taxation, as modified and supplemented by the protocol of May 17, 1947. Signed at Washington June 22, 1956; entered into force June 13, 1957. 8 UST 843; TIAS 3844; 281 UNTS 101.

Taxation:
Convention with respect to taxes on income and property with exchanges of notes (Paris, 1967), 19 UST 5280; TIAS 6518.

Protocol to the convention of July 28, 1967 with respect to taxes on income and property with exchange of notes, (Washington, 1970), 23 UST 20; TIAS 7270.

Telecommunications:
Amendment: October 3, 1969; 20 UST 2398; TIAS 6711.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Paris May 5, 1966; entered into force July 1, 1966. 17 UST 719; TIAS 6022; 593 UNTS 279.

Gambia

Property: Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; applicable to Gambia February 9, 1901. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936; entered into force March 10, 1941. 55 Stat. 1101; TS 946; 203 LNTS 367.

Taxation:
Convention and protocol between the United States and the United Kingdom relating to the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945; applicable to Gambia January 19, 1959. 60 Stat 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol amending the convention of April 16, 1945 between the United States and the United Kingdom relating to the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington May 25, 1954; applicable to Gambia January 19, 1959. 6 UST 37; TIAS 3165; 207 UNTS 312.

Supplementary protocol amending the convention of April 16, 1945 between the United States and the United Kingdom relating to the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington August 19, 1957; applicable to Gambia January 19, 1959. 9 UST 1329; TIAS 4124; 336 UNTS 330.

Agreement between the United States and the United Kingdom relating to the application of the convention of April 16, 1945 to specified British territories. Exchange of notes at Washington August 19, 1957 and December 3, 1958; applicable to Gambia January 19, 1959. 9 UST 1459; TIAS 4141; 351 UNTS 368.

Germany

Defense:
Understanding relating to maintenance claims for illegitimate children of members of foreign forces stationed in the Federal Republic of Germany, with annexes. Exchange of notes at Bonn August 3, 1959; entered into force July 1, 1963, 14 UST 689; TIAS 5352, p. 41; 490 UNTS 114.

Agreement relating to reciprocal legal assistance in penal matters and information from penal register. Exchange of notes at Bonn November 7 and December 28, 1960; and January 3, 1961; entered into force January 3, 1961. 12 UST 1156; TIAS 4826; 416 UNTS 93.

Social Security:
Agreement on the pension insurance of certain employees of the United States Army, (Bonn, 1970), TIAS 7326.

Taxation:
Convention for the avoidance of double taxation with respect to taxes on income.[1] Signed at Washington July 22, 1954; entered into force December 20, 1954. 5 UST 2768; TIAS 3133; 239 UNTS 3.

Agreement concerning tax relief to be accorded by the Federal Republic of Germany to United States expenditures in interest of the common defense, with annex and exchange of letter. Signed at Bonn October 15, 1954; entered into force November 8, 1955. 6 UST 3081; TIAS 3360; 239 UNTS 135.

Protocol modifying the convention signed July 22, 1954, for the avoidance of double taxation with respect to taxes on income. Signed at Bonn September 17, 1965; entered into force December 27, 1965. 16 UST 1875; TIAS 5920; 578 UNTS 224.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their station in the

other country. Exchange of notes at Bonn June 23 and 30, 1966; entered into force June 30, 1966. 17 UST 1120; TIAS 6068; 601 UNTS 107.

Ghana

Property:
Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899; made applicable to the Gold Coast July 6, 1901. 31 Stat. 1939; TS 146; 1 Malloy 774.

Agreement relating to treaty rights and obligations assumed by Ghana upon its independence. Exchange of notes at Accra September 4 and December 21, 1957; and February 12, 1958; entered into force February 12, 1958. 13 UST 240; TIAS 4966; 442 UNTS 175.

Greece

Consuls:
Convention concerning the rights and privileges of consuls and protocol of amendment signed March 5/18, 1903. Signed at Athens November 19/December 2, 1902; entered into force July 9, 1903. 33 Stat. 2122; TS 424; I Malloy 855.

Taxation:
Convention and protocol for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons. Signed at Athens February 29, 1950; protocol signed at Athens July 18, 1953; entered into force December 30, 1953. 5 UST 12; TIAS 2901; 196 UNTS 269.

Understanding regarding certain errors in the English text of the estate tax convention of February 20, 1950. Exchange of notes at Athens February 12, 1964; entered into force TIAS 3032; 222 UNTS 423.

Protocol modifying and supplementing the convention of February 20, 1950, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons. Signed at Athens February 12, 1964; entered into force October 27, 1967. TIAS 6375; 632 UNTS 315.

Convention and protocol for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Athens February 20, 1950; protocol signed at Athens April 20, 1953; entered into force December 30, 1953. 5 UST 47; TIAS 2902; 196 UNTS 291.

Understanding regarding certain errors in the translation of the Greek text of the income tax convention of February 20, 1950. Exchange of notes at Washington November 29 and December 19, 1961. 13 UST 151; TIAS 4951; 435 UNTS 334.

[Arrangement suspended beginning January 1, 1953, for the duration of the income tax convention of February 20, 1950:

Arrangement concerning relief from double income tax on shipping profits. Exchanges of notes at Washington February 29 and April 26, 1928, and April 2 and June 10, 1929; entered into force June 10, 1929; operative January 1, 1921. 47 Stat. 2608; EAS 13; 92 LNTS 81.]

Guatemala

Amity:
Treaty of peace, amity, commerce, and navigation. Signed at Guatemala March 3, 1849; entered into force May 13, 1852. 10 Stat. 875; TS 149; I Malloy 861.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country (Guatemala, 1967), 20 UST 2883; TIAS 6766.

Property:
Convention relating to tenure and disposition of real and personal property. Signed at Guatemala August 27, 1901; entered into force September 26, 1902. 32 Stat. 1944; TS 412; I Malloy 876.

Guyana

Consuls: Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952, 3 UST 3426; TIAS 2494; 165 UNTS 121.

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; made applicable to British Guiana June 17, 1901. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property of March 2 1899. Signed at Washington May 27, 1936; entered into force March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of their country to operate their stations in the other country, (Georgetown, 1968), 19 UST 4892; TIAS 6494.

Arrangement relating to radio communications between amateur stations on behalf of third parties, (Georgetown, 1972), TIAS 7355.

Haiti

Naturalization treaty. Signed at Washington March 22, 1902; entered into force March 19, 1904. 33 Stat. 2101; TS 432; I Malloy 939.

Treaty extending the time within which may be effected the exchange of ratifications of the treaty of naturalization of March 22, 1902. Signed at Washington February 28, 1903; entered into force March 19, 1904. 33 Stat. 2157; TS 433; I Malloy 941.

Agreement relating to exchange of lands in Haiti. Signed at Port-au-Prince October 19, 1942; entered into force October 19, 1942. 56 Stat. 1784; EAS 283; 120 UNTS 171.

Honduras

Nationality:
Naturalization convention. Signed at Tegucigalpa June 23, 1908; entered into force April 16, 1909. 36 Stat. 2160; TS 525; I Malloy 958.

Telecommunications:
Agreement relating to radio communications between amateur radio stations on behalf of third parties. Exchange of notes at Tegucigalpa October 26, 1959, and February 17, 1960, and related note of February 19, 1960, entered into force March 17, 1960. 11 UST 257; TIAS 4442; 371 UNTS 109.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Tegucigalpa December 29, 1966, January 24 and April 17, 1967; entered into force April 17, 1967. 18 UST 525; TIAS 6259.

Treaty of friendship, commerce, and consular rights. Signed at Tegucigalpa December 7, 1927; entered into force July 19, 1928. 45 Stat. 2618; TS 764; IV Trenwith 4306; 87 LNTS 421.

Trade agreement. Signed at Tegucigalpa December 18, 1935; entered into force March 2, 1936. 49 Stat. 3851; EAS 86; 167 LNTS 313. Agreement terminating the schedules, articles I, II, IV, and V, together with references of article V contained in article XVI, of the reciprocal trade agreement of December 18, 1935. Exchange of notes at Tegucigalpa January 18, 1961; entered into force January 18, 1961. 12 UST 84; TIAS 4677; 402 UNTS 169.

Iceland

Taxation:
Agreement for relief from double taxation on earnings from operation of ships and aircraft. Exchange of notes at Washington December 21 and 27, 1962; entered into force December 27, 1692. 13 UST 3827; TIAS 5255; 469 UNTS 91.

India

Property:
Convention between the United States and the United Kingdom applicable to India from June 30, 1902; Convention relating to tenure and disposition of real and personal property, signed at Washington March 2, 1899 (31 Stat. 1939; TS 146; I Malloy 774).

Supplementary convention extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899, signed at Washington January 18, 1902 (32 Stat. 1914; TS 402; I Malloy 776).

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the

other country. Exchange of notes at New Delhi May 16 and 25, 1966; entered into force May 25, 1966. 17 UST 813; TIAS 6038; 593 UNTS 157.

Indonesia

Consuls:
Convention between the United States and the Kingdom of the Netherlands regarding consuls in the colonies of the Netherlands. Signed at The Hague January 22, 1855; entered into force May 25, 1855. 110 Stat. 1150; TS 253; II Malloy 1251.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country (Djakarta, 1968). 20 UST 590; TIAS 6654.

Iran

Trade and Commerce:
Treaty of amity, economic relations, and consular rights. Signed at Tehran August 15, 1955; entered into force June 16, 1957. 8 UST 899; TIAS 3853; 284 UNTS 93.

Agreement terminating the reciprocal trade agreement of April 6, 1943, as amended. Exchange of notes as Tehran July 27, 1960; entered into force July 27, 1960. UST 2163; TIAS 4581; 393 UNTS 338.

Ireland

Consuls:
Consular convention. Signed at Dublin May 1, 1950; entered into force June 12, 1954. 5 UST 949; TIAS 2984; 222 UNTS 107.

Supplementary protocol to the consular convention of May 1, 1950. Signed at Dublin March 3, 1952; entered into force June 12 1954. 5 UST 949; TIAS 2984; 222 UNTS 107.

Property—Real and Personal:
Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property.[1] Signed at Washington March 2, 1899; entered into force August 7, 1900. 31 Stat. 1939; TS 146; I Malloy 774.

Taxation:
Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington August 24, 1933 and January 9, 1934; entered into force January 9, 1934; operative April 6, 1932. 48 Stat. 1842; EAS 56.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons. Signed at Dublin September 13, 1949; entered into force December 20, 1951. 2 UST 2294; TIAS 2355; 127 UNTS 119.

Taxation:
Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Dublin September 13, 1949; entered into force December 20, 1951. 2 UST 2303; TIAS 2356; 127 UNTS 89.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. (Dublin, 1968), 19 UST 6057; TIAS 6566.

Israel

Telecommunications:
Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Washington July 7, 1965; entered into force August 6, 1965. 16 UST 883; TIAS 5827; 549 UNTS 281.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Washington June 15, 1966; entered into force June 15, 1966. 17 UST 760; TIAS 6028; 578 UNTS 159.

Italy

Claims:
Memorandum of understanding regarding settlement of certain wartime claims

[1] Only article II is in force for Ireland.

and related matters; memorandum of understanding regarding Italian assets in the United States and certain claims of United States nationals, and supplementary exchanges of notes. Signed at Washington August 14, 1947; entered into force August 14, 1947. 61 Stat. 3962; TIAS 1757; 36 UNTS 53.

Consuls:
Consular convention. Signed at Washington May 8, 1878; entered into force September 18, 1878. 20 Stat. 725; TS 178; I Malloy 977.

Marriage:
Agreement relating to documentary requirements for marriage of American citizens in Italy. Exchange of notes at Rome July 29 and August 18, 1964; entered into force March 26, 1966. 16 UST 342; TIAS 6239.

Taxation:
Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances. Signed at Washington March 30, 1955; entered into force October 26, 1956. 7 UST 2977; TIAS 3678; 257 UNTS 199.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington March 30, 1955; entered into force October 26, 1956; operative from January 1, 1956. 7 UST 2999; TIAS 3679; 257 UNTS 169.

[Agreement suspended by the income tax convention of March 30, 1955;

Agreement relating to relief from double income tax on shipping profits. Exchange of notes at Washington March 10 and May 5, 1926; entered into force May 5, 1926; operative January 1, 1921. 47 Stat. 2599; EAS 10; 113 LNTS 21.]

Jamaica

Consuls:
Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; applicable to Jamaica February 9, 1901. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936; applicable to Jamaica March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.

Taxation:
Convention with protocol between the United States and the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945; protocol signed at Washington June 6, 1946. 60 Stat. 1377; TIA S 1548; 6 UNTS 189.

Supplementary protocol amending the income tax convention of April 16, 1945. Signed at Washington May 25, 1954. 6 UST 37; TIAS 3165; 207 UNTS 312.

Supplementary protocol amending the income tax convention of April 16, 1945, as amended. Signed at Washington August 19, 1957. 9 UST 1329; TIAS 4124; 336 UNTS 330.

Application of convention, as supplemented, extended to Jamaica January 1, 1959 for both U.S. and Jamaican tax as provided in the agreement effected by exchange of notes August 19, 1959 and December 3, 1958 between the United States and the United Kingdom relating to the application of the convention to specified British territories 9 UST 1459; TIAS 4141; 351 UNTS 368).

Telecommunications:
Agreement relating to the reciprocal granting of authorization to permit licensed amateur radio operators of either country to operate their stations in the other country, (Kingdom, 1971), 22 UST 694; TIAS 7127.

Japan

Consuls:
Consular convention and protocol. Signed at Tokyo March 22, 1963; entered into force August 1, 1964. 15 UST 768; TIAS 5602; 518 UNTS 179.

Property:
Arrangement relating to perpetual leaseholds. Exchanges of notes at Tokyo March 25, 1937; entered into force March 25, 1937. 50 Stat. 1611; EAST 104; 181 LNTS 217.

Taxation:
Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington March 31 and June 8, 1926; entered into force June 8, 1926; operative from July 18, 1924. 47 Stat. 2578; EAST 3; 108 LNTS 463.

Agreement relating to tax relief for expenditures made by the United States in Japan under mutual security programs. Exchange of notes at Tokyo July 14 and 25, 1952; entered into force July 25, 1952. 3 UST 2955; TIAS 2477; 198 UNTS 281.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates, inheritances, and gifts. Signed at Washington April 16, 1954; entered into force April 1, 1955. 6 UST 113; TIAS 3175; 238 UNTS 3.

Taxation:
Convention for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, with related notes, (Tokyo, 1971), TIAS 7365.

Understanding relating to the exemption of shipping and aircraft profits from income tax, (Tokyo, 1971), 22 UST 1775; TIAS 7216.

Korea

Consuls:
Consular convention. Signed at Seoul January 8, 1963; entered into force December 19, 1963. 14 UST 1637; TIAS 5469; 493 UNTS 105.

Kuwait

Consuls:
Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Kuwait July 19 and 24, 1966; entered into force July 19, 1966. 17 UST 1039; TIAS 6061; 593 UNTS 289.

Latvia

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

Lebanon

General Relations:
Convention between the United States and France relating to rights in Syria and Lebanon. Signed at Paris April 4, 1924; entered into force July 13, 1924. 43 Stat. 1821; TS 695; IV Trenwith 4169.

Agreement relating to rights of American nationals. Exchange of notes at Beirut September 7 and 8, 1944; entered into force September 8, 1944. 58 Stat. 1493; EAS 435; 124 UNTS 187.

Lesotho

Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; made applicable to Basutoland July 24, 1902. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention extending the time within which notification may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899. Signed at Washington January 13, 1902; entered into force April 2, 1902. 32 Stat. 1914; TS 402; I Malloy 776.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property of March 2, 1899. Signed at Washington May 27, 1936; entered into force March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.

Trademarks:
Declaration between the United States and the United Kingdom affording

reciprocal protection to trademarks. Signed at London October 24, 1877; entered into force October 24, 1877. 20 Stat. 703; TS 138; I Malloy 737.

Treaty Obligations:
Agreement continuing in force certain treaties and agreements between the United States and the United Kingdom which applied to Basutoland. Exchange of notes at Maseru October 4, 1966; entered into force October 4, 1966. 17 USE 2436; TIAS 6192.

Extension: October 5 and 26, 1967 (TIAS 6383; 18 UST 2923).

Liberia

Consuls:
Consular convention. Signed at Monrovia October 7, 1938; entered into force December 21, 1939. 54 Stat. 1751; TS 957; 201 LNTS 183.

Telecommunication:
Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Monrovia November 9, 1950 and January 8, 9, and 10, 1951; entered into force January 11, 11951. 2 NST 683; TIAS 2223; 132 UNTS 255.

Liechtenstein

Social Security:
Agreement concerning reciprocity of payment of certain social security benefits, (Bern, 1972), TIAS 7476.

Lithuania

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

Nationality:
Treaty defining liability for military service and other acts of allegiance of naturalized persons and persons born with double nationality. Signed at Kaunas October 18, 1937; entered into force July 20, 1938. 53 Stat. 1569; TS 936; 191 LNTS 351.

Luxembourg

Taxation:
Convention with respect to taxes on income and property. Signed at Washington December 18, 1962; entered into force December 22, 1964; effective for taxable years beginning on or after January 1. 1964, 15 UST 2355; TIAS 5726; 532 UNTS 277.

Telecommunication:
Agreement relating to reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Luxembourg July 7 and 29, 1965; entered into force July 29, 1965. 16 UST 1746; TIAS 5900; 573 UNTS 197.

Malawi

Taxation:
Convention with protocol between the United States and the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945; protocol signed at Washington June 6, 1946. 60 Stat. 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol between the United States and the United Kingdom amending the income tax convention of April 16, 1945. Signed at Washington May 25, 1954. 6 UST 137; TIAS 3165; 207 UNTS 312.

Supplementary protocol between the United States and the United Kingdom amending the income tax contention of April 16, 1945. as amended. Signed at Washington August 19, 1957. 9 UST 1329; TIAS 4124; 336 UNTS 330.

[Application of convention, as supplemented, extended to Nyasaland January 1, 1959 for United States tax and April 1, 1959, for Nyasaland tax as provided in the agreement effected by exchange of notes at Washington August 19, 1957 and December 3, 1958 between the United States and the United Kingdom relating to the application of the convention to specified British territories. (9 UST 1459; TIAS 4141; 351 UNTS 368).]

Agreement between the United States and the United Kingdom continuing in force for Southern Rhodesia, Northern Rhodesia and Nyasaland individually

the income tax convention of April 16, 1945, as amended and extended. Exchange of notes at Washington December 31, 1963; applicable to Nyasaland December 31, 1963. 14 UST 1899; TIAS 5501; 505 UNTS 300.

Agreement continuing in force between the United States and Malawi the extradition treaty and the double taxation convention between the United States and the United Kingdom, Exchange of notes at Zomba and Blantyre December 17, 1966, January 6 and April 4, 1967; entered into force April 4, 1967. TIAS 6328; 18 UST 1822.

Malaysia

Consuls:

Consular convention and protocol of signature between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Extradition treaty between the United States and the United Kingdom. Signed at London December 22, 1931. 47 Stat. 2122; TS 849; IV Trenwith 4274; 163 LNTS 59.

Mali

Social Security:

Agreement to provide social security benefits for certain employees of the United States in Mali, (Bamako, 1969), 21 UST 2145; TIAS 6961.

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899. 31 Stat. 1939; TS 146; I Malloy 774.

Malta

Consuls:

Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; applicable to Malta September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Mauritania

Consuls:

Consular convention between the United States and the United Kingdom, (Washington, 1951), 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property, (Washington, 1899), 31 Stat. 1939; TS 146.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property of March 2, 1899, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.

Visas:

Agreement between the United States and the United Kingdom for the waiver of the visa requirements for United States citizens traveling to the United Kingdom and for the granting of gratis passport visas to British subjects entering the United States as nonimmigrants, (London, 1948), 62 Stat. 3824; TIAS 1926; 84 UNTS 275.

Extradition:

Extradition treaty between the United States and the United Kingdom. Signed at London December 22, 1931; applicable to Malta June 24, 1935. 47 Stat. 2127; TS 849; IV Trenwith 4274; 163 UNTS 59.

Property:

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; applicable to Malta May 29, 1947. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936; applicable to Malta May 29, 1947, 55 Stat. 1101; TS 964; 203 LNTS 367.

Visas:

Agreement between the United States and the United Kingdom for the reciprocal reduction of passport visa fees for nomimmigrants. Exchange of notes at London March 12, 1937; applicable to Malta April1, 1937.

Agreement between the United States and the United Kingdom for the waiver of the visa requirements for United States citizens traveling to the United Kingdom and for the granting of gratis passport visas to British subjects entering the United States as nonimmigrants. Exchange of notes at London November 9 and 12, 1948; applicable to Malta November 12, 1948. 62 Stat. 3824; TIAS 1926; 84 UNTS 275.

Mexico

Consuls:

Consular convention. Signed at México August 12, 1942; entered into force July 1, 1943. Exchanges of notes dated August 12 and December 11 and 12, 1942. 57 Stat. 800; TS 985; 125 UNTS 301.

Amendment:

October 20, 1967 (TIAS 6366).

Stolen Property:

Convention for the recovery and return of stolen or embezzled motor vehicles, trailers, airplanes, or component parts of any of them. Signed at Mexico October 6, 1936; entered into force June 19, 1937. 50 Stat. 1333; TS 914; IV Trenwith 4500; 180 LNTS 33.

Taxation:

Agreement for relief from double taxation on earnings from operation of ships and aircraft. Exchange of notes at Washington August 7, 1964; entered into force August 7, 1964; operative for taxable years beginning on or after January 1, 1964. 15 UST 1528; TIAS 5635; 530 UNTS 123.

Telecommunication:

Arrangement for radio communications between amateur stations on behalf of third parties. Exchange of notes at México July 31, 1959; entered into force August 30, 1959. 10 UST 1449; TIAS 4295; 357 UNTS 187.

Netherlands

Consuls:

Convention regarding consuls in the colonies of the Netherlands.[1] Signed at The Hague January 22, 1855; entered into force May 25, 1855. 10 Stat. 1150; TS 253; II Malloy 1251.

Taxation:

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances with protocol, (Washington, 1969), 22 UST 247; TIAS 7061.

Telecommunication:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at The Hague June 22, 1966; entered into force December 21, 1966. 17 UST 2426; TIAS 6189; 590 UNTS 109.

New Zealand

Consuls:

Convention to regulate commerce (art. IV) between the United States and the United Kingdom. Signed at London July 3, 1815; entered into force July 3, 1815. 8 Stat. 228; TS 110; I Malloy 624.

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property signed at Washington March 2, 1899; entered into force for New Zealand June 10, 1901. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936, by the United States, United Kingdom, Australia, and New Zealand; entered into force March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.

Taxation:

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington March 16, 1948; entered into force December 18, 1951. 2 UST 2378; TIAS 2360; 127 UNTS 133.

Telecommunication:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Wellington June 21, 1967; entered into force June 21, 1967. TIAS 6281; 18 UST 1272; 644 UNTS 77.

[1] Applicable to Surinam and Curacao.

Nicaragua

Telecommunication:

Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Managua October 8 and 16, 1956; entered into force October 16, 1956. 7 UST 3159; TIAS 3694; 282 UNTS 29.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Managua September 3 and 20, 1966; entered into force September 20, 1966. 17 UST 1560; TIAS 6112; 607 UNTS 167.

Nigeria

Consuls:

Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899. 31 Stat. 1939; TS 146; I Malloy 774.

Taxation:

Convention and protocol between the United States and the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945; protocol signed at Washington June 6, 1946. 60 Stat. 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol between the United States and the United Kingdom amending the convention of April 16, 1945. Signed at Washington May 25, 1954. 6 UST 37; TIAS 3165; 207 UNTS 312.

Supplementary protocol between the United States and the United Kingdom amending the convention, as modified. Signed at Washington August 19, 1957. 9 UST 1329; TIAS 4124; 336 UNTS 330.

Application of convention, as supplemented, extended to Nigeria January 1, 1959 for U.S. tax and April 1, 1959 for Nigerian tax as provided in the agreement, effected by exchange of notes at Washington August 19, 1957 and December 3, 1958, between the United States and the United Kingdom relating to the application of the convention to specified British territories (9 UST 1459; TIAS 4141).

Norway

Taxation:

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estate and inheritances. Signed at Washington June 13, 1949; entered into force December 11, 1951. 2 UST 2353; TIAS 2358; 127 UNTS 163.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property with related notes, (Oslo, 1971). TIAS 74 TIAS 7474.

Telecommunication:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Oslo May 27 June 1, 1967; entered into force June 1, 1967. TIAS 6273; 18 UST 1241; 631 UNTS 119.

Treaty of friendship, commerce, and consular rights, exchange of notes concerning the tariff treatment of Norwegian sardines, and additional article signed February 25, 1929. Signed at Washington June 5, 1928; entered into force September 13, 1932. 47 Stat. 2135; TS 852; IV Trenwith 4527; 134 LNTS 81.

Oman

Consuls:

Treaty of amity, economic relations, and consular rights and protocol, (Salalah, 1958), 11 UST 1835; TIAS 4530; 380 UNTS 181.

Pakistan

Consuls:

Convention to regulate commerce (art. IV) between the United States and the United Kingdom. Signed at London July 3, 1815; entered into force July 3, 1815. 8 Stat. 228; TS 110; I Malloy 624.

Property:

Convention between the United States and the United Kingdom applicable to Pakistan:

Convention relating to tenure and disposition of real and personal property, signed at Washington March 2, 1899 (31 Stat. 1939; TS 146; I Malloy 774). Supplementary convention extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899; signed at Washington, January 13, 1902 (32 Stat. 1914; TS 402; I Malloy 776).

Taxation:

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington July 1, 1957; entered into force May 21, 1959. 10 UST 984; TIAS 4232; 344 UNTS 203.

Panama

General Relations:

General treaty of friendship and cooperation, accompanied by sixteen exchanges of notes embodying interpretations of the treaty or arrangements pursuant thereto. Signed at Washington March 2, 1936; entered into force July 27, 1939, 53 Stat. 1807; TS 945.

General relations agreement. Exchange of notes at Washington May 18, 1942; entered into force May 18, 1942. 59 Stat. 1289; EAS 452; 134 UNTS 221.

Agreement providing for reciprocal recognition of driver's licenses issued in Panama and the Canal Zone. Exchange of notes at Panama October 31, 1960; entered into force November 1, 1960. 12 UST 301; TIAS 4716; 405 UNTS 63.

Judicial Procedure:

Informal arrangement relating to cooperation between the American Embassy, or Consulate, and Panamanian authorities when American merchant seamen or tourists are brought before a magistrate's court. Exchange of notes at Panama September 18 and October 15, 1947; effective October 15, 1947.

Taxation:

Arrangement providing for relief from double income tax on shipping profits. Exchange of notes at Washington January 15, February 8, and March 28, 1941; entered into force March 28, 1941; operative January 1, 1936. 55 Stat. 1363; EAS 221; 103 UNTS 163.

Agreement for withholding of Panamanian income tax from compensation paid to Panamanians employed within Canal Zone by the canal, railroad, or auxiliary works. Exchange of notes at Panama August 12 and 30, 1963; entered into force August 30, 1963. 14 UST 1478; TIAS 5445; 488 UNTS 11.

Telecommunication:

Agreement for radio communications between amateur stations on behalf of third parties. Exchange of notes at Panama July 19 and August 1, 1956; entered into force September 1, 1956, 7 UST 2179; TIAS 3617; 281 UNTS 49.

Agreement relating to the granting of reciprocal authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Panama November 16, 1966; entered into force November 16, 1966. 17 UST 2215; TIAS 6159.

Trade and Commerce:

Convention facilitating the work of traveling salesmen. Signed at Washington February 8, 1919; entered into force December 8, 1919, 41 Stat. 1696; TS 646; III Redmond 2780.

Visas:

Agreement modifying the agreement of March 27 and May 22 and 25, 1956, for gratis nonimmigrant visas, (Panama, 1971), 22 UST 815; TIAS 7142.

Telecommunication:

Agreement relating to radio communications between amateur stations on behalf of third parties. Exchange of notes at Asuncion August 31 and October 6, 1960; entered into force November 5, 1960. 11 UST 2229; TIAS 4596; 393 UNTS 281.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country.

Exchange of notes at Asuncion March 18, 1966; entered into force March 18, 1966. 17 UST 328; TIAS 5978.

Trade and Commerce:
Treaty of friendship, commerce, and navigation. Signed at Asuncion February 4, 1859; entered into force March 7, 1860. 12 Stat. 1091 TS 272; III Malloy 1364.

Convention facilitating the work of traveling salesmen. Signed at Washington October 20, 1919; entered into force March 22, 1922. 42 Stat. 2128; TS 662; III Redmond 2791.

Nationality:
Naturalization on convention. Signed at Lima October 15, 1907; entered into force July 23, 1909, 36 Stat. 2181; TS 532; II Malloy 1449.

Telecommunications:
Arrangement concerning radio communications between amateur stations on behalf of third parties. Exchange of notes at Lima February 16 and May 23, 1934; entered into force May 23, 1934. 49 Stat. 3555; EAS 66.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Lima June 28 and August 11, 1965; entered into force August 11, 1965. 16 UST 1160; TIAS 5860; 564 UNTS 135.

Trade and Commerce:
Convention concerning commercial travelers, and protocol. Signed at Lima January 19, 1923; entered into force July 8, 1924. 43 Stat. 1802; TS 692; IV Trenwith 4554.

Understanding relating to the termination of the reciprocal trade agreement of May 7, 1942. Exchange of notes at Lima September 12 and 28, 1951; entered into force September 28, 1951; operative October 7, 1951. 3 UST 2548; TIAS 2421; 160 UNTS 35.

Interim trade agreement pursuant to Article XXVIII of the General Agreement on Tariffs and Trade. Signed at Geneva March 5, 1962; entered into force March 5, 1962. 13 UST 879; TIAS 5028; 446 UNTS 65.

Philippines

Consuls (See also General Relations):
Consular convention. Signed at Manila March 14, 1947; entered into force November 18, 1948. 62 Stat. 1593; TIAS 1741; 45 UNTS 23.

General Relations:
Provisional agreement concerning friendly relations and diplomatic and consular representation. Signed at Manila July 4, 1946; entered into force July 4, 1946. 60 Stat. 1800; TIAS 1539; 6 UNTS 335. Treaty of general relations, and protocol. Signed at Manila July 4, 1946; entered into force October 22, 1946. 61 Stat. 1174; TIAS 1568; 7 UNTS 3.

Health:
Agreement on the use of the Veterans Memorial Hospital and the provision of inpatient and outpatient medical care and treatment of veterans by the Philippines and the furnishing of grants-in-aid by the United States. Signed at Manila April 25, 1967; entered into force April 25, 1967. 18 UST 388; TIAS 6248.

Agreement relating to entry of nationals of either country into the territories of the other for purposes of trade, investment, and related activities. Exchange of notes at Washington September 6, 1955; entered into force September 6, 1955. 6 UST 3030; TIAS 3349; 238 UNTS 109.

Poland

Social Security:
Agreement concerning the method of payment to persons residing in Poland of pensions due from American authorities, (Warsaw, 1968), TIAS 7473.

Portugal

Nationality:
Naturalization convention. Signed at Washington May 7, 1908; entered into force November 14, 1908. 35 Stat. 2082; TS 513; II Malloy 1468.

Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country.

Exchange of notes at Lisbon, May 17 and 26, 1965; entered into force May 26, 1965. 16 UST 817; TIAS 5815; 546 UNTS 189.

Consuls:
Consular convention. Signed at Bucharest June 5/17, 1881; entered into force June 13, 1883. 23 Stat. 711; TS 297; II Malloy 1505.

Extradition:
Extradition treaty. Signed at Bucharest July 23, 1924; entered into force April 7, 1925. 44 Stat. 2020; TS 713; IV Trenwith 4602.

Agreement relating to the issuance of visas to diplomatic and non-diplomatic personnel. Exchange of notes at Bucharest April 20, May 14 and 26, 1962; entered into force May 26, 1962; operative June 1, 1962. 13 UST 1192; TIAS 5063, 456 UNTS 265.

Amendment: May 31 and June 17, 1967 (TIAS 6279).

Rwanda

Taxation:
Convention between the United States and Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington October 28, 1948; entered into force September 9, 1953; operative January 1, 1953. 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium modifying and supplementing convention of October 28, 1948. Signed at Washington September 9, 1952; entered into force September 9, 1953; operative January 1, 1953. 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium supplementing the convention of October 28, 1948, as modified, for the avoidance of double taxation with respect to taxes on income.

Signed at Washington August 22, 1957; entered into force July 10, 1959. 10 UST 1358; TIAS 4280; 356 UNTS 366.

Agreement between the United States and Belgium relating to the extension of the operation of the income tax convention of 1948, as supplemented, to the Belgian Congo and the Trust Territory of Ruanda-Urundi. Exchange of notes at Washington April 2, 1954 and July 28, 1959; entered into force July 28, 1959. 10 UST 1358; 4280; 356 UNTS 370.

Saudi Arabia

Trade and Commerce:
Provisional agreement in regard to diplomatic and consular representation, juridical protection, commerce, and navigation. Signed at London November 7, 1933; entered into force November 7, 1933. 48 Stat. 1826; EAS 53; 142 LNTS 329.

Sierra Leone

Consuls:
Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Judicial Procedure:
Agreement to facilitate the conduct of litigation with international aspects in either country. Exchange of notes at Freetown March 31 and May 6, 1966; entered into force May 6, 1966. 17 UST 944; TIAS 6056; 594 UNTS 47.

Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; made applicable to Sierra Leone February 9, 1901. 31 Stat. 1939; TS 146; I Malloy 774.

Taxation:
Convention and protocol between the United States and the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945; protocol signed at Washington June 6, 1946. 60 Stat. 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol between the United States and the United Kingdom Amending the convention of April 16, 1945. Signed at Washington May 25, 1954. 6 UST 37; TIAS 3165; UNTS 312.

Supplementary protocol between the United States and the United Kingdom amending the convention, as modified. Signed at Washington August 19, 1957. 9 UST 1329; TIAS 4124; 336 UNTS 330.

[Application of convention, as supplemented, extended to Sierra Leone January 1, 1959 for U.S. tax and April 1, 1959 for Sierra Leonean tax as provided in

the agreement, effected by exchange of notes at Washington August 19, 1957 and December 3, 1958, between the United States and the United Kingdom relating to the application of the convention to specified British territories (9 UST 1459; TIAS 4141).]

Telecommunication:

Agreement relating to reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Freetown August 14 and 16, 1965; entered into force August 16, 1965. 16 UST 1131; TIAS 5856; 579 UNTS 55.

Singapore

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899; entered into force August 7, 1900. 31 Stat. 1939; TS 146; I Malloy 774.

Visas:

Agreement relating to visas. Exchange of notes at London October 15 and 22, 1954.

Agreement continuing in force the 1954 agreement with respect to the Federation of Malaya. Exchange of letters at Kuala Lumpur March 5 and 13, 1958.

South Africa

Consuls:

Convention to regulate commerce (art. IV) between the United States and the United Kingdom. Signed at London July 3, 1815; entered into force July 3, 1815. 8 Stat. 228; TS 110; I Malloy 624.

Property:

The following conventions between the United States and the United Kingdom may be considered in force with respect to the Republic of South Africa by virtue of the adherence by the United Kingdom for the Cape Colony on February 9, 1901, and for the Orange River Colony and the Transvaal on July 24, 1902, except for Natal and Southwest Africa:

Convention relating to tenure and disposition of real and personal property, signed at Washington March 2, 1899 (31 Stat. 1989; TS 146; I Malloy 774).

Supplementary convention extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899; signed at Washington January 13, 1902 (32 Stat. 1914; TS 402; I Malloy 776).

Taxation:

Convention for the avoidance of double taxation and for establishing rules of reciprocal administrative assistance with respect to taxes on income. Signed at Pretoria December 13, 1946. Entered into force July 15, 1952. 3 UST 3821; TIAS 2510; 167 UNTS 171.

Protocol supplementing the convention of December 13, 1946. Signed at Pretoria July 14, 1950; Entered into force July 15, 1952. 3 UST 3821; TIAS 2510; 167 UNTS 171.

Convention with respect to taxes on the estates of deceased persons. Signed at Cape Town April 10, 1947; entered into force July 15, 1952. 3 UST 3792; TIAS 2509; 167 UNTS 211.

Protocol supplementing the estate tax convention of April 10, 1947. Signed at Pretoria July 14, 1950; entered into force July 15, 1952. 3 UST 3792; TIAS 2509; 167 UNTS 211.

Spain

General Relations:

Treaty of friendship and general relations. Signed at Madrid July 3, 1902; entered into force April 14, 1903. 33 Stat. 2105; TS 422; II Malloy 1701.

Friendship and Cooperation:

Agreement of friendship and cooperation with annex and exchange of notes, (Washington, 1970), 21 UST 1677; TIAS 6924.

Agreement in implementation of chapter VIII of the agreement of friendship and cooperation of August 6, 1970 (TIAS 6924), with procedural annexes and exchanges of notes, (Madrid, 1970), 21 UST 2259; TIAS 6977.

Taxation:

Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington April 16 and June 10, 1930; entered into force June 10, 1930; operative January 1, 1921. 47 Stat. 2584; EAS 6; 120 LNTS 407.

Tax relief annex attached to the mutual defense assistance agreement, and interpretative note. Signed at Madrid September 26, 1953; entered into force September 26. 4 UST 1876; TIAS 2849; 207 UNTS 61.

Sri Lanka—(formerly Ceylon)

Consuls:

Convention to regulate commerce (art IV) between the United States and the United Kingdom, (London, 1815), 8 Stat. 228, TS 110.

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat 1939; TS 146.

Swaziland

Consuls:

Consular Convention between the United States and the United Kingdom, (Washington, 1951), 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property, (Washington, 1899), 31 Stat 1939; TS 146.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.

Sweden

Consuls:

Consular convention. Signed at Washington, June 1, 1910; entered into force March 18, 1911. 37 Stat. 1479; TS 557; III Redmond 2846.

Nationality:

Naturalization convention and protocol. Signed at Stockholm May 26, 1869; entered into force June 14, 1871. 17 Stat. 809; TS 350; II Malloy 1758.

Convention relating to exemption from military service of persons having dual nationality. Signed at Stockholm January 31, 1933; entered into force May 20, 1935, 49 Stat. 3195; TS 890; IV Trenwith 4656; 159 LNTS 261.

Taxation:

Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington March 31, 1938; entered into force March 31, 1938. 52 Stat. 1490; EAS 121; 189 LNTS 327.

Convention for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the case of income and other taxes, and protocol.

Signed at Washington March 23, 1939; entered into force November 14, 1939, 54 Stat. 1759; TS 958; 199 LNTS 17.

Convention supplementing the convention and protocol of March 23, 1939. Signed at Stockholm October 22, 1963; entered into force September 11, 1964; operative for taxable years beginning on or after January 1, 1963, except as to article i(a), which is operative for taxable years beginning on or after January 1, 1965. 15 UST 1824; TIAS 5656; 530 UNTS 247.

Telecommunications:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (Stockholm, 1969), 20 UST 773; TIAS 6690.

Switzerland

Nationality:

Convention relative to military obligations of certain persons having dual nationality. Signed at Bern November 11, 1937; entered into force December 7, 1938, 53 Stat. 1791; TS 943; 193 LNTS 181.

Taxation:

Convention for the avoidance of double taxation with respect to taxes on income. Signed at Washington May 24, 1951; entered into force September 27, 1951, 2 UST 1751; TIAS 2316; 127 UNTS 227.

Convention for the avoidance of double taxation with respect to taxes on estates and inheritances. Signed at Washington July 9, 1951; entered into force September 17, 1952.
3 UST 3972; TIAS 2533; 165 UNTS 51.

the agreement, effected by exchange of notes at Washington August 19, 1957 and December 3, 1958, between the United States and the United Kingdom relating to the application of the convention to specified British territories (9 UST 1459; TIAS 4141).]

Telecommunication:

Agreement relating to reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Freetown August 14 and 16, 1965; entered into force August 16, 1965. 16 UST 1131; TIAS 5856; 579 UNTS 55.

Singapore

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899; entered into force August 7, 1900. 31 Stat. 1939; TS 146; I Malloy 774.

Visas:

Agreement relating to visas. Exchange of notes at London October 15 and 22, 1954.

Agreement continuing in force the 1954 agreement with respect to the Federation of Malaya. Exchange of letters at Kuala Lumpur March 5 and 13, 1958.

South Africa

Consuls:

Convention to regulate commerce (art. IV) between the United States and the United Kingdom. Signed at London July 3, 1815; entered into force July 3, 1815. 8 Stat. 228; TS 110; I Malloy 624.

Property:

The following conventions between the United States and the United Kingdom may be considered in force with respect to the Republic of South Africa by virtue of the adherence by the United Kingdom for the Cape Colony on February 9, 1901, and for the Orange River Colony and the Transvaal on July 24, 1902, except for Natal and Southwest Africa:

Convention relating to tenure and disposition of real and personal property, signed at Washington March 2, 1899 (31 Stat. 1989; TS 146; I Malloy 774).

Supplementary convention extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899; signed at Washington January 13, 1902 (32 Stat. 1914; TS 402; I Malloy 776).

Taxation:

Convention for the avoidance of double taxation and for establishing rules of reciprocal administrative assistance with respect to taxes on income. Signed at Pretoria December 13, 1946. Entered into force July 15, 1952. 3 UST 3821; TIAS 2510; 167 UNTS 171.

Protocol supplementing the convention of December 13, 1946. Signed at Pretoria July 14, 1950; Entered into force July 15, 1952. 3 UST 3821; TIAS 2510; 167 UNTS 171.

Convention with respect to taxes on the estates of deceased persons. Signed at Cape Town April 10, 1947; entered into force July 15, 1952. 3 UST 3792; TIAS 2509; 167 UNTS 211.

Protocol supplementing the estate tax convention of April 10, 1947. Signed at Pretoria July 14, 1950; entered into force July 15, 1952. 3 UST 3792; TIAS 2509; 167 UNTS 211.

Spain

General Relations:

Treaty of friendship and general relations. Signed at Madrid July 3, 1902; entered into force April 14, 1903. 33 Stat. 2105; TS 422; II Malloy 1701.

Friendship and Cooperation:

Agreement of friendship and cooperation with annex and exchange of notes, (Washington, 1970), 21 UST 1677; TIAS 6924.

Agreement in implementation of chapter VIII of the agreement of friendship and cooperation of August 6, 1970 (TIAS 6924), with procedural annexes and exchanges of notes, (Madrid, 1970), 21 UST 2259; TIAS 6977.

Taxation:

Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington April 16 and June 10, 1930; entered into force June 10, 1930; operative January 1, 1921. 47 Stat. 2584; EAS 6; 120 LNTS 407.

Tax relief annex attached to the mutual defense assistance agreement, and interpretative note. Signed at Madrid September 26, 1953; entered into force September 26. 4 UST 1876; TIAS 2849; 207 UNTS 61.

Sri Lanka—(formerly Ceylon)

Consuls:

Convention to regulate commerce (art IV) between the United States and the United Kingdom, (London, 1815), 8 Stat. 228, TS 110.

Property:

Convention between the United States and the United Kingdom relating to tenure and disposition of real and personal property, (Washington, 1899), 31 Stat 1939; TS 146.

Swaziland

Consuls:

Consular Convention between the United States and the United Kingdom, (Washington, 1951), 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:

Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property, (Washington, 1899), 31 Stat 1939; TS 146.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property, (Washington, 1936), 55 Stat. 1101; TS 964; 203 LNTS 367.

Sweden

Consuls:

Consular convention. Signed at Washington, June 1, 1910; entered into force March 18, 1911. 37 Stat. 1479; TS 557; III Redmond 2846.

Nationality:

Naturalization convention and protocol. Signed at Stockholm May 26, 1869; entered into force June 14, 1871. 17 Stat. 809; TS 350; II Malloy 1758.

Convention relating to exemption from military service of persons having dual nationality. Signed at Stockholm January 31, 1933; entered into force May 20, 1935, 49 Stat. 3195; TS 890; IV Trenwith 4656; 159 LNTS 261.

Taxation:

Arrangement relating to relief from double income tax on shipping profits. Exchange of notes at Washington March 31, 1938; entered into force March 31, 1938. 52 Stat. 1490; EAS 121; 189 LNTS 327.

Convention for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the case of income and other taxes, and protocol.

Signed at Washington March 23, 1939; entered into force November 14, 1939, 54 Stat. 1759; TS 958; 199 LNTS 17.

Convention supplementing the convention and protocol of March 23, 1939. Signed at Stockholm October 22, 1963; entered into force September 11, 1964; operative for taxable years beginning on or after January 1, 1963, except as to article i(a), which is operative for taxable years beginning on or after January 1, 1965. 15 UST 1824; TIAS 5656; 530 UNTS 247.

Telecommunications:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (Stockholm, 1969), 20 UST 773; TIAS 6690.

Switzerland

Nationality:

Convention relative to military obligations of certain persons having dual nationality. Signed at Bern November 11, 1937; entered into force December 7, 1938, 53 Stat. 1791; TS 943; 193 LNTS 181.

Taxation:

Convention for the avoidance of double taxation with respect to taxes on income. Signed at Washington May 24, 1951; entered into force September 27, 1951, 2 UST 1751; TIAS 2316; 127 UNTS 227.

Convention for the avoidance of double taxation with respect to taxes on estates and inheritances. Signed at Washington July 9, 1951; entered into force September 17, 1952.
3 UST 3972; TIAS 2533; 165 UNTS 51.

Telecommunications:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Bern January 12 and May 16, 1967; entered into force May 16, 1967. 18 UST 554; TIAS 6264.
Trade and Commerce:
Convention of friendship, commerce and extradition. Signed at Bern November 25, 1850; entered into force November 8, 1855, 11 Stat. 587; TS 353; II Malloy 1763.

Syria

Agreement relating to rights of American nationals. Exchange of notes at Damascus September 7 and 8, 1944; entered into Force September 8, 1944. 58 Stat. 1491; EAS 434; 124 UNTS 251.

Tanzania

Consuls:
Consular convention and protocol of signature between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1951. 3 UST 3426; TIAS 2494; 165 UNTS 121.
Treaty obligations:
Agreement continuing in force between the United States and Tanzania the extradition treaty and the consular convention between the United States and the United Kingdom. (Dar es Salaam, 1965), 16 UST 2066; TIAS 5946; 592 UNTS 53.

Thailand

Trade and commerce:
Treaty of amity and economic relations with exchange of notes, (Bangkok, 1966), 19 UST 5843; TIAS 6540; 652 UNTS 253.

Togo

Social Security:
Agreement relating to United States participation with respect to its eligible employees in the Togolese social security system. (Lome, 1971), 22 UST 526; TIAS 7094.

Tonga

Consuls:
Consular convention. (Washington, 1951), 3 UST; 3426; TIAS 2494; 165 UNTS 121.

Trinidad and Tobago

Consuls:
Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.
Property:
Convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington March 2, 1899; applicable to Trinidad and Tobago February 9, 1901. 31 Stat. 1939; TS 146, I Malloy 774.
Supplementary convention between the United States and the United Kingdom relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936; applicable to Trinidad and Tobago March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.
Taxation:
Convention for the avoidance of double taxation, the prevention of fiscal evasion with respect to taxes on income, and the encouragement of international trade and investment with related notes, (Port of Spain, 1970), 22 UST 164; TIAS 7047.
Telecommunications:
Arrangement relating to radio communications between amateur stations on behalf of third parties, (Port of Spain, 1971), 22 UST 2053; TIAS 7239.
Telecommunication:
Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Port of Spain January 14 and March 16, 1967; entered into force March 16, 1967. 18 UST 543; TIAS 6261.

Turkey

General Regulations:
Agreement for the regularization of relations between the United States and Turkey. Exchange of notes at Ankara February 17, 1927; entered into force February 17, 1927. *Foreign Relations*, 1927, vol. III, p. 794 ff.

Union of Soviet Socialist Republics

Consuls:
Consular Convention, (Moscow, 1964), 19 UST 5018; TIAS 6503; 655 UNTS 213.
General Relations:
Arrangements relating to the establishment of diplomatic relations, nonintervention, freedom of conscience and religious liberty, legal protection, and claims. Exchanges of notes at Washington November 16, 1933; entered into force November 16, 1933. Department of State Publication 528; European and British Commonwealth Series 2 [new series]; Eastern European Series, No. 1 [old series].

United Kingdom

Telecommunications:
Agreement extending to certain territories the application of the agreement of November 25, 1965, relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country, (London, 1969), 20 UST 4089; TIAS 6800.
Consuls:
Consular convention and protocol of signature.
Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.
Customs:
Declaration exempting commercial travelers' samples from customs inspection.
Signed at Washington December 3 and 8, 1910; entered into force January 1, 1911. TS 552; III Redmond 2626.
Agreement relating to the prevention of abuses of customs privileges at certain leased naval and air bases. Exchange of notes at Washington, January 18 and February 21, 1946; entered into force February 21, 1946. 61 Stat. 2637; TIAS 1592; 6 UNTS 137.
Understanding relating to the importation in bulk, free from customs duties, of certain articles for the use of the diplomatic staff of United States embassy and consular officers and other employees on duty in the United Kingdom.
Exchange of notes at Washington February 16, 1949; entered into force February 16, 1949.
Property—Real and Personal:
Convention relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899; entered into force August 7, 1900. 31 Stat. 1939; TS 146; I Malloy 774.
Supplementary convention extending the time within which notifications may be given of the accession of British colonies or foreign possessions to the convention of March 2, 1899, relating to the tenure and disposition of real and personal property. Signed at Washington January 13, 1902; entered into force April 2, 1902. 32 Stat. 1914; TS 402; I Malloy 776.
Supplementary convention providing for the accession of the Dominion of Canada to the real and personal property convention of March 2, 1899. Signed at Washington October 21, 1921; entered into force June 17, 1922. 42 Stat. 2147; TS 663; III Redmond 2657; 12 LNTS 425.
Supplementary convention relating to the tenure and disposition of real and personal property. Signed at Washington May 27, 1936, by the United States, the United Kingdom, Australia, and New Zealand; entered into force March 10, 1941. 55 Stat. 1101; TS 964; 203 LNTS 367.
Taxation:
Convention and protocol for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16, 1945, protocol signed at Washington June 6, 1946; entered into force July 25, 1946. 60 Stat. 1377; TIAS 1546; 6 UNTS 189.
Supplementary protocol amending the convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Signed at Washington May 25, 1954; entered into force January 19, 1955, 6 UST 37; TIAS 3165; 207 UNTS 312.

Supplementary protocol amending the income-tax convention of April 16, 1945, as modified by supplementary protocals of June 6, 1946, and May 25, 1954. Signed at Washington August 19, 1957; entered into force October 15, 1958. 9 UST 1329; TIAS 4124; 336 UNTS 330.

Supplementary protocol amending the convention of April 16, 1945, as modified, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at London March 17, 1966; entered into force September 9, 1966. 17 UST 1254; TIAS 6089; 590 UNTS 216.

Agreement relating to the application of the income tax convention of April 16, 1945, to specified British territories. Exchange of notes at Washington August 19, 1957, and December 3, 1958; entered into force December 3, 1958. 9 UST 1459; TIAS 4141; 351 UNTS 368.

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons. Signed at Washington April 16, 1945; entered into force July 25, 1946. 60 Stat. 1391; TIAS 1547; 6 UNTS 359.

Agreement continuing in force for Southern Rhodesia, Northern Rhodesia and Nyasaland individually the income tax convention of April 16, 1945, as modified. Exchange of notes at Washington December 31, 1963; entered into force December 31, 1963. 14 UST 1899; TIAS 5501; 505 UNTS 300.

Telecommunication:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at London November 26, 1965; entered into force November 26, 1965. 16 UST 2047; TIAS 5941; 561 UNTS 193.

Uruguay

Telecommunications:

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. (Montevideo, 1971), 22 UST 701; TIAS 7129.

Nationality:

Naturalization convention. Signed at Montevideo August 10, 1908; entered into force May 14, 1909. 36 Stat. 2165; TS 527; II Malloy 1829.

Telecommunication:

Agreement relating to radio communications between radio amateurs on behalf of third parties. Exchange of notes at Montevideo September 12, 1961; entered into force September 26, 1966. 17 UST 1574; TIAS 6115; 607 UNTS 175.

Trade and Commerce:

Convention facilitating the work of traveling salesmen. Signed at Washington August 27, 1918; entered into force August 2, 1919. 41 Stat. 1663; TS 640; III Redmond 2862.

Venezuela

Telecommunication:

Arrangement for radio communications between amateur stations on behalf of third parties. Exchange of notes at Caracas November 12, 1959; entered into force December 12, 1959. 10 UST 3019; TIAS 4394; 367 UNTS 81.

Agreement relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country. Exchange of notes at Caracas September 18, 1967; entered into force October 3, 1967. TIAS 6348; 18 UST 2499.

Trade and Commerce:

Convention facilitating the work of traveling salesmen. Signed at Caracas July 3, 1919; entered into force August 18, 1920. 41 Stat. 1719; TS 648; III Redmond 2867.

Reciprocal trade agreement. Signed at Caracas November 6, 1939; entered into force provisionally December 16, 1939; definitively December 14, 1940. 54 Stat. 2375; EAS 180; 203 LNTS 273.

Supplementary trade agreement. Signed at Caracas August 28, 1952; entered into force October 11, 1952. 3 UST 4195; TIAS 2565; 178 UNTS 51.

Vietnam

Taxation:

Agreement regarding income tax administration. Exchange of notes at Saigon March 31 and May 3, 1967; entered into force May 3, 1967. 18 UST 546; TIAS 6262.

Yugoslavia

Claims:

Agreement regarding claims of United States nationals, with exchange of notes and minutes of interpretation. Signed at Belgrade November 5, 1964; entered into force January 20, 1965. 16 UST 1; TIAS 5750; 550 UNTS 31.

Consuls:

Consular convention. Signed at Belgrade October 2/14, 1881; entered into force November 15, 1882. 22 Stat. 968; TS 320; II Malloy 1618.

Arrangement providing for the taking of testimony by consular officers. Exchange of notes at Belgrade October 17 and 24, 1938; entered into force October 24, 1938.

Zaire—(formerly "Congo (Kinshasa)")

Taxation:

Convention between the United States and Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, (Washington, 1948), 4 UST 1647; TIAS 2833; 173 UNTS 67.

Convention between the United States and Belgium supplementing the convention of October 28, 1948, as modified, for the avoidance of double taxation with respect to taxes on income, (Washington, 1957), 10 UST 1358; TIAS 4280; 356 UNTS 366.

Agreement between the United States and Belgium relating to the extension of the operation of the income tax convention of 1948, as supplemented, to the Belgain Congo and the Trust Territory of Ruanda-Urundi, (Washington, 1954), 10 UST 1358; TIAS 4280; 356 UNTS 370.

Zambia

Consuls:

Consular convention between the United States and the United Kingdom. Signed at Washington June 6, 1951; entered into force September 7, 1952. 3 UST 3426; TIAS 2494; 165 UNTS 121.

Property:

Convention relating to tenure and disposition of real and personal property. Signed at Washington March 2, 1899; entered into force August 7, 1900; made applicable to Zambia May 29, 1947. 31 Stat. 1939; TS 146; I Malloy 774.

Supplementary convention amending article IV and paragraph 2 of article VI of the convention relating to the tenure and disposition of real and personal property of March 2, 1899. Signed at Washington May 27, 1936; entered into force March 10, 1941; made applicable to Zambia May 29, 1947. 55 Stat. 1101; TS 964; 203 LNTS 367.

Taxation: Convention and protocol between the United States and the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington April 16 1945; protocol signed at Washington June 6, 1946. 60 Stat. 1377; TIAS 1546; 6 UNTS 189.

Supplementary protocol between the United States and the United Kingdom amending the convention of April 16, 1945. Signed at Washington May 25, 1954. 6 UST 37; TIAS 3165; 207 UNTS 312.

Supplementary protocol between the United States and the United Kingdom amending the convention, as modified. Signed at Washington August 19, 1957. 9 UST 1329; TIAS 4124; 336 UNTS 330.

(Application of convention, as supplemented, extended to Federation of Rhodesia and Nyasaland January 1, 1959 for U.S. tax and April 1, 1959 for Rhodesia and Nyasaland tax as provided in the agreement, effected by exchange of notes at Washington August 19, 1957 and December 3, 1958, between the United States and the United Kingdom relating to the application of the convention to specified British territories (9 UST 1459; TIAS 4141).

PART I—TREATIES

Subpart B(1)—Multilateral

Aliens

Convention between the American Republics regarding the status of aliens in their respective territories. Signed at Habana February 20, 1928; entered into

force for the United States May 21, 1930, with the exception of parts 3 and 4, 46 Stat. 2753; TS 815; IV Trenwith 4722; 132 LNTS 301.

States which are parties:

Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Rep., Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru, United States, and Uruguay.

Automotive Traffic

Convention on the regulation of inter-American automotive traffic, with annex. Open for signature at the Pan American Union, Washington, December 15, 1943; entered into force for the United States October 29, 1946, subject to an understanding and reservation. 61 Stat. 1129; TIAS 1567.

States which are parties:

Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.

Convention on road traffic with annexes. Done at Geneva September 19, 1949; entered into force for the United States March 26, 1952. 3 UST 3008; TIAS 2487; 125 UNTS 22.

States which are parties:

Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bostwana, Bulgaria, Cambodia, Cameroon, Canada, Central African Rep., Ceylon, Chile, China, Congo (Brazzaville), Congo (Kinshasa), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Rep., Ecuador, Finland, France, Gambia, Ghana, Greece, Guatemala, Guyana, Haiti, Hungary, India, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Laos, Lebanon, Luxembourg, and Madagascar.

Malawi, Malaysia, Mali, Malta, Monaco, Morocco, Netherlands, New Zealand, Niger, Norway, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, San Marino, Senegal, Sierra Leone, Singapore, South Africa, Spain, Sweden, Syrian Arab Rep., Tanzania: Zanzibar, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Union of Soviet Socialist Reps., United Arab Rep., United Kingdom, United States, Vatican City, Venezuela, Viet-Nam, Western Samoa, Yugoslavia, and Zambia.

Territorial application:

Australia for: Papua and Trust Territory of New Guinea.

France for: All overseas territories and the Pincipality of Andorra.

Netherlands for: Netherlands Antilles and Surinam.

Portugal for: All overseas provinces except Macao.

South Africa for: South-West Africa.

Spain for: African localities and provinces.

United Kingdom for: Aden and Protectorate of South Arabia, Bahamas, Bailiwick of Guernsey, British Honduras, Fiji, Gibraltar, Grenada, Hong Kong, Isle of Man, Jersey, Mauritius, Rhodesia, St. Lucia, St. Vincent, Seychelles, and Swaziland.

United States for: All territories for the international relations of which, the U.S. is responsible.

Protocol relating to the adherence to the convention on road traffic of certain countries which were not able to participate in the United Nations Conference on Road and Motor Transport. Done at Geneva September 19, 1949; entered into force for the United States March 26, 1952. 3 UST 3052; TIAS 2487; 125 UNTS 94.

States which are parties:

Belgium, Botswana, Cambodia, Chile, Cuba, Czechoslovakia, Dominican Rep., France, Guatemala, Haiti, Italy, Luxembourg, Netherlands, Portugal, South Africa, Tunisia, Turkey, United Arab Republic, United Kingdom, and United States.

Aviation

Convention for the unification of certain rules relating to international transportation by air, with additional protocol. Concluded at Warsaw, October 12, 1929; entered into force for the United States, October 29, 1934, subject to a reservation. 49 Stat. 3000; TS 876; IV Trenwith 5250; 137 LNTS 11.

States which are parties:

Algeria, Argentina, Australia, Austria, Barbados, Belgium, Botswana, Brazil, Bulgaria, Burma, Cameroon, Canada, Ceylon [China People's Rep.], Colombia, Congo (Brazzaville), Congo (Kinshasa), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, not including Greenland, Ethiopia, Finland, France, including French colonies, Gambia, and [Germany, Dem. Rep.].

Germany, Fed. Rep., Ghana, Greece, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya [Korea, Dem. Rep.], Laos, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Mongolian People's Rep., Morocco, Napal, Netherlands, and New Zealand.

Niger, Nigeria, Norway, Pakistan, Philippines, Poland including Free City of Danzig, Portugal, Romania, Rwanda, Senegal, Sierra, Leone, Singapore, Somali, Republic, South Africa, Spain including colonies, Sweden, Switzerland, Syrian Arab Republic, Tanzania, Trinidad and Tobago, Tunisia, Uganda, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom, United States, Upper Volta, Venezuela, Viet-Nam, Western Samoa, Yugoslavia, and Zambia.

International air services transit agreement. Signed at Chicago December 7, 1944; entered into force for the United States February 8, 1945, subject to a reservation. 59 Stat. 1693; EAS 487; 84 UNTS 389.

States which are parties:

Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Cameroon, Canada, Ceylon, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, El Salvador, Ethiopia, Finland, France, Germany, Fed. Rep., Greece, Guatemala, Honduras, Iceland, India, Iran, Iraq, Ireland, Israel, Ivory Coast, Jamaica, Japan, Jordan, Korea, and Kuwait.

Liberia, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Paraguay, Philippines, Poland, Portugal, Rwanda, Senegal, Somali Republic, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Trinidad, and Tobago, Tunisia, Turkey, United Arab Republic, United Kingdom, United States, Venezuela, and Zambia.

Convention on international civil aviation. Done at Chicago December 7, 1944; entered into force for the United States April 14, 1947. 61 Stat. 1180; TIAS 1591; 15 UNTS 295.

States which are parties:

Afganistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Bulgaria, Burma, Cambodia, Cameroon, Canada, Central African Rep., Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo, (Kinshasa), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Germany, Fed. Rep., Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Korea, and Kuwait.

Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somali Republic, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Rep., Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Rep., United Kingdom, United States, Upper Volta, Uruguay, Venezuela, Viet-Nam, Yemen Arab Rep., Yugoslavia, and Zambia.

Protocol relating to certain amendments to the convention on international civil aviation. Done at Montreal June 14, 1954; entered into force for the United States December 12, 1956. 8 UST 179; TIAS 3756; 320 UNTS 217.

States which are parties:

Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Cameroon, Canada, Central African Rep., Ceylon, Chad, China, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Germany, Fed. Rep., Ghana, Greece, Guatemala, Guinea, Honduras, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, and Korea.

Laos, Libya, Luxembourg, Madgascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Netherlnds, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Singapore, Somali Republic, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Rep., Tanzania, Thailand, Tunisia, Turkey,

United Arab Rep., United Kingdom, United States, Venezuela, Viet-Nam, Yugoslavia, and Zambia.

Protocol relating to the amendment of Article 50(a) of the convention on international civil aviation to increase membership of the council from twenty-one to twenty-seven. Done at Montreal June 21, 1961; entered into force for the United States, July 17, 1962. 13 UST 2105; TIAS 5170; 514 UNTS 209.

States which are parties:

Algeria, Argentina, Australia, Austria, Belgium, Cameroon, Canada, Central African Rep., Ceylon, Chad, China, Congo (Brazzaville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Germany, Fed. Rep., Ghana, Greece, Guinea, Honduras, India, Indonesia, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Korea, Kuwait, Laos, Lebanon, Libya, and Luxembourg.

Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somali Republic, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Rep., Tanzania, Thailand, Tunisia, Turkey, United Arab Rep., United Kingdom, United States, Upper Volta, Venezuela, Viet-Nam, Yugoslavia, and Zambia.

Convention on the international recognition of rights in aircraft. Done at Geneva June 19, 1948; entered into force for the United States September 17, 1953. 4 UST 1830; TIAS 2847; 310 UNTS 151.

States which were parties:

Algeria, Argentina, Brazil, Chile, Cuba, Denmark, Ecuador, El Salvador, France, Germany, Fed. Rep., Haiti, Iceland, Italy, Ivory Coast, Laos, Mali, Mauritania, Mexico, Netherlands, Niger, Norway, Pakistan, Sweden, Switzerland, Thailand, Tunisia, and United States.

Disputes

Convention on the settlement of investment disputes between States and nationals of other states. Done at Washington March 18, 1965; entered into force for the United States October 14, 1966. 17 UST 1270; TIAS 6090.

States which are parties:

Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Cyprus, Dahomey, France, Gabon, Ghana, Iceland, Ivory Coast, Jamaica, Japan, Kenya, Korea, Madagascar, and Malawi.

Malaysia, Mauritania, Morocco, Netherlands, Niger, Nigeria, Norway, Pakistan, Senegal, Sierra Leone, Sweden, Togo, Trinidad and Tobago, Tunisia, Uganda, United Kingdom, United States, Upper Volta, and Yugoslavia.

Labor

Instrument for the amendment of the constitution of the International Labor Organization. Dated at Montreal October 9, 1946; entered into force for the United States April 20, 1948. 62 Stat. 3485; TIAS 1868; 15 UNTS 35.

States members of the International Labor Organization:

Afghanistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, and Cuba.

Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Germany, Fed. Rep. Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, and Ireland.

Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, and Nigeria.

Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Somali Republic, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, and Uganda.

Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics,

United Arab Republic, United Kingdom, United States, Upper Volta, Uruguay, Venezuela, Viet-Nam, Yemen Arab Republic, Yugoslavia, and Zambia.

Nationality

Convention establishing the status of naturalized citizens who again take up their residence in the country of their origin. Signed at Rio de Janiero August 13, 1906; entered into force for the United States May 25, 1908. 37 Stat. 1653; TS 575; III Redmond 2882.

States which are parties:

Argentina, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Nicaragua, Panama and United States.

Protocol relating to military obligations in certain cases of double nationality. Concluded at The Hague April 12, 1930; entered into force for the United States May 25, 1937. 50 Stat. 1317; TS 913; IV Trenwith 5261; 178 LNTS 227.

States which are parties:

Australia, Austria, Belgium, Brazil, Burma, Colombia, Cuba, El Salvador, India, Indonesia, Malta, Mauritania, Netherlands, Niger, Nigeria, South Africa, Sweden, United Kingdom, and United States.

Convention on the nationality of women. Signed at Montevideo December 26, 1933; entered into force for the United States August 29, 1934. 49 Stat. 2957; TS 875; IV Trenwith 4813.

States which are parties:

Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and United States.

Rules of Warfare

Convention relative to the protection of civilian persons in time of war. Dated at Geneva August 12, 1949; entered into force for the United States February 2, 1956, subject to a reservation and a statement. 6 UST 3516; TIAS 3365; 75 UNTS 287.

States which are parties:

Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Botswana, Brazil, Bulgaria, and Burundi.

Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Canada, Central African Rep., Ceylon, Chile, [China, People's Republic], Colombia, Congo (Brazzaville), Congo (Kinshasa), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Gabon, Gambia, Germany, Fed. Rep., [Germany, Dem. Republic], Ghana, Greece, Guatemala, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, and Korea.

Korea, [Korea, Dem. Rep.], Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Monaco, Mongolian People's Republic, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somali Republic, South Africa, Spain, Sudan, Sweden, Switzerland, and Syrian Arab Rep.

Tanzania: Tanganyika, Zanzibar, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Reps., United Arab Rep., United Kingdom, United States, Upper Volta, Venezuela, Viet-Nam [Viet-Nam, Dem. Republic], Yugoslavia, and Zambia.

Subpart B(2)—Additional multilaterals

Multilateral

Aliens:

Convention between the American Republics regarding the status of aliens in their respective territories, (Habana, 1928), 46 Stat. 2753; TS 815; 132 LNTS 301.

Aviation:

Convention on offenses and certain other acts committed on board aircraft, (Tokyo, 1963), 20 UST 2941; TIAS 6768.

Convention for the suppression of unlawful seizure of aircraft (Hijacking). (The Hague, 1970), 22 UST 1641; TIAS 7192.

Convention for the suppression of unlawful acts against the safety of civil aviation, (Sabotage), (Montreal, 1971), TIAS 7570.

Consuls:

Convention on consular relations, (Vienna, 1963) 21 UST 77: TIAS 6820; 596 UNTS 261.

Optional protocol to the convention on consular relations concerning compulsory settlement of disputes, (Vienna, 1963), 21 UST 325; TIAS 6820; 596 UNTS 487.

Defense:

Agreement regarding the status of personnel of sending states attached to an International Military Headquarters of North Atlantic Treaty Organization in the Federal Republic of Germany, (Bonn, 1969), 20 UST 4055; TIAS 6792.

Diplomatic Relations:

Vienna Convention on diplomatic relations, (Vienna, 1961), TIAS 7502; 500 UNTS 95.

Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes, (Vienna, 1961), TIAS 7502; 500 UNTS 241.

Intellectual Property:

Convention establishing the World Intellectual Property Organization (Stockholm, 1967), 21 UST 1749; TIAS 6932.

Judicial Procedure

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, (The Hague, 1965), 20 UST 361; TIAS 6638; 658 UNTS 163.

Convention on the taking of evidence abroad in civil or commercial matters, (The Hague, 1970), TIAS 7444.

Labor

Amendments:
19 UST 7802; TIAS 6611 (1965).
20 UST 2529; TIAS 6716 (1967).

PART II—STATUTES

STATUTES WHICH HAVE A SIGNIFICANT EFFECT ON U.S. CITIZENS LIVING ABROAD

Title 5. Government Organization and Employees.

§ 8102. Compensation for disability or death of employee. (Applies to employees in foreign countries.)

§§ 8103–8135. Various other provisions relating to compensation for injuries or death of employees, including medical services, vocational rehabilitation, disability payments, and so on.

§ 8136. Initial payments outside the United States.

Chapter 83.—Retirement. (Applicable wherever the retiree lives.)

Chapter 85.—Unemployment Compensation.

Chapter 87.—Life Insurance.

Chapter 89.—Health Insurance.

Title 7. Chapter 20. Food Stamp Program.

§ 2014. Eligibility standards. Citizens residing outside United States not within the eligibility standards.

Title 8. Aliens and Nationality.

§ 1101(a)(22), defines "national of the United States."

§ 1101(a)(33), defines "residence."

§ 1185(b). Travel control of citizens during war or national emergency.

§ 1221. Record of citizens leaving permanently for foreign countries.

§ 1401. Nationals and citizens of United States at birth.

§ 1401a. Birth abroad before 1952 to service parent.

§ 1409. Children born out of wedlock.

§ 1431. Children born outside United States of one alien and one citizen parent; conditions for automatic citizenship.

§ 1432. Children born outside of United States of alien parents, conditions for automatic citizenship.

§ 1433. Children born outside United States, naturalization on petition of citizen parent; requirements and exemptions.

§ 1434. Children adopted by citizens.

§ 1435. Former citizens regaining citizenship.

§ 1438. Former citizens losing citizenship by entering armed forces of foreign countries during World War II.

§ 1451. Revocation of naturalization. (Subsection (d) Foreign residence.)

§ 1452. Certificates of citizenship; procedure. (Certificates only available if citizen is in the United States.)

§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions.

§ 1482. Dual nationals; divestiture of nationality.

§ 1483. Restrictions on expatriation.

§ 1484. Loss of nationality by naturalized national.

§ 1485. Inapplicability of § 1484 to certain persons.

§ 1486. Inapplicability of § 1484(a)(2) to certain persons.

§ 1487. Loss of American nationality through parents' expatriation; not effective until persons attain age of twenty-five years.

§ 1489. Application of treaties; exceptions, (Women do not lose American nationality by marrying aliens and residing abroad.)

§ 1501. Certificate of diplomatic or consular officer of United States as to loss of American nationality.

§ 1502. Certificate of nationality issued by Secretary of State for person not a naturalized citizen of United States for use in proceedings of a foreign state.

§ 1503. Denial of rights and privileges as national.

Title 15. Commerce and Trade.

Chapter 2A—Securities and Trust Indentures.

Subchapter II—Foreign Securities.

Sections 77bb–77mm. Provisions dealing with "Corporation of Foreign Security Holders." [Corporation of Foreign Bondholders Act, 1933.]

Section 78dd. Foreign securities exchanges. [Securities Exchange Act of 1934.]

Chapter 41—Consumer Credit Protection.

§§ 1601–1681.

Title 18. Crimes and Criminal Procedure. [Whether or not there is extraterritorial jurisdiction depends upon the particular criminal statute concerned.]

§ 1919. False statement to obtain unemployment compensation for Federal service.

§ 1920. False statement to obtain Federal employees' compensation.

§ 1921. Receiving Federal employees' compensation after marriage.

§ 1922. False or withheld report concerning Federal employees' compensation.

§ 1923. Fraudulent receipt of payments of missing persons.

Chapter 20.—Higher Education Resources and Student Assistance. (Generally, programs are established in cooperation with States and thus citizens residing abroad are not eligible as participants.)

Chapter 30.—Basic Education for Adults. (Again, programs are established in cooperation with States and thus citizens residing abroad are not eligible as participants.)

Title 22.—Foreign Relations and Intercourse.

Chapter 14.—Foreign Service:

§§ 801–1204.

(Note: § 805. Prohibitions, engaging in business abroad.)

§ 816. Educational facilities for children of employees.

§ 870. Staff officers and employees; employees recruited abroad performing duties of routine nature (salaries).

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§ 1004. Selection-out benefits.

Subchapter VIII.—Retirement and disability System. § § 1061–1121.

Subchapter IX.—Allowances and Benefits.

§§ 1131–1159.

§§ 1175–1179. Estates of decedents generally.

Chapter 21.—Settlement of International Claims.

Subchapters II–V.—Claims against specified countries by United States nationals.

Chapter 23.—Protection of Citizens Abroad.

§ 1731. Protection to naturalized citizens abroad.

§ 1732. Release of citizens imprisoned by foreign governments.

Chapter 32.—Foreign Assistance.

§ 2174. American schools, libraries, and hospitals centers abroad.

§ 2370. Prohibitions against furnishing assistance.

Subsection (c). Indebtedness of foreign country to United States citizen or person.

Subsection (e). Nationalization, expropriation or seizure of property of United States citizens, or taxation or other exaction having same effect; failure to compensate or to provide relief from taxes, exactions, or conditions; report on full value of property by Foreign Claims Settlement Commission; act of state doctrine

§ 2396. Availability of funds.

Subsection (d). Education of dependents.

§ 2504. Peace Corps volunteers.

Subsection (d). Disability benefits.

Subsection (e). Health care.

Subsection (f). Retirement and other credits based upon length of service.

Subsection (h). Tort claims; absentee voting.

Subsection (l). Legal expenses of defendant in judicial or administrative proceedings (foreign).

Subsection (m). Allowances and expenses of minor children.

Title 23.—Highways.

§ 308. Cooperation with Federal and State agencies and foreign countries.

§ 309. Cooperation with other American Republics.

Title 24.—Hospitals, Asylums, and Cemeteries.

Chapter 9.—Hospitalization of Mentally Ill Nationals Returned from Foreign Countries.

§§ 321–329.

Title 26.—Internal Revenue Code.

Subtitle A.—Income Taxes.

§ 33. Taxes of foreign countries and possessions of the United States. (Credit.)

§ 37. Retirement income. (Credit disallowed in excess of the § 33 foreign tax credit.)

§ 104. Compensation for injuries or sickness. (This exclusion from gross income applies to certain foreign-related sources.)

§ 164. Taxes. (Deduction covers foreign real property, income, war profits, and excess profits taxes.)

§ 551. Foreign personal holding company income taxed to United States shareholders.

§ 553. Foreign personal holding company income.

§ 691. Recipients of income in respect of decendents.

Subsection (b). Allowance of deductions and credit. (Allowance of foreign tax deductions under § 164 and credit under § 33.)

§ 702. Income and credits of partner. (Allows partner to take account of distributive share of taxes paid to foreign countries as described in § 901.

§ 862. Income from sources without the United States.

§ 901. Taxes of foreign countries and of possessions of United States. (Election for credit, with certain exceptions.)

§ 902. Credit for corporate stockholder in foreign corporation.

§ 903. Credit for taxes in lieu of income, etc., taxes. (Another foreign tax credit.)

§ 904. Limitation on credit.

§ 905. Applicable rules.

§ 911. Earned income from sources without the United States. (Exclusion from gross income.)

§ 912. Exemption for certain allowances. (Exemption for Government employees and volunteers in foreign countries.)

§§ 951–964. Controlled Foreign Corporations. (Income tax treatment.)

§ 981. Election as to treatment of income subject to foreign community property laws. (U.S. citizens living abroad.)

Subchapter 0.—Gain or Loss on Disposition of Property.

§ 1022. Increase in basis with respect to certain foreign personal holding company stock or securities.

§ 1246. Gain on foreign investment company stock.

§ 1247. Election by foreign investment companies to distribute income currently.

Subtitle B.—Estate and Gift Taxes.

Chapter 11. Estate Tax.

§ 2001. Rate of Taxes (Applies to all "citizens".)

§ 2014. Credit for foreign death taxes.

§ 2105. Property without the United States.

§ 2107. Expatriation to avoid tax.

§ 2108. Application of pre-1967 estate tax provisions. (Deals with "more burdensome foreign taxes on the transfer of decedents' estates.)

§ 2202. Missionaries in foreign service.

Chapter 12. Gift Tax.

§ 2501. Imposition of tax. (Applies to "any individual resident or nonresident.")

§ 2522. Charitable and similar gifts. (Deduction for citizens or residents.)

Subtitle C.—Employment taxes.

§ 3121. Definitions.

Subsection (b). Employment. (Special provisions for citizens-employees in foreign countries.)

Chapter 23. Federal Unemployment Tax Act.

§ 3306. Definitions.

Subsection (c). Employment. (Includes employment in foreign countries, other than Canada and the Virgin Islands.)

Chapter 41. Interest Equalization Tax.

Subchapter A. Acquisition of foreign stock and debt obligations.

§§ 4911–4920.

§ 6851. Termination of taxable year.

Subsection (a). Income tax in jeopardy. (Provisions relating to persons seeking to depart the U.S.)

Title 28.—Judiciary and Judicial Procedure.

§ 1696. Service in foreign and international litigation.

§ 1741. Foreign official documents.

§ 1745. Copies of foreign patent documents.

§ 1781. Transmittal of letter rogatory or request.

§ 1782. Assistance to foreign and international tribunals and to litigants before such tribunals.

§ 1783. Subpoena of person in foreign country.

§ 1784. Contempt.

§ 2401. Time for commencing action against United States. (Savings clause for persons "beyond the seas.")

Chapter 171. Tort Claims Procedure.

§ 2680. Exceptions. (This chapter not applicable to "any claims arising in a foreign country.")

Title 31. Money and Finance.

§ 224a. Settlement of claims for personal injury or death caused by Government officers and employees in foreign countries.

Title 35.—Patents.

§ 104. Invention made abroad.

§ 119. Benefit of earlier filing date in foreign country; right of priority.

§ 184. Filing of application in foreign country.

Title 38. Veterans' Benefits.

Chapter 3.—Veterans' Administration; Officers and Employees.

§ 235. Benefits to employees at oversea offices who are United States citizens.

§ 236. Administrative settlement of tort claims arising in foreign countries.

§ 624. Hospital care and medical services abroad.

Chapter 34.—Veterans' Education Assistance.

§ 1676. Education outside the United States.

Title 42.—The Public Health and Welfare.

§ 403. Reduction of insurance benefits. (Social Security).

Subsection (c). Deductions on account of noncovered work outside the United States.

§ 410. Definitions relating to employment.

Subsection (a). Employment. (Covers employment in foreign countries.)

§ 428. Benefits at age 72 for certain uninsured individuals.

Subsection (e). Suspension where individual is residing outside the United States.

§ 1313. Assistance for United States citizens returned from foreign countries.

§ 1382. State plans for aid to aged, blind, or disabled or for such aid and medical assistance for aged.

Subsection (b). Approval by Secretary. (No approval for plans which impose "any citizenship requirement which excludes any citizen of the United States."

§ 1395f. Conditions of and limitations on payment for services.

Subsection (f). Payment for certain emergency hospital services furnished outside the United States.

Chapter 11.—Compensation for Disability or Death to Persons Employed at Military, Air, and Naval Bases Outside the United States.

§§ 1651–1654.

Chapter 12.—Compensation for Injury, Death, or Detention of Employees of Contractors with the United States Outside the United States.

§§ 1701–1717.

Chapter 15A.—Reciprocal Fire Protection Agreements. (Covers "fire protection facilities in any foreign country in the vicinity of any installation of the United States.")

§§ 1856–1856d.

§ 1973aa–1. Residence requirements for voting. (Abolishes durational residence requirements with respect to voting for the offices of President and Vice President.

§ 1982. Property rights of citizens. (Guarantees property rights of "all citizens of the United States.")

Title 45.—Railroads.

Chapter 2.—Liability for injuries to employees.

§ 51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; definition of employees.

Chapter 9.—Retirement of Railroad Employees.

§§ 228a–228z–1. (Railroad Retirement Act of 1937).

Title 46.—Shipping.
Chapter 23.—Shipping Act.

§ 825. Investigation by Commission as to acts of foreign governments.

§ 1281. Authority to provide insurance; consideration of risk. (War Risk Insurance.)

Title 49.—Transportation.
Chapter 20.—Federal Aviation Program.
Subchapter IX.—Penalties.

§ 1472. Criminal penalties. (Includes air piracy, carrying weapons aboard aircraft, and so on.)

Subchapter XI.—Miscellaneous.

§ 1502. International agreements. (Effectiveness thereof.)

[A recess was taken.]

Mr. DENT. Gentlemen, we still have another witness.

At this moment, we have before us a Member of the Congress from the State of Maryland, Congressman Gilbert Gude. We are always happy to have you with us.

STATEMENT OF HON. GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GUDE. Mr. Chairman, I applaud the subcommittee for turning its attention to the urgent need to guarantee the constitutional right to vote for American citizens overseas.

Just last week, our National Institutes of Health announced its intention to work together with Russian scientists to explore differences in incidences of certain cancers in women. Over the past few years, we have all watched an atmosphere of détente with growing numbers of nations around the world, prompt international cooperation in energy research and development, space exploration, conservation of our precious natural resources and wildlife, and numerous other first steps towards world harmony and interdependence. At the same time, U.S.-based multinational corporations are employing increasing numbers of Americans overseas. This growth of our citizen population abroad is one reason that the board of elections in my district in nearby Montgomery County anticipates an unprecedented minimum of 20,000 absentee ballots in 1976.

Despite this growth, 1973 Senate Subcommittee on Privileges and Elections hearings showed that a disappointingly low number of overseas citizens actually exercise their constitutional right to vote. The Federal Voting Assistance Task Force of the Defense Department submitted to that subcommittee a survey concluding that at least one-third of over 1 million private U.S. citizens residing overseas did not consider themselves eligible to vote. Of the approximately 630,000 who considered themselves eligible, only one-fourth of that number actually voted in 1972.

In looking over these figures, I am impressed by the urgent need to redress the conditions which discourage hundreds of thousands of citizens from voting in Federal elections. Certain State laws, for instance, continue to discourage overseas citizens from voting through State and local residency and domicile requirements, local tax laws,

and certain absentee procedures. This situation exists despite 1968 clarifications in the Federal Voting Assistance Act of 1955 and passage of title II of the Voting Rights Act of 1970 which: (1) Abolished durational residency requirements as a precondition to voting in Presidential elections; and (2) established uniform national standards for absentee registration and voting in Presidential elections.

In keeping with the intent of the 1970 amendments and Maryland State law, the board of elections in my own district encourages overseas citizens to exercise this fundamental constitutional right by requiring a simple declaration of residence without intent-to-return statements. The board received a record 16,000 absentee ballots in the 1972 Presidential election—2 years after enactment of the 1970 amendments.

In upholding the change-of-residence provisions in the 1970 amendments, Justices Brennan, White, and Marshall clearly stated that Congress' power was plenary over State voting qualifications in protection of 14th amendment rights: "Whether or not the Constitution vests Congress with particular power to set qualifications for voting in strictly Federal elections, we believe there is an adequate constitutional basis for section 202 [of the 1970 voting amendments] in section 5 of the 14th amendment." [*Oregon* v. *Mitchell.*]

The legislation we propose today seeks to insure not only the right to vote in Federal elections, but also the right to international travel and settlement which must be reaffirmed in light of increased numbers of citizens traveling and settling abroad.

Justice Stewart further clarified the need for such insurances in *Oregon* v. *Mitchell* by stating that: "Federal action is required if the privilege to change residence is not to be undercut by parochial sanctions. No State could undertake to guarantee this privilege to its citizens."

Insured retention of voting rights in Federal elections—not issuance of passports—is the true meaning of freedom to travel and settle abroad as an American citizen.

I hope the committee is going to vote this out, Mr. Chairman. I think it is a very worthwhile measure, particularly significant to the people in Metropolitan Washington and other parts of the country where there is a great deal of travel abroad to carry out the business and activities of the United States.

Mr. DENT. We certainly appreciate your coming here to give your testimony. I have no questions at this point.

Mr. Wiggins.

Mr. WIGGINS. I have a question, Mr. Chairman.

Mr. DENT. There has been a second bell. We had better go vote and come back.

Mr. Gude, will you return for questions?

Mr. GUDE. Yes.

[A recess was taken.]

Mr. DENT. Gentlemen, we do have a very patient witness, two of them, waiting to testify. Mr. Wiggins, if you are ready, you can start your questioning at this time.

Mr. WIGGINS. These questions, Mr. Chairman, perhaps ought to be addressed to counsel. I will address them to the witness and ask counsel to help answer them.

fication in either the threatened or endangered classes.

It might also be possible to amend the Act, giving a qualified but protected status to the species under study. This qualified status could be limited to a reasonably adequate study period, (such as, two years), or might protect the studied species on Federal lands, or on certain classes of Federal lands only. This alternative however, also raises the controversial issue of competing State and Federal powers over the management of wild animals, an issue which Mr. Widman of this office has discussed with your staff. It would appear desirable to have any potential legislative solution to this controversy developed before introducing an amendment to extend the coverage of the Act.

In regard to the specific problem of the grizzly bear, we have checked the matter with the Department of the Interior. As you know, during the court proceeding that Department agreed to initiate an independent study of the grizzly bear's status. We are advised that the final report of that study has now been submitted to Interior, and that Interior is planning to take appropriate action on the grizzly bear in the immediate future.

While the Council has no immediate suggestions for resolving all these issues, we would be happy to review any proposal which you might develop.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., February 3, 1975.

HON. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: On December 30, 1974, notice of rule making appeared in the Federal Register regarding the threatened kangaroos. Similarly, on January 2, 1975, notice of proposed rule making appeared in the Register regarding the grizzly bear. This letter represents the Council's comments on those two actions.

We commend the Department of the Interior for taking these two actions. We realize that both have been highly controversial and there have been numerous delays and false starts. With these two actions, the Department is taking its first steps in public implementation of the Endangered Species Act of 1973, which was an important component of the Administration's Environmental Program. As a consequence, these two actions take on considerable significance as potential precedents.

In that regard, elements of the actions concern us greatly, particularly in light of the intent and substantive provisions of the Act.

Section 4(d) of the Endangered Species Act requires the Secretary of the Interior to promulgate "such regulations as he deems necessary and advisable *to provide for the conservation of such (threatened) species.*" (Emphasis added). Conservation is defined, *inter alia*, as ". . . to use . . . all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter (the Act) are no longer necessary. Such methods and procedures included . . . research, census, law enforcement, habitat acquisition . . . and, *in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking*" (16 U.S.C. 1532) (Emphasis added).

This language clearly restricts the use of regulated taking to the "extraordinary case" where population pressures cannot be otherwise relieved. In the absence of facts which clearly establish that the population pressures cannot be relieved in any other way, there would appear to be no basis for legally valid regulations on regulated taking. Also, the principal language establishes the goal of other regulations, to be promulgated, as the restoration of species to a non-threatened or non-endangered status.

In this regard, the regulations promulgated regarding the three species of kangaroo are not consistent with the letter or the spirit of the Endangered Species Act of 1973. The regulations purport to allow importation of taken kangaroos when (1) a sustained yield program is established that (2) is not detrimental to the survival of the species. Neither the "sustained yield program" nor the "not detrimental" test meet the statutory criterion, showing that population pressures cannot be otherwise relieved. Thus, we believe that the regulations should be revised or interpreted so as to be in keeping with the mandate of the Act.

The rules submitted with the proposed listing of the grizzly bear are also troublesome. One portion of the proposal indicates that de facto regulations will be promulgated which allow the taking (mostly by sport hunting) of up to 25 bears per year in the Bob Marshall Ecosystem. Again, in our view, the Secretary must first fulfill the statutory burden by showing that the proposed taking by hunting will be the "extraordinary case" which follows substantial attempts to relieve population pressures by other means. In our view, this test, again, has not been met and we believe that the regulations and proposal for final action should be revised accordingly.

One other portion of the proposed regulations concerning grizzly bears is also of special concern to us. The regulations pertaining to listing of grizzlies in the Yellowstone ecosystem state that depredating bears may be taken. Similarly, the de facto regulations for the Bob Marshall Ecosystem state that nuisance (including depredating) bears may be taken.

We feel that the regulations in both cases should clearly differentiate between bears causing depredations on public and on private lands. On public lands, no threatened grizzly bears should be taken except for clear reasons of human safety.

Grizzly bears, and in fact all endangered and threatened species, are valued highly by the people of this nation. Public lands are lands held in trust for all Americans, not just one or another special interest group.

Certain uses of these lands require specific regulation and are a privilege, not a right. Grazing and ranching are such uses. Thus, in determining which of such discretionary uses may be allowed or may have priority, the public land manager must consider the impact of the proposed use on other public uses or values of those lands. Where there are public values, particularly wildlife such as the threatened grizzly on public lands, it may be logically argued that if a livestock owner wishes the privilege of grazing domestic livestock on the same area, he must accept some losses from the wildlife as part of the cost of doing his business on that public land. In such a case the restoration of the threatened species should be recognized as having a greater public value than the economic return to the affected rancher. Considering this, we believe that taking of a threatened species committing depredations, or otherwise being a "nuisance," on public lands should be prohibited in any case not involving direct threats to human safety. In fact, we suggest that the intent of Section 7 (16 U.S.C. 1536) of the Act, inter alia, to prohibit taking (killing) of endangered or threatened species on lands belonging to all of the American people, in any situation where it cannot be shown that such taking represents the "extraordinary case where population pressures . . . cannot be otherwise relieved."

Again, we are aware of the deep commitment with which the personnel in the Department of the Interior have approached the preservation of endangered and threatened species. Implementation of this law will undoubtedly aid in protecting both endangered species and environmental quality throughout the U.S. and the world. In that regard, we hope our comments are helpful in further administration of the law and in achieving its objectives.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

REBUTTAL TO CRITICS OF OVERSEAS VOTING LEGISLATION

Mr. GOLDWATER. Mr. President, it has been brought to my attention that some questions were raised recently at hearings by the House Subcommittee on Elections with respect to the constitutionality of legislation strengthening the voting rights of overseas citizens.

PRECEDENT OF 1970 LAW SUPPORTS FURTHER ACTION BY CONGRESS

Frankly, I cannot see any doubt at all about the constitutionality of the proposed law. It is a logical extension of a law on the same subject which I authored in 1970 and which was upheld as a valid exercise of Congress powers by the U.S. Supreme Court 6 months later.

This law is section 202 of the Voting Rights Act Amendments of 1970, which extended absentee registration and balloting rights to American citizens who were denied the right to vote because they were away from home on election day and were not allowed to register absentee or obtain absentee ballots. One of the stated purposes of the law, spelled out during Senate floor action on it, is the intent to facilitate the vote in Presidential elections for Americans outside the United States.

The law also struck down the durational waiting periods preventing Americans from voting for President and Vice President solely because they had made a change of households before the election. Section 202, in which these provisions were set forth, was upheld in *Oregon v. Mitchell*, 400 U.S. 112 (1970).

In overhauling State residence and absentee regulations in Presidential elections, Congress had relied upon at least four district grounds for the exercise of congressional authority. In the case of Oregon, the Supreme Court seized upon each of these justifications in holding for the validity of the statute.

First, section 202 rests upon Congress power to secure the rights inherent in national citizenship, which include the right to vote for Federal officers. Since these rights adhere to U.S. citizenship, rather than citizenship of a State, we acted to protect the rights under the necessary and proper clause of article I of the Constitution.

A related basis for congressional power was our design to protect the fundamental, national right of travel by a citizen.

A third basis of Congress authority that was asserted is our power to enforce

the privileges and immunities guaranteed to citizens of all the States. Here we were mindful of correcting the maze of conflicting State and local requirements applicable to Presidential elections which created a serious inequality of treatment among citizens of one State as compared with citizens of the other States.

Fourth, we viewed section 202 as an exercise of power under the 14th amendment. In this context, we were protecting against a discriminatory classification in voting made between citizens who were able to be physically present at the time of registration or voting and those who could not be present in person. Also, we considered the unfair classification made between citizens who were new residents and those who were longtime residents of a State or locality.

In light of similar laws in many of the States which indicated that States could satisfy their legitimate interests by the rules legislated in section 202, we in Congress could not find any compelling reason why a State should condition the right to vote for President on the duration of resident's physical presence or absence at the polls.

Eight members of the Supreme Court upheld Congress' power to adopt the uniform regulations of section 202. Justice Brennan, joined by Justices Marshall and White, rested his opinion squarely upon the "compelling interest" doctrine and Congress' power to enforce the 14th amendment by "eliminating an unnecessary burden on the right of interstate migration" (400 U.S., at 239).

Justice Douglas also upheld section 202 as a 14th amendment matter, but tied his opinion to section 1 of that amendment, the privileges and immunities clause.

Justice Stewart, jointed by Chief Justice Burger and Justice Blackmun, sustained section 202 on the ground of Congress' authority to protect and facilitate the exercise of privileges of U.S. citizenship under the Necessary and Proper Clause of Article I. He stated that the privilege of free travel, without loss of the right to vote, "finds its protection in the Federal Government and is national in character" (400 U.S., at 287).

Justice Black based his opinion sustaining section 202 on the final authority of Congress to make laws governing Federal elections and Congress' general powers under the Necessary and Proper Clause of Article I.

Only Justice Harlan believed section 202 was invalid on any ground.

The fact that the Court divided in choosing alternative grounds for upholding section 202 is argued by some as depriving the case of precedential weight. But what this restricted view overlooks is the fact that eight Members of the Court actually did unite on the principle that the jurisdiction of the States over matters normally considered as being within their primary domain is subject to the superior power of Congress to vindicate personal rights or privileges of citizenship which the Court has determined to be secured by the Constitution.

Moreover, Oregon clearly stands for the proposition that so long as Congress acts with a purpose of protecting these rights or privileges in a narrowly drawn manner, rather than with the purpose of passing general legislation over a State-reserved field, Congress possesses power to establish specific regulations attacking a particular problem in that field.

POWER OF CONGRESS RESTS ON WELL-SETTLED CASE LAW

Applying the above rules to the pending legislation on behalf of overseas citizens, I am confident Congress is on firm ground in proposing to expand the 1970 vote law to cover congressional as well as Presidential elections. The case law may be summarized as follows:

First. In the past 10 years there have been at least eight Supreme Court decisions upsetting State and local election practices founded upon the principle of a strict judicial scrutiny under the 14th amendment of the State or local governmental objectives and methods. *Bullock* v. *Carter*, 405 U.S. 134, 144 (1972); *Dunn* v. *Blumstein*, 405 U.S. 330, 337 (1972); *Evans* v. *Cornman*, 398 U.S. 419, 424, 426 (1970); *Phoenix* v. *Kolodziejski*, 399 U.S. 204, 205 (1970); *Cipriano* v. *City of Houma*, 395 U.S. 701, 704 (1969); *Kramer* v. *Union School District*, 395 U.S. 621, 628 (1969); *Harper* v. *Va. Board of Elections*, 383 U.S. 663, 670 (1966); and *Carrington* v. *Rash*, 380 U.S. 89 (1965).

Second. In at least three of the above cases, the Supreme Court has overturned State rules which were purported to be bona fide residence requirements.

In *Carrington* v. *Rash*, 380 U.S. 89 (1965), the Court overturned the use by Texas of an irrebuttable statutory presumption that excluded servicemen from the vote by classifying them as nonresidents.

In *Evans* v. *Cornman*, 398 U.S. 419 (1970), the Court struck down a Maryland statute which created a presumption that persons living on a Federal enclave within the State did not fulfill the residence requirement for voting in Maryland.

In *Dunn* v. *Blumstein*, 405 U.S. 330 (1970), the Court held unconstitutional the 1-year durational waiting period Tennessee had used as a precondition to voting in that State.

Ironically, Dunn, which overturned a State residence rule, is cited by opponents of the overseas voting bill for the proposition that such rules are immune from the reach of Congress. To the contrary, the Supreme Court observed in Dunn that:

> If it was not clear then [referring to 1965], it is certainly clear now that a more exacting test is required for any statute that "places a condition on the exercise of the right to vote." 405 U.S., at 337.

Thus, the Supreme Court has made it clear that the States may not use a bona fide residence rule in such a way that it could sweep an entire group of otherwise qualified U.S. citizens off the voting rolls, unless the restriction is proven necessary to promote a compelling State interest.

Third. The right to vote for national elective officers, including Members of Congress and Presidential electors, has been expressly recognized as a right directly secured to citizens by the Constitution.

Contrary to the blanket statement by opponents of overseas voting legislation that no Supreme Court opinions indicate the existence of any inherent constitutional right to vote in Federal elections, other than the lone opinion of Justice Black in Oregon, there are at least five Supreme Court decisions in which such a right has been specifically mentioned: *United States* v. *Classic*, 313 U.S. 299, 314, 315 (1941); *Twining* v. *New Jersey*, 211 U.S. 78, 97 (1908); *Wiley* v. *Sinkler*, 179 U.S. 58, 62 (1900); *In re Quarles*, 158 U.S. 532, 538 (1895); and *Ex parte Yarborough*, 110 U.S. 651, 663 (1884). (Also see the opinion of Justice Frankfurter in *United States* v. *Williams*, 341 U.S. 70, at 79 (1951).

In Twining, the Supreme Court plainly announced that:

> Among the rights and privileges of National citizenship recognized by this court [is] the . . . right to vote for National officers." 211 U.S., at 97.

Fourth. Opponents of overseas voting legislation argue that elections for Presidential electors may be State rather than Federal elections for constitutional purposes. This argument ignores the decision of *In re Quarles*, where the Supreme Court expressly stated that:

> Among the rights secured to citizens directly by the Constitution is "the right to vote for *presidential electors* or members of Congress." 158 U.S., at 535. (Emphasis added.)

These same critics mistakenly cite *Burroughs* v. *United States*, 290 U.S. 534 (1934), in support of their position. Burroughs specifically considers and rejects the very suggestion raised by the critics, holding that Presidential electors, "exercise Federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States." Id. at 545. Thus Burroughs actually can be cited as additional support for the power of Congress to legislate with respect to Presidential elections.

Fifth. Critics of overseas voting legislation assert that the liberty to travel abroad is seemingly not as absolute as the right of interstate travel. Again, the critics ignore the clear message of the Supreme Court.

In *Kent* v. *Dulles*, 357 U.S. 116, 126 (1958), the Supreme Court plainly equated the right of interstate travel with the right to travel abroad.

The Court stated:

> "Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values." 357 U.S. at 126.

Far from taking a narrower view of Congress power to secure the vote to travelers abroad, than of its comparable power with respect to interstate travelers, the Supreme Court has given a broad protection to foreign travel. In Aptheker against Secretary of State, the Court considered freedom of movement abroad to

be of such great importance that the Court held this personal liberty paramount to a substantial governmental interest in restricting travel based on grounds of national security, 378 U.S. 500, 505, 508 (1964).

LEGISLATION IS CONSISTENT WITH BASIC SCHEME OF REPRESENTATIVE GOVERNMENT

In summary, it is clear the proposed overseas voting legislation is constitutional. Its object is to protect and facilitate the right of almost 1 million U.S. citizens to vote in Federal elections. These citizens have a direct and substantial interest in decisions and policies acted upon by the public officials chosen in Federal elections, the President and Vice President and Members of Congress.

Action by Congress is required if overseas citizens are to be brought within the basic system of representative government. No single State can guarantee the franchise to all or most of these persons. In order to establish a uniform process by which all or most overseas citizens can enjoy an equal opportunity to vote in Federal elections, it is necessary for Congress to enact appropriate implementing legislation.

The specific procedures which Congress uses in the pending overseas voting bill are, in general, derived from section 202 of the Voting Rights Act Amendments of 1970, which in turn were drawn from the proven practice of the States themselves. In section 202 we made a finding that these practices were applied by many States with respect to some of their residents without significant fraud or administrative difficulty in their own elections, and in the overseas voting bill we again make the same finding.

If some of the States can use these practices successfully for purposes of voting, and determining residence for voting, by certain citizens from such State, such as absentee servicemen and women and their accompanying dependents, then surely we in Congress may properly find that there is no compelling reason why all States should not use the same practices for protecting the vote of citizens with at least an equal nexus with the particular State. Whatever the interest of the States in more narrowly defining residence for purposes of purely State, county, and municipal offices, there is no compelling need for using a stricter test in Federal elections than the one set forth in the pending legislation.

I would remind critics of the proposal that the bill is not open ended. It only applies to Federal elections. It only covers U.S. citizens who have a past nexus, a domicile, in the particular State where they are seeking to vote in Federal elections.

Moreover, the absentee citizen must comply with all applicable qualifications and valid procedural requirements of a State. Each State will retain full power to test whether an applicant for absentee registration or voting first, is of legal age; second, is incapacitated by reason of insanity; third, is disqualified as a convicted felon; fourth, meets the prescribed time and manner for making application; and fifth, is accurate or truthful in making statements pertinent to the application, such as a claim to being last domiciled in such State prior to departure from the United States.

Thus, Congress can act, consistent with the highest standards of our constitutional system, to establish uniform, national practices securing the right of Americans abroad to participate in the choice of Federal officers whose decisions and programs affect them directly and substantially.

NATIONAL AIR AND SPACE MUSEUM

Mr. MOSS. Mr. President, having recently been appointed to be a member of the Board of Regents of the Smithsonian Institution, I was disturbed to read an article on February 28 in the Washington Post indicating that the construction of the National Air and Space Museum is experiencing a cost overrun.

Michael Collins, the Director of the museum, has set the matter straight in a letter to the editor of the Post published on March 10.

I ask unanimous consent that Mr. Collins' letter be printed in the RECORD.

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

[Letter to the editor, Washington Post, Mar. 10, 1975]

MUSEUM'S COST

Your February 26 front page story concerning construction cost overruns states that the National Air and Space Museum will have a 6% overrun. While it may seem a small point, those of us working on this project are proud of the fact that there will be no overrun, in terms of either time or money. The building will be ready for its public opening in July 1976, as originally planned, and it will cost no more than its original $41.9-million price tag.

MICHAEL COLLINS,
Director,
National Air and Space Museum.
Washington.

Mr. MOSS. Mr. President, at my request, Mike Collins has provided me with background information on the status of the National Air and Space Museum construction. So that the record may be completely clear in this regard, I ask unanimous consent that the background statement be printed in the RECORD.

This major and important construction project, even though delayed for many years, is not overrunning.

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

STATEMENT ON PURPORTED COST OVERRUN ON THE NATIONAL AIR AND SPACE MUSEUM CONSTRUCTION

GAO's report to the Congress of February 24, 1975, entitled "Financial Status of Major Civil Acquisitions, December 31, 1973" cites on page 27 that the National Air and Space Museum's current cost estimate of $41,900,000 exceeds by $2,400,000 (6 percent) the 1962 estimate of $39,500,000. While both of these amounts do pertain to this building, their comparison over this extended period is completely misleading. This comparison, however, since it is now a matter of record, deserves to be explained. There is no cost overrun against the funds actually appropriated for this project.

While an exhaustive search of historical records has not been undertaken, the following chronology and facts are clear.

1. The construction of a suitable building to house the Nation's air and space collections has been a long-awaited event. The act of August 12, 1946, establishing the National Air Museum, included provisions for a method of selecting a site for a National Air Museum to be located in the Nation's Capital. The act of September 6, 1958, designated the site for a building to be on the Mall from Fourth to Seventh Streets, Independence Avenue to Jefferson Drive, S.W.

2. During the period of the late 1950's and early 1960's, the Smithsonian Institution engaged in preplanning studies for this new museum building. During this period it was concluded, as part of the planning process, that the costs of such a building should not exceed $40,000,000, which the Institution believed would produce an outstanding building to commemorate American attainments.

3. A "Schedule of Building Projects" was included by the Smithsonian in both its FY 1962 and FY 1963 budget submissions to the Congress. The Schedule in the FY 1962 submission (page 32) projected the FY 1963 request for a planning appropriation of $1,820,000 and an FY 1965 construction appropriation of $37,680,000 for the NASM building. These two amounts total $39,500,000. The Schedule in the FY 1963 document (page 57) maintained the two amounts but slipped the Schedule to FY 1964 and FY 1966. This Schedule, dated January 2, 1962, would appear to be the source of the 1962 "original estimate" cited in the GAO report.

4. In 1963, the Smithsonian revised its cost estimate to $41,920,000, including a total of $1,875,000 for planning. Actual planning appropriations in the amounts of $511,000 and $1,364,000, for a total of $1,875,000 were made available to the Institution by the Interior and Related Agencies Appropriation Acts for the fiscal years 1964 and 1965, respectively. This planning was completed and the project approved by the Commission of Fine Arts and the National Capital Planning Commission. The cost of the building, built to those plans and specifications, was estimated to be $40,000,000 in 1965.

5. In 1966, the Congress enacted legislation authorizing the construction of the NASM but deferred appropriations for construction until expenditures for the Vietnam war had shown a substantial reduction.

6. By the early 1970's, when it appeared this project might be allowed to proceed, it was obvious that as a result of rising costs of labor and materials over the intervening years, the 1965 plans would now cost between $60 and $70 million to implement. Consequently, in its FY 1972 budget, the Smithsonian requested an appropriation of $1,900,000 for planning and redesign of the museum building with the goal of using the latest design and construction techniques to lower the cost of the building to $40,000,000—the estimate of ten years earlier. Those new planning funds were appropriated and the redesign completed and approved by the Commission of Fine Arts and the National Capital Planning Commission.

7. For FY 1973 the Institution requested a construction appropriation of $40,000,000. The Interior and Related Agencies Appropriation Act for that year provided an appropriation of $13,000,000 and contract authority for an additional $27,000,000. Appropriations to liquidate the contract authority were provided in FY 1974 ($17,000,000) and FY 1975 ($7,000,000) and are requested for FY 1976 ($3,000,000, the balance of the approved amount).

8. The construction of the new museum building started in the fall 1972, and is now

we can clear the bill for the President before Christmas recess, and assure that the overseas citizen will be able to participate in the entire Bicentennial year of Presidential and congressional elections.

Mr. MATHIAS. I wholly agree with the Senator from Rhode Island. I think it is essential that S. 95 be enacted in time for overseas citizens to vote in the Presidential and congressional primaries and the Federal general election of our Bicentennial year. If it should turn out that the fear of State taxation continues to discourage a significant number of overseas citizens from voting in Federal elections under this bill, even with our statement today confirming the protection conferred by the due process clauses and the 24th amendment, I think we would then be in a better position to go back to the House in a future year and seek to add a specific tax provision to the law.

Mr. President, I ask unanimous consent to have printed in the RECORD portions of a letter, dated December 11, 1975, from the Bipartisan Committee on Absentee Voting to the Senate sponsors and supporters of S. 95 urging that the Senate act as promptly as possible to accept the House version of the bill, so as to eliminate the need for referring the bill to a conference. The Bipartisan Committee represents all the major groups, both at home and overseas, which support S. 95.

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

BIPARTISAN COMMITTEE FOR ABSENTEE VOTING,
Washington, D.C., December 11, 1975.

Re S. 95—Overseas Citizens Voting Rights Act of 1975.

Hon. HOWARD W. CANNON, MARK HATFIELD, CLAIBORNE PELL, CHARLES McC. MATHIAS, BARRY GOLDWATER, BIRCH BAYH, WILLIAM E. BROCK, WILLIAM V. ROTH.

DEAR SIRS: As you probably know, the Overseas Citizens Voting Rights Act of 1975 (S. 95), which had passed the Senate by unanimous consent May 15, 1975, was adopted by the House of Representatives December 10, 1975 by 374–43. The House passed the Senate bill with the amendment of the House Administration Committee striking out all after the enacting clause and inserting new language.

We want to confirm to you by this letter that the Bipartisan Committee on Absentee Voting, representing all the major groups which support S. 95, strongly urges that the Senate act as promptly as possible to accept the House version of the bill, so as to eliminate the need for referring the bill to a conference.

We believe that the House changes in S. 95 do not adversely affect the primary purposes of the bill (1) to assure the right of U.S. citizens residing outside the United States to vote in federal elections in their State of last domicile and (2) to adopt uniform absentee registration and voting procedures covering these overseas citizens in federal elections. Except for the House deletion of the taxation provision (see discussion below), the House changes in S. 95 represent essentially technical amendments to the version of the bill passed by the Senate last May.

* * * * *

In the one significant House change, the other Chamber deleted, as inappropriate for this legislation, the provision in the Senate bill which would have expressly provided that the exercise by an overseas citizen of the right to register and vote in federal elections under this bill would not affect the determination of his place of residence or domicile for purposes of any tax imposed under federal, State or local law. The House version is neutral on the question of both federal and State taxation.

The House Administration Committee report on S. 95 noted that the effect of voting in federal elections on the determination of an overseas citizen's liability for federal taxation is already dealt with in the Internal Revenue Code and the regulations and rulings of the Internal Revenue Service.

With respect to State taxation, the report stated that the Committee did not intend either to restrict the right of a State or locality to attempt to tax an overseas citizen voting in federal elections under this bill, or to limit the right of an overseas citizen to contest the imposition of such taxation under applicable law.

While we opposed House deletion of the taxation provision contained in the Senate bill, we have been advised it is highly unlikely the House would agree to reinstatement of his provision in S. 95 even if the bill were referred to a conference. We believe, therefore, that it probably would not be productive for the Senate to insist on a conference solely to seek restoration of the tax provision in the bill.

* * * * *

Since S. 95 carries an effective date of January 1, 1976, we think it would be extremely helpful for the Senate to agree to the House version of the bill before the Christmas recess. This would enable the bill to be cleared for the President before the end of the year, so that overseas citizens would be able to vote in federal primary elections in 1976, as well as in the federal general election next November.

If you should have any questions regarding the foregoing, please do not hesitate to telephone either Mr. Wallace (at 833–1973) or Mr. Marans (at 223–2151).

Very truly yours,

CARL S. WALLACE,
Executive Director.
J. EUGENE MARANS,
Secretary and Counsel.

Mr. GOLDWATER. Mr. President, I am delighted that the Senate is about to approve and send to the White House S. 95, legislation to strengthen the voting rights of overseas American citizens. The bill will nail down the absentee voting rights of a law which I introduced in 1970, regarding Presidential elections, and extend those rights to all Federal elections.

In short, the 1970 amendments which I authored struck down legal technicalities preventing Americans from voting for President and Vice President solely because they had moved their households before the election. The law also extended absentee registration and balloting rights to American citizens who were away from home on election day.

Although the number of Americans casting Presidential absentee ballots in 1972 increased by 26 percent over the previous Presidential election, it became clear that some States would not extend the full voting rights to Americans who were outside the United States that I and the other sponsors of the 1970 law is limited in its application to voting for President and Vice President and does not cover voting for all Federal offices. Thus, it is clear that a new law is now needed to clarify the meaning of the 1970 statute and to extend comparable benefits to citizens who wish to vote in congressional elections as well as for President and Vice President.

Mr. President, there is no question in my mind about congressional power to protect the right of U.S. citizens to vote. In this connection, my counsel has prepared a legal memorandum in support of the constitutionality of S. 95 and I ask unanimous consent that this paper be printed in the RECORD conclusion of my statement.

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

(See exhibit 1.)

Mr. GOLDWATER. In short, I believe it is a firmly established principle of American law that the right to vote for national officers is one of the fundamental, personal rights of national citizenship. Moreover, the right to vote and the freedom to travel are both among the privileges of U.S. citizenship which are directly dependent on and secured by the Constitution.

Also, I would point out that Americans abroad have a distinct and direct interest in Federal elections similar to that of citizens who remain at home. Overseas Americans have a great interest in decisions and policies acted upon by the President and Congress jointly and have a very real stake in being allowed to participate in the political process. In acting to protect the franchise for these citizens, Congress is merely implementing the basic scheme of the Constitution that Americans shall enjoy a representative government whose officers are as responsive as possible to all of the people.

EXHIBIT

MEMORANDUM OF LAW IN SUPPORT OF CONGRESS POWER TO PROTECT THE VOTE IN FEDERAL ELECTIONS

(By J. Terry Emerson, counsel to U.S. Senator Barry Goldwater)

I. THE RIGHT TO VOTE FOR NATIONAL OFFICERS IS AN INHERENT RIGHT OF NATIONAL CITIZENSHIP

It is firmly established in American law that the right to vote for National officers is a fundamental, personal right of National citizenship. The Supreme Court has plainly announced that "among the rights and privileges of National citizenship recognized by this court are the right to vote for National officers . . . *"Twining* v. *New Jersey*, 211 U.S. 78, 97 (1908).

According to Justice Frankfurter's opinion in *U.S.* v. *Williams*, 341 U.S. 70, at 79 (1951), the Supreme Court has held or assumed in at least seven decisions that the right to vote in Federal elections can be protected by Congress because it is a right directly dependent on and secured by the Constitution. *Ex parte Yarbrough*, 110 U.S. 651, 663 (1884), is but the first of these decisions. In *Yarbrough*, the Court expressly rejected a claim "that the right to vote for a Member of Congress is not dependent upon the Constitution or laws of the United States, but is governed by the law of each state respectively." Instead, the Court held that these offices are created by the Constitution and by that alone. *Id.*, at 663. See also *United States* v. *Classic*, 313 U.S. 299, 314, 315 (1941); *Wiley*

v. *Sinkler*, 179 U.S. 58, 62 (1900); *In re Quarles*, 158 U.S. 532, 535 (1895).

The same doctrine applicable to voting in Congressional elections is true of Presidential elections. That office is created by the Constitution alone, and it and the Vice Presidency are the only national offices chosen in a nation-wide election. All doubt of the standing accorded this right is removed by *In re Quarles*, where the Supreme Court expressly enumerated among the rights secured to citizens by the Constitution "the right to vote for *presidential electors* or members of Congress. . . ." *Id.*, at 535. (Emphasis added.) Moreover, the Supreme Court later held that Presidential electors exercise Federal functions, a truism which further supports the power of Congress to legislate with respect to Presidential elections *Borroughs* v. *United States*, 290 U.S. 534 (1934).

The concept from which the right to vote for officers of the National government is derived is the recognition by the Supreme Court that there are certain basic rights of National citizenship which "arise from the relationship of the individual with the Federal government" and "are dependent upon citizenship of the United States, and not citizenship of a state." *U.S.* v. *Williams*, *supra; Slaughter-House Cases*, 16 Wallace 36, 80 (1872).

Thus, the rights belonging to National citizenship arise out of the very nature and existence of the National government. *Ward v. Maryland*, 12 Wallace 418 (1870); *Paul v. Virginia*, 8 Wallace 168, 180 (1868). The right to vote in National elections is among these fundamental rights since it is basic to the scheme of the Constitution that Americans enjoy a representative-type of government with National officers who are as responsive as possible to the people.

II. THE RIGHT TO VOTE FOR NATIONAL OFFICERS IS A PRIVILEGE OF NATIONAL CITIZENSHIP

Section I of the Fourteenth Amendment provides that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The right to vote for National officers has not only been recognized as being among the "rights" of National citizenship, but also among the "privileges" granted or secured by the Constitution. *In re Quarles*, *supra; Twining v. New York*, *supra*. Accordingly, Congress is free to enforce the privilege of voting pursuant to section 5 of the Fourteenth Amendment, the Enforcement Clause.

III. THE FREEDOM TO TRAVEL IS A PRIVILEGE OF UNITED STATES CITIZENSHIP

The freedom to travel across State lines has long been held to occupy a position fundamental to "the nature of our Federal Union and our Constitutional concepts of personal liberty." *Shapiro v. Thompson*, 394 U.S. 634, 639 (1969); *United States v. Guest*, 383 U.S. 745, 757 (1966); *Crandall v. Nevada*, 6 Wallace 35, 47 (1867).

In *Kent v. Dulles*, 357 U.S. 116, 126 (1958), the Supreme Court clearly equated the right of interstate travel with the right to travel abroad:

"Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values." *Id.*, at 126.

Thus, the freedom to travel abroad has been held to be an important aspect of the citizen's liberty," guaranteed in the Due Process Clause of the Fifth Amendment. *Kent*, *supra* at 127; *Aptheker v. Secretary of State*, 378 U.S. 500, 505 (1964). Indeed freedom of movement is considered of such great importance, the Supreme Court has held that a Federal restriction upon the personal liberty of travel outside the United States was unconstitutional even though a substantial governmental interest was asserted in support of the restriction on grounds of national security. *Aptheker*, *id.*, at 508.

Since it is well settled that the Fourteenth Amendment operates to extend the same protection against State legislation, affecting life, liberty, and property, as is offered by the Fifth Amendment, Congress has full power to secure the liberty of free travel against unnecessary State restraint. *Hibben v. Smith*, 191 U.S. 310, 325 (1903).

IV. CONGRESS HAS POWER TO PROTECT RIGHTS AND PRIVILEGES OF NATIONAL CITIZENSHIP UNDER BOTH THE NECESSARY AND PROPER CLAUSE AND THE FOURTEENTH AMENDMENT

With respect to protection and facilitation of the exercise of rights or privileges of United States citizenship, the Supreme Court has ruled that Congress may act under the Necessary and Proper Clause of Article I of the Constitution. As stated by Chief Justice Waite in *United States v. Reese*, 92 U.S. 214, 217 (1875), the "right and immunities created by or dependent upon the Constitution of the United States can be protected by Congress." See also *Strauder v. West Virginia*, 100 U.S. 303, 310 (1879).

As in all cases involving the reserved powers of the States, the applicable rule under which Congress may legislate is the classic formulation by Chief Justice Marshall in *McCulloch v. Maryland*, 4 Wheaton 316, 421 (1819). If the end be legitimate and within the scope of the Constitution, Congress can choose any means which has a rational basis.

This principle was upheld in *United States v. Texas*, 252 Fed. Supp. 234 (1966), striking down the poll tax system in Texas. The case involved an action brought under section 10 of the Voting Rights Act of 1965 in which Congress found that payment of a poll tax as a precondition to voting denies or abridges the Constitutional right of citizens to vote. In holding that the Texas poll tax must fall, the Court placed its decision squarely on the ground that the right to vote is "one of the fundamental rights included within the concept of liberty." *Id.*, a 250. The Supreme Court upheld this ruling in *Texas v. United States*, 384 U.S. 155 (1966).

The same rule of *McCulloch v. Maryland* is applicable to measure the exercise of Congress' power to enforce the guarantees of the Fourteenth Amendment. For example, see *Katzenbach v. Morgan*, 384 U.S. 641, at 650, 651 (1966), upholding the constitutionality of section 4(e) of the Voting Rights Act of 1965 which prohibits enforcement of the New York State English language literacy test against New York residents from Puerto Rico.

V. S. 95 IS APPROPRIATE LEGISLATION

Applying the above principles to the subject legislation, it is clear S. 95 is constitutional. Its end is clearly legitimate. Its object is to protect and enhance the right of almost one million United States citizens overseas to exercise the franchise in Federal elections. These citizens have a direct and great interest in decisions and policies acted upon by the President and Congress and are substantially affected by decisions made by the Executive and Congress jointly. Federal action is required if these citizens are to be brought within the workings of representative government. No single State can undertake to guarantee the franchise to all these persons. In order to establish a uniform means by which all national citizens can be guaranteed an equal opportunity to vote in national elections, it is necessary for Congress to act.

In acting to facilitate and protect the rights to vote and travel, the record indicates that Congress is concerned with at least three categories of overseas citizens, all of whom it seeks to enfranchise in Federal elections. A professional survey of United States citizens abroad, which was recently compiled for the Department of Defense pursuant to the Federal Voting Assistance program, provides the best evidence available as to the characteristics of these citizens. An analysis of applicable principles proves Congress is acting within the scope of the Constitution with respect to each of these categories of citizens.

VI. CONGRESS CAN PROVIDE UNIFORM PROCEDURES FOR ABSENTEE RESIGNATION AND VOTING IN FEDERAL ELECTIONS

The recent Department of Defense survey indicates that there are 630,300 Americans abroad who are presently eligible to vote based on age, citizenship, and legal residence criteria. As to this class of citizens Congress is concerned with removing technical limitations of State and local law which unnecessarily restrict their opportunity to vote and consequently burden the privilege of travel as well. Congress is concerned that these citizens, who are admittedly bona fide residents of the several States, shall not be disenfranchised by mere lack of minimal voting processes. For this reason, Congress proposes to enact uniform national standards with respect to the means for absentee registration and voting by such residents in order to provide them with the fullest opportunity for exercising the franchise.

The basic standards which Congress uses in S. 95 are derived from section 202 of the Voting Rights Act of 1965, which in turn were drawn from the proven practice of the State themselves. Congress has found that these practices were successfully applied by many States with respect to some of their residents without significant fraud or administrative difficulty and has accordingly found there is no compelling reason why the States should not apply the same standards to all of their residents on a national, uniform basis. See testimony of Senator Goldwater, "Amendments to the Voting Rights Act of 1965," Hearings before the Sucomm. on Const. Rights, Senate Comm. on the Judiciary, 91st Cong., 1st and 2d Sess. (1969–1970), at 277–306.

VII. CONGRESS CAN ENACT A UNIFORM DEFINITION OF RESIDENCE FOR VOTING PURPOSES IN FEDERAL ELECTIONS

A second class of overseas citizens who are covered by S. 95 includes persons who are ineligible to vote because of strict residence restrictions, but who plan to return to States that have been their homes before residing abroad. According to the recent survey made for the Department of Defense, there are up to 334,000 Americans of voting age who may be in this category.

Giving proper consideration to the interests of the States, Congress can legislate a uniform definition of residence for voting purposes in Federal elections in order to secure the fundamental right to vote and freedom of travel for these citizens. If a person who departs a State for overseas has an intent to return to that State and considers himself still to be a residence of that State for voting purposes, Congress has a rational basis for determining that these persons remain bone fide residents of the State for purposes of voting in Federal elections.

All States now permit absentee servicemen and their accompanying dependents to register and vote from abroad and this has not caused any significant problems of fraud or administrative difficulty. The universal rule applied by States to servicemen and their dependents is one of intent. These persons do not lose or abandon the voting residence they had when the military member entered the service, nor do they acquire one at the place where he or she serves, irrespective of the duration of actual residence at such place. American Jurisprudence, 2nd, Elections, section 75.

Since all States have successfully administered their elections under the liberal test of residence applied to military personnel and since the total numbers of absentee residents so continued on the voting rolls ex-

ceeds the combined total of persons accorded the same rights by S. 95. Congress may rationally conclude that the setting of a uniform definition of residence for voting purposes based on the same criteria applicable to servicemen and their dependents is an appropriate and workable means for protecting the vote of citizens overseas in Federal elections and their liberty of travel without penalty by reason of loss of the vote.

VIII. THERE IS NO COMPELLING STATE INTEREST IN IMPOSING A STRICT RESIDENCE TEST AGAINST AMERICANS OVERSEAS

Though the general proposition may be accepted that a State may require its voters to be bona fide residents, the Supreme Court has made it clear that the States may not use a test of residence as a technical device for sweeping an entire class of citizens off the voting rolls unless the restriction is *necessary* to promote a compelling State interest. For example, State determinations that certain classes of citizens were not residents for voting purposes were overturned in at least three recent cases because the residence rules were found not necessary to serve any compelling State interest. *Carrington v. Rash*, 380 U.S. 89, 95, 96 (1965), *Evans v. Cornman*, 398 U.S. 419, 424, 426 (1970); *Dunn v. Blumstein*, 405 U.S. 330, 337 (1972).

Congress has here determined that there is no compelling governmental interest in restricting the right to vote and penalizing the right to travel of Americans overseas who possess a nexus with a particular State. Though the States have an obvious interest in preserving the basic conception of their political communities, they have shown themselves able to do this while using a broad standard of residence in the case of servicemen and their accompanying dependents. Thus, a stricter rule than that applied to servicemen and their families cannot be said to be necessary.

Moreover, S. 95 is applicable only to Federal elections and not to filling local public offices. Federal elections are substantially national and international in scope and to a large extent the issues cut across all areas and regions of our country. Whatever the interest of States in limiting the definition of residence in the case of voters for State, county and municipal offices, there is no compelling need for using a stricter rule in Federal elections than the one which is set forth in S. 95.

Nor will enactment of the broad definition of residence required by S. 95 abrogate all State functions with respect to the qualifications of voters in Federal elections. States will retain the power to test whether an applicant for absence registration or voting (1) is of legal age, (2) is incapacitated by reason of insanity, (3) is disqualified as a convicted felon, (4) meets the prescribed time and manner for making application, and (5) is truthful in statements made on registration or voting forms, such as with respect to a claim to actual past residence in a particular State.

Nor can a State claim that it is necessary to exclude all persons overseas from voting in Federal elections in order to guarantee that its voters will be minimally knowledgeable about the elections. It is common knowledge that Americans overseas have wide and immediate access to English language newspapers, journals and news programs circulated and broadcast in foreign areas. These private sources of information are supplemented by the services of the Armed Forces Network, Voice of America, and USIA libraries which are well known to Americans abroad in even the most isolated of places.

The acute interest and awareness of Americans overseas in Federal elections is apparent on the record. In fact, the Department of Defense survey of persons overseas shows that at least 151,000 Americans, not including Federal employees or servicemen, voted in the 1972 election while residing abroad. There is nothing to support an assumption that citizens overseas are uninformed or uninterested in Federal elections and any such argument would crudely and impermissibly exclude large numbers of otherwise qualified voters.

It is also clear that a State cannot exclude persons overseas from voting because they might hold a different viewpoint than persons who have not been absent from the State. The Supreme Court has ruled that differences of opinion may not be the basis for excluding any group of persons from the franchise. See the discussion of cases set forth in *Dunn* v. *Blumstein*, supra, at 355–356.

A similar analysis is applicable with respect to the small numbers of citizens overseas who do not intend to return. According to the Department of Defense survey of citizens overseas, this group may include some 26,500 persons. The critical fact with respect to Congress' power to secure the vote in Federal elections for these persons in that there are numerous and vital ways in which these individuals are affected by the decisions and policies acted on by Federal officers. *Evans* v. *Cornman, supra*, at 424.

Although they are outside the country, these persons are subject to the United States Internal Revenue Code, retirees among them may be directly affected by changes in the Civil Service retirement and Social Security programs, and they are greatly affected by trade and tariff measures, export controls, and foreign policy decisions, among many other actions and programs dealt with by the Executive and Congress jointly. These persons have distinct, direct and great interests in the election of Federal officers and Congress may protect their stake in these elections by providing a uniform procedure for implementing the exercise of their vote, so long as such persons have a past nexus with the particular State in which they seek to vote.

IX. SUMMARY

Without regard to whether the Judiciary itself would find that State restrictions on the vote of overseas residents are unconstitutional, Congress may act to protect the rights to vote and travel by enacting uniform, national standards for Federal elections. Time and again, the Supreme Court has announced that "the right of suffrage is a fundamental matter in a free and democratic society" and "is preservative of other basic civil and political rights," e.g., *Reynolds* v. *Sims*, 377 U.S. 533, 561, 562 (1964); *Kramer* v. *Union Free School District*, 395 U.S. 621, 626 (1969). The Court has further indicated 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." *Westberry* v. *Sanders*, 376 U.S. 1, 17 (1964). If this is so, surely Congress can act to protect the right of Americans abroad to participate in the choice of Federal officers whose decisions affect them personally and directly.

In so acting, Congress need not assert a general power to prescribe qualifications for voters in Federal elections. S. 95 is confined to Federal action against a particular problem clearly within the purview of Congress' powers to facilitate and protect the personal rights and privileges which the Supreme Court has found to be guaranteed to each citizen by the Federal Constitution.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

RAIL SERVICES ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2718.

The PRESIDING OFFICER (Mr. TALMADGE) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HARTKE, Mr. MOSS, Mr. PASTORE, Mr. FORD, Mr. STEVENSON, Mr. INOUYE, Mr. MAGNUSON, Mr. BEALL, Mr. BAKER, and Mr. WEICKER conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROONEY, Mr. ADAMS, Mr. METCALFE, Mr. HEFNER, Mr. SANTINI, Mr. FLORIO, Mr. DEVINE, Mr. SKUBITZ, and Mr. HASTINGS were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long term financing for the Corporation for Public Broadcasting, and for other purposes.

At 1:50 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of

ENROLLED BILL S. 95
OVERSEAS VOTING RIGHTS ACT OF 1975

SIGNING STATEMENT

I have today signed into law S. 95, the "Overseas Voting Rights Act of 1975."

The purpose of the bill is "to guarantee the Constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States." This purpose, I believe, carries forward the fundamental precepts of a free society. Specifically, the bill would establish a national right for all voting-age U.S. citizens residing outside the United States to vote by absentee ballot in Federal elections in their States of last residence even though they have no place of abode in such States and their return is uncertain, provided that certain specified criteria are complied with. Additionally, the bill establishes various safeguards to ensure that the rights it confers are not abridged or denied.

I recognize that reasonable men can disagree over the appropriate means of securing the voting rights of Americans abroad. Some have urged that our process of law requires a Constitutional Amendment to effect the purposes of S. 95. Others have urged that the present fabric of our Constitution permits a legislative solution. Ultimately, however, this issue is beyond the ken of the Executive Branch and must be resolved by our courts.

Recognizing that private U.S. citizens residing overseas continue to have important interests in the governance of this country which may be protected only through representation in the Congress and in the Executive Branch, I believe this bill will help to ensure that their interests are secured in as expeditious a manner as possible.

OK/JP

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 1537

Date: December 29 Time: 1000am

FOR ACTION: NSC/S
Max Friedersdorf
Ken Lazarus
Paul Theis
Jim Falk Dick Parsons

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30 Time: 10:00am

SUBJECT:

S. 95 - Overseas Citizens Voting Rights Act of 1975

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__X__ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

TO THE SENATE:

I am returning without my approval S. 95, the "Overseas Citizens Voting Rights Act of 1975," because the bill exceeds Federal authority and violates matters reserved to the States by the Constitution.

The purpose of the bill is "to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States." I agree fully with this purpose and I would support legislation that would seek to achieve these objectives in a manner consistent with our Constitution. I am greatly concerned that the laws of a number of States, which permit U.S. Government personnel and their dependents stationed abroad for extended periods of time to freely retain their eligibility to vote, do not accord the same treatment to private U.S. citizens similarly stationed by their employers in other countries. Such laws are discriminatory and conflict with the spirit of the Equal Protection Clause of the 14th Amendment to the Constitution, and I urge the States to enact appropriate legislation to remedy these unfortunate inequities.

However, I am unable to agree with this bill's attempt to solve part of that problem by allowing citizens to vote in States with which they have only the most tenuous and remote connections. The Constitution firmly places decisions over voter qualifications in the hands of the States, not the Congress, and any restriction or removal of the power to make such decisions is a matter for constitutional amendment, not simple legislation.

When, from time to time, it has been considered necessary to restrict the States in the setting of voter qualifications, the Congress has wisely chosen the path of amendment or of action under undoubted constitutional authority. The 15th Amendment prohibits qualifications based on race, color, or previous condition of servitude. The 19th Amendment does the same with respect to qualifications based on sex. State poll tax requirements are prohibited by the 24th Amendment with respect to Federal elections, and the 26th Amendment establishes eighteen as the minimum voting age. Each amendment authorizes legislation to enforce its guarantees, and the Voting Rights Acts of 1965 and 1970 provide clear examples of congressional action under express constitutional authority. These four amendments directly restrict the State's authority to set voter qualifications, and point the way which should be followed if the Congress continues to feel that U.S. citizens who maintain no bona fide residence in any State of this country should nonetheless be entitled to vote in Federal elections. In the absence of any such constitutional restriction on the power of the States, themselves, to establish reasonable and nondiscriminatory residency qualifications for voters, the enrolled bill is without constitutional authority. Therefore, I must reluctantly withhold my approval of S. 95.

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THE WHITE HOUSE

January , 1976

ENROLLED BILL S. 95
OVERSEAS VOTING RIGHTS ACT OF 1975

PRR

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FOR IMMEDIATE RELEASE

Office of the White House Press Secretary

THE WHITE HOUSE

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TO THE SENATE OF THE UNITED STATES:

I am returning without my approval S. 95, the "Overseas Citizens Voting Rights Act of 1975," because the bill exceeds Federal authority and violates matters reserved to the States by the Constitution.

The purpose of the bill is "to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States." I agree fully with this purpose and I would support legislation that would seek to achieve these objectives in a manner consistent with our Constitution. I am greatly concerned that the laws of a number of States, which permit U.S. Government personnel and their dependents stationed abroad for extended periods of time to freely retain their eligibility to vote, do not accord the same treatment to private U.S. citizens similarly stationed by their employers in other countries. Such laws are discriminatory and conflict with the spirit of the Equal Protection Clause of the 14th amendment to the Constitution, and I urge the States to enact appropriate legislation to remedy these unfortunate inequities.

However, I am unable to agree with this bill's attempt to solve part of that problem by allowing citizens to vote in States with which they have only the most tenuous and remote connections. The Constitution firmly places decisions over voter qualifications in the hands of the States, not the Congress, and any restriction or removal of the power to make such decisions is a matter for constitutional amendment, not simple legislation.

When, from time to time, it has been considered necessary to restrict the States in the setting of voter qualifications, the Congress has wisely chosen the path of

amendment or of action under undoubted constitutional authority. The 15th amendment prohibits qualifications based on race, color, or previous condition of servitude. The 19th amendment does the same with respect to qualifications based on sex. State poll tax requirements are prohibited by the 24th amendment with respect to Federal elections, and the 26th amendment establishes eighteen as the minimum voting age. Each amendment authorizes legislation to enforce its guarantees, and the Voting Rights Acts of 1965 and 1970 provide clear examples of Congressional action under express constitutional authority. These four amendments directly restrict the State's authority to set voter qualifications, and point the way which should be followed if the Congress continues to feel that U.S. citizens who maintain no bona fide residence in any State of this country should nonetheless be entitled to vote in Federal elections. In the absence of any such constitutional restriction on the power of the States, themselves, to establish reasonable and non-discriminatory residency qualifications for voters, the enrolled bill is without constitutional authority. Therefore, I must reluctantly withhold my approval of S. 95.

THE WHITE HOUSE,

Calendar No. 115

94TH CONGRESS, 1st Session } SENATE { REPORT No. 94-121

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

MAY 13 (legislative day, APRIL 21), 1975.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 95]

The Committee on Rules and Administration, to which was referred the bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

S. 95 is essentially the same as S. 2102, 93d Congress, which was reported to the Senate by this committee July 16, 1974, and passed by the Senate July 18, 1974. Hearings were held on the legislation before it was reported to the Senate.

PURPOSES

The primary purpose of the bill is to assure the right of otherwise qualified private U.S. citizens residing outside the United States to vote for President and the Congress in their State of last voting domicile even though these citizens may not be able to prove that they intend to retain that State as their domicile for other purposes.

A citizen voting under the bill must state his intent to retain his prior State as his voting residence and voting domicile for purposes of voting in Federal elections. The citizen could vote under the bill only if he has not registered to vote and is not voting in any other State or territory or possession of the United States.

The bill would implement this substantive right by the adoption of uniform absentee registration and voting procedures covering these citizens in Federal elections. One of the most important of these provisions is section 5(c) of the bill requiring election officials to mail

out balloting material as promptly as possible after receipt of a properly completed application.

The bill would also assure that Federal, State, and local taxation would not in itself be a deterrent to voting in Federal elections.

The provision is not meant to create any new tax exemption for the citizen outside the United States. It is designed only to assure that he will not be subjected to any Federal, State, or local tax liability *solely* by exercising his right to register and vote absentee in Federal elections.

The committee was satisfied that American citizens outside the United States should be assured the right to vote in congressional as well as in presidential elections. It was plain from testimony in the hearings that Americans outside the United States possess both the necessary interest and the requisite information to participate in the selection of Senators and Congressmen back home.

Congress is concerned with the common legislative welfare of the entire Nation, along with the specific legislative interests of each district. There is no doubt that the local inhabitants of the district may not have the same interests as citizens outside the United States. The local citizens may be more interested in regional farm prices, the closing of a naval base, or construction of a new highway. Yet the citizen outside the United States also has his congressional interests. The citizen outside the country may be more interested, for example, in the exchange rate of the dollar, social security benefits, or the energy situation.

It is apparent, moreover, that the local citizen and the oversea citizen share a number of common national interests, such as Federal taxation, defense expenditures (for example, U.S. troops stationed overseas), inflation, and the integrity and competence of our National Government.

Background

Reliable estimates indicate that there are probably more than 750,000 American citizens of voting age residing outside the United States in a nongovernmental capacity (sometimes referred to herein as "private citizens" or "civilians"). Studies submitted to the committee have shown that nearly all of these private citizens outside the United States in one way or another are strongly discouraged, or are even barred by the rules of the States of their last domicile from participation in presidential and congressional elections.

These private citizens include thousands of businessmen, as well as missionaries, teachers, lawyers, accountants, engineers, and other professional personnel serving the interests of their country abroad and subject to U.S. tax laws and other obligations of American citizenship. These civilians in the Nation's service abroad keep in close touch with the affairs at home, through correspondence, television and radio, and American newspapers and magazines.

At present, a typical private American citizen outside the United States finds it difficult and confusing, if not impossible, to vote in Federal elections in his prior State of domicile; that is, the State in which he last resided. The reason is that many of the States impose rules which require a voter's actual presence, or maintenance of a home or other abode in a State, or raise doubts on voting eligibility of the private citizen outside the country when the date of his return is uncertain; or which have confusing absentee registration and voting forms that appear to require maintenance of a home or other abode in the State.

It would appear that, in every State and the District of Columbia, the typical private American citizen outside the United States would not be able to register and vote absentee in Federal elections unless he specifically declared, and could prove, an intent to return to the State. If a private citizen did not have such an intent to return to the State, he could not make this declaration without committing perjury. There is, in effect, a legal presumption that such a private citizen does not retain the State as his voting domicile unless he can prove otherwise.

At present, even if a private citizen residing outside the United States could honestly declare an intent to return to the State of his last residence, he would have a reasonable chance to vote in Federal elections only in the 28 States and the District of Columbia which have statutes expressly allowing absentee registration and voting in Federal elections for citizens "temporarily residing" outside the United States. The remaining 22 States do not have specific provisions governing private citizens temporarily residing outside the United States. Furthermore, all 50 States and the District of Columbia impose residency requirements which private citizens outside the country for more extended periods cannot meet.

The committee has found this treatment of private citizens outside the United States to be highly discriminatory. Virtually all States have statutes expressly allowing military personnel, and often other U.S. Government employees, and their dependents, to register and vote absentee from outside the country. In the case of these Government personnel, however, the legal presumption is that the voter does intend to retain his prior State of residence as his voting domicile unless he specifically adopts another State residence for that purpose. This presumption in favor of the Government employee operates even where the chances that the employee will be reassigned back to his prior State of residence are remote. The committee considers this discrimination in favor of Government personnel and against private citizens to be unacceptable as a matter of public policy, and to be suspect under the equal protection clause of the 14th amendment.

Prior Legislation

The enfranchisement of Americans outside the United States in a nongovernmental capacity has received serious congressional consideration only in the last few years. The first important development was the adoption of the 1968 Amendments to the Federal Voting Assistance Act of 1955. Under these amendments, Congress recommended to the States that they adopt simplified absentee voting registration procedures for all citizens "temporarily residing outside the territorial limits of the United States and the District of Columbia." However, according to the Federal Voting Assistance Task Force appointed by the Secretary of Defense to help implement the act, only 28 States and the District of Columbia have so far heeded that recommendation; and even more important, the simplified absentee procedures adopted by the States do not resolve in some cases the serious legal questions referred to above concerning the voting eligibility of private citizens residing outside the country.

Confusion regarding the definition of "residence" under the law of each State remains a major obstacle to the reenfranchisement of citizens residing outside the country, even in those States which had adopted the legislation recommended in the Federal Voting Assistance Act, as amended. Moreover, some States have interpreted the meaning of the word "temporarily" in the act to exclude otherwise eligible persons who do not maintain an abode or other address in the State, or who for some other reason are not considered as having retained their State domicile.

The second important development was the adoption of title II of the Federal Voting Rights Act Amendments of 1970. In the legislative history, Senators Goldwater and Pell took the position that title II should be interpreted as providing for the enfranchisement of all civilian citizens who are temporarily living away from their regular homes, even if they are working or studying abroad. While this interpretation received favorable consideration by a few States, the overwhelming majority of States have declined to rule that this legislative history is sufficient to assure that absentee registration and voting would be available for U.S. citizens residing outside the United States. The point generally made by the States is that the 1970 amendments dealt only with the issue of durational residency requirements and not with the question of domicile of a U.S. citizen outside the country. The Justice Department also expressed this view in a March 13, 1972, letter from the Assistant Attorney for Civil Rights.

The U.S. District Court for the Southern District of New York also considered the question, in *Hardy* v. *Lomenzo*, 349 F. Supp. 617 (S.D. N.Y. 1972), whether the 1970 amendments could limit a State's statutory standards of bona fide residence. The court rejected the legislative history developed by Senators Goldwater and Pell and held that "the remedy lies with the legislature and not in judicial elision." 349 F. Supp. at 620.

In sum, during the period in which Congress has gone to great lengths, including constitutional amendment, to enfranchise millions of Americans—racial minorities, the young, those in official Government service—most American citizens residing outside the United States, who are in the private sector, continue to be excluded from the democratic process of their own country.

Protection Against Fraud

The committee has concluded that the potential of voting fraud in the implementation of the bill is remote and speculative. The bill imposes a $10,000 fine and 5 years' imprisonment for willfully giving false information for purposes of absentee registration and voting under the mechanisms set forth in the legislation.

The Federal Voting Assistance Task Force of the Department of Defense has not reported a single case of voting fraud in the entire 20 years that absentee registration and voting by private U.S. citizens overseas has been recommended to the States by Congress.

The States would still be free under this bill to establish further safeguards against fraud. Many of the States, for example, already require notarization by a U.S. official of at least one absentee voting document. The absentee voter often is required to go down to the U.S. consulate or other local American official with his passport and have

his application for registration notarized. If the State does not also treat the registration request as an application for absentee ballot, the voter may be obliged to have another form notarized requesting the ballot. And if the State also requires notarization on the ballot, the voter may have to visit the U.S. consulate once again for this purpose.

The States would also have available the technical assistance of the State Department in verifying the U.S. citizenship and certain other qualifications of a citizen making application for absentee registration and an absentee ballot from outside the United States. The bill requires that a citizen seeking to register and vote absentee under this bill must have a valid passport or card or identity issued under the authority of the Secretary of State.

Constitutionality

The committee is of the view, based upon opinions submitted in the hearings, that the act would be upheld if subjected to constitutional challenge in the U.S. Supreme Court. The constitutional basis for the act is outlined in the findings and declarations of purpose in section 2.

The committee considers the key finding to be that the present application of State residency and domicile rules in Federal elections denies or abridges the inherent constitutional right of citizens outside the United States to enjoy their freedom of movement to and from the United States. The committee recognizes the principles that the right to vote for national officers is an inherent right and privilege of national citizenship, and that Congress retains the power to protect this right and privilege under both the necessary and proper clause and the 14th amendment.

The right of international travel has been recognized as "an important aspect of the citizen's 'liberty' " as long ago as *Kent* v. *Dulles*, 357 U.S. 116, 127 (1958), and was reaffirmed in *Aptheker* v. *Secretary of State*, 378 U.S. 500, 505 (1964). The right guaranteed in cases such as *Kent* and *Aptheker* is not limited to those who are always on the move. An American citizen has, under these decisions, the same right to international travel and settlement as he has to interstate travel and settlement under decisions such as *Crandall* v. *Nevada*, 6 Wall. 35 (1868), *Edwards* v. *California*, 314 U.S. 160 (1941), and *Shapiro* v. *Thompson*, 394 U.S. 618 (1969).

The Supreme Court in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970) upheld by an 8 to 1 vote the provision (hereinafter the "change of residence provision") in the Voting Rights Act Amendments of 1970 permitting a U.S. citizen who moved from one State to another within 30 days before a presidential election to vote in such election in his prior State even though he no longer retained the prior State as his residence or domicile. In *Oregon* v. *Mitchell*, at least three of the Justices (Stewart, Burger, and Blackmun) gave detailed attention to the question of congressional power to regulate voter qualifications in adopting the change of residence provision. And at least three other Justices (Brennan, White, and Marshall) also recognized the significance of this issue, although they did not discuss it in detail.[1]

[1] The two remaining Justices (Black and Douglas) approved the durational residency provisions of the 1970 amendments on broad constitutional grounds and were the only ones in the majority who therefore did not specifically address themselves to the scope of congressional power to enact the change of residence provision. *See* 400 U.S. at 134 (Black, J.), 147–50 (Douglas, J.).

In *Oregon* v. *Mitchell*, therefore, the Supreme court explicitly affirmed Congress' decision in the 1970 amendments that the protection of the voting rights of a specific group of citizens with a particular problem—those moving from State to State—does justify a reasonable extension of the bona fide residence concept. Under the 1970 amendments, the citizen moving to a new State may still retain a bona fide voting residence in his prior State even though he may not have retained bona fide residence in the prior State for other purposes. This retention of bona fide voting residence in the prior State constitutes an accommodation by the prior State to assure preservation of the citizen's voting rights. It is the committee's view that Congress may constitutionally require the State to make a similar accommodation to permit the private U.S. citizen overseas to vote in his last State of bona fide voting residence even though that State may not remain his bona fide residence for other purposes.

The extension of the bona fide residence concept in this manner already has a basis in the election laws and practices of many States. As noted above, at least 28 States and the District of Columbia already do allow private U.S. citizens who are "temporarily" residing overseas to retain a bona fide residence in the State for voting purposes. And virtually all States permit U.S. Government employees, and their dependents, who are residing overseas, even for an extended period, to retain a bona fide voting residence in the State. It is evident, therefore, that a majority of the States themselves have already extended their "political community" to include substantial numbers of U.S. citizens residing outside the country.

The State election laws and procedures providing this extension of bona fide voting residence, however, have imposed a checkerboard of residency and domicile rules that make it difficult for many private U.S. citizens outside the United States to take advantage of this extension and to cast their absentee ballots in a Federal election. Only about 25 percent of the private U.S. citizens residing outside this country who considered themselves eligible to vote actually cast a ballot in the 1972 election.

Virtually all States have successfully administered their elections under the liberal test of residence applied to military and other U.S. Government personnel (and their dependents). Since the total number of such absentee residents already on the voting rolls exceeds the additional number of persons accorded the same rights by the bill, Congress may rationally conclude that the setting of a uniform definition of residence for voting purposes based on criteria similar to those applicable to government employees and their dependents is an appropriate and workable means for protecting the vote of private citizens outside the United States in Federal elections, and their freedom of travel, without penalty by reason of loss of the vote.

The committee is aware of the principle in *Dunn* v. *Blumstein*, 405 U.S. 330, 343–44 (1972) that a State may impose an appropriately defined and uniformly applied requirement of bona fide residence to preserve the "basic conception of a political community." There is no doubt that private U.S. citizens overseas may have a different stake in voting in Federal elections than do their fellow citizens residing in this country. Nevertheless American citizens outside the United States do have their own Federal stake—their own U.S. legislative and

administrative interests—which may be protected only through representation in Congress and in the executive branch. The fact that these interests may not completely overlap with those of citizens residing within the State does not make them any less deserving of constitutional protection. The President and Congress are concerned with the common interests of the entire Nation, along with the specific concerns of each State and district.

The committee also notes that the change of residence provision upheld in *Oregon* v. *Mitchell* dealt only with Presidential elections. However, each of the majority opinions dealing with the change of residence provision suggested in dictum that the provision probably would also have been upheld if it applied to congressional, as well as to Presidential, elections.

Section-by-Section Analysis of S. 95

Section 1 cites the act as the Overseas Citizens Voting Rights Act of 1975.

Section 2 states congressional findings and declarations of purpose.

Section 3 contains the following definitions of terms:

(1) "Federal election" means any general, special, or primary election held for the purpose of nominating or electing a candidate for the Office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) "Citizen outside the United States" means a citizen of the United States residing outside the United States whose intent to return to his State and election district of last domicile may be uncertain, but who does intend to retain such State and election district as his voting residence and domicile for purposes of voting in Federal elections and has not established a domicile in any other State, territory or possession. This definition also provides that such a citizen would be expected to have a valid passport or card of identity and registration issued under the authority of the Secretary of State.

Section 4 establishes the basic principle that no citizen outside the United States shall be denied the right to register and vote by absentee ballot in any State, or election district of any State, in any Federal election solely because at the time of such election he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he was last domiciled in such State or district prior to departure from the United States;

(2) he has complied with any applicable State or district qualification or requirement concerning registration for, and voting by absentee ballot (other than any requirement which is inconsistent with the act);

(3) he intends to retain such State or district as his voting residence and voting domicile for purposes of voting in Federal elections;

(4) he does not maintain a domicile, and is not registered to vote and is not voting, in any other State or election district of a State or in any territory or possession of the United States; and

(5) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

This provision would apply to U.S. citizens who have been residing outside the United States for a long period of time and have no intent to return to a particular State, as well as those citizens residing outside the United States on a temporary basis with a definite intent to return to a particular State.

Section 5(a) requires each State to provide by law (for example, statute, regulation, ruling), for the registration or other means of qualification of all citizens outside the United States and entitled to vote in a Federal election in such State (pursuant to section 4) who apply not later than 30 days immediately prior to any such election.

Section 5(b) requires each State to provide by law for the casting of absentee ballots for Federal elections by all citizens outside the United States who—

(1) are entitled to vote in such State pursuant to section 4;

(2) have registered or otherwise qualified to vote under section 5(a);

(3) have submitted properly completed applications for such ballots not later than 7 days immediately prior to such an election; and

(4) have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such an election.

Section 5(c) requires the appropriate election official of a State or election district to send election materials by airmail to a citizen outside the United States, upon receipt of a properly completed application for an absentee ballot. The election materials must be mailed as promptly as possible, and in any event no later than (1) 7 days after receipt of the application, or (2) 7 days after the date the absentee ballots for the election have become available to the election official, whichever date is later. The election materials are to be sent free of U.S. postage.

The committee has considered carefully whether the 30-day absentee registration and the 7-day absentee ballot application deadlines would allow local election officials sufficient time to determine whether the applying citizen outside the United States would qualify for absentee registration or voting in their State or election district.

The committee concluded that the 30-day and 7-day deadlines would be appropriate for several reasons. First, the 30-day and 7-day rules conform to the durational residency provisions of the Voting Rights Act Amendments of 1970 with regard to Presidential elections. The 30-day rule also conforms to the registration period set forth in *Dunn* v. *Blumstein*, 405 U.S. 330 (1972) with regard to congressional and other elections. Second, the 30-day and 7-day rules recognize that some applicants will be residing in countries fairly close geographically to the United States, such as Canada or Mexico.

However, the absentee registrant or voter should be on notice that if he makes his applications at the last minute, the chances are lessened that the local election official will have sufficient time (A) to confirm the registrant's claim of voting domicile in the State, and the other

qualifications provided in section 4; and (B) to confirm the applicant voter's registration or other qualifications as provided in section 5. In effect, the citizen outside of the United States would be able to register absentee and apply for an absentee ballot under the same time limitations as citizens residing inside the United States now enjoy (at least for Presidential elections and generally for any other election), but the citizen applying from outside the United States would bear a greater risk that his applications would not be approved prior to the election if there is any delay in verifying his qualifications under either section 4 or 5.

Section 5(d) states that absentee ballots and other voting materials provided pursuant to the act and transmitted to citizens outside the United States shall be free of postage, including airmail postage, in the U.S. mail.

Section 5(e) provides that ballots executed by citizens outside of the United States shall be returned by priority airmail wherever practical, and segregated from other forms of mail.

Section 6(a) authorizes the Attorney General to institute an action in a U.S. district court for injunctive or other appropriate relief to obtain enforcement of voting rights secured under the act.

Section 6(b) establishes a criminal penalty of 5 years' imprisonment, or a fine of $5,000, or both, for depriving any person of any right secured by the act.

Section 6(c) establishes a criminal penalty of 5 years' imprisonment, or a fine of $10,000, or both, for knowingly or willfully giving false information in order to establish the eligibility of any person to register, qualify, or vote under the act, or for paying, offering to pay, or accepting payment for registration or voting under the act.

Section 7 provides for the severability of any provision of the act which may be held invalid.

Section 8(a) provides that nothing in the act shall be deemed to require registration for voting in a Federal election, or to prevent adoption of voting practices less restrictive than those prescribed in the act.

Section 8(b) provides that the exercise of any right to register or vote in Federal elections by any citizen outside the United States, and the retention by him of any State or district as his voting residence or voting domicile *solely* for this purpose, shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.

The provision is not meant to create any new tax exemption for the citizen outside the United States. It is designed only to assure that Federal, State, and local governments would not seek to impose income or inheritance taxes on a citizen outside the United States solely on the basis of the citizen's exercise of the right to register and vote absentee in Federal elections.

The tax provision is modeled on an Internal Revenue Service ruling interpreting the Federal income tax exemption in section 911 of the Internal Revenue Code. See Rev. Rul. 71–101, 1971–1 C.B. 214.

Section 9 of the bill authorizes appropriations for the Postal Service, and any necessary adjustments in its rates, for the Service to fulfill its responsibilities for handling election materials under the act.

Section 10 of the bill provides that the act shall be effective with respect to any Federal election held on or after January 1, 1976.

Estimated Cost of Legislation

The cost of implementing the provisions of S. 95 has been estimated by the U.S. Postal Service at $472,500 each election year.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 95, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SECTION 2401(c) OF TITLE 39, UNITED STATES CODE

§ 2401. Appropriations.

* * * * * * *

(c) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if sections 3217, 3403–3405, and 3626 of this [title] *title, the Overseas Citizens Voting Rights Act of 1975*, and the Federal Voting Assistance Act of 1955 had not been enacted and the estimated revenues to be received on mail carried under such sections and [Act.] *Acts.*

SECTION 3627 OF TITLE 39, UNITED STATES CODE

§ 3627. Adjusting free and reduced rates.

* * * * * * *

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent at a free or reduced rate under section 3217, 3403–3405, or 3626 of this title, [or under the Federal Voting Assistance Act of 1955,] *under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975*, the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-649

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

NOVEMBER 11, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAYS of Ohio, from the Committee on House Administration, submitted the following

REPORT

together with

MINORITY VIEWS AND SUPPLEMENTAL VIEWS

[To accompany S. 95]

The Committee on House Administration, to whom was referred the bill (S. 95) having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

On November 4, 1975, a quorum being present, the Committee adopted by recorded vote of 14 ayes and 5 nays, a motion to report S. 95 as amended. The amendment strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

There were no oversight findings or recommendations by the Committee on House Administration, nor has the Committee on Government Operations submitted a summary of oversight findings.

PURPOSES

The primary purpose of the bill is to assure the right of otherwise qualified private U.S. citizens residing outside the United States to vote in Federal elections. A citizen residing outside the United States shall be eligible to register absentee, and vote by absentee ballot, at the location where he was last domiciled immediately prior to his departure from the United States. A citizen may register and vote under this Act only if he complies with all applicable State or district qualifications, is not voting in any other State or election district, and has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

The committee was satisfied that American citizens outside the United States should be assured the right to vote in congressional as well as in presidential elections. It was plain from testimony in the

hearings that Americans outside the United States possess both the necessary interest and the requisite information to participate in the selection of Senators and Congressmen back home.

Congress is concerned with the common legislative welfare of the entire Nation, along with the specific legislative interests of each district. The citizen outside the United States has distinct congressional interests. The citizen outside the country is interested, for example, in the exchange rate of the dollar, social security benefits, or the energy situation. Furthermore, the local citizen and the overesas citizen share a number of common national interests, such as Federal taxation, defense expenditures (for example, U.S. troops stationed overseas), inflation, and the integrity and competence of our National Government.

BACKGROUND

Reliable estimates indicate that there are probably more than 750,000 American citizens of voting age residing outside the United States in a nongovernmental capacity (sometimes referred to herein as "private citizens" or "civilians"). Studies submitted to the committee have shown that nearly all of these private citizens outside the United States in one way or another are strongly discouraged, or are even barred by the rules of the States of their last domicile from participation in persidential and congressional elections.

These private citizens include thousands of businesspersons, as well as missionaries, teachers, lawyers, accountants, engineers, and other professional personnel serving the interests of their country abroad and subject to U.S. tax laws and other obligations of American citizenship. These civilians in the Nation's service abroad keep in close touch with the affairs at home, through correspondence, television and radio, and American newspapers and magazines.

At present, a typical private American citizen outside the United States finds it difficult and confusing, it not impossible, to vote in Federal elections in his prior State of domicile; that is, the State in which he last resided. The reason is that many of the States impose rules which require a voter's actual presence, or maintenance of a home or other abode in a State, or raise doubts on voting eligibility of the private citizen outside the country when the date of his return is uncertain; or which have confusing absentee registration and voting forms that appear to require maintenance of a home or other abode in the State.

It would appear that, in every State and the District of Columbia, the typical private American citizen outside the United States would not be able to register and vote absentee in Federal elections unless he specifically declared, and could prove, an intent to return to the State. If a private citizen did not have such an intent to return to the State, he could not make this declaration without committing perjury. There is, in effect, a presumption that such a private citizen does not retain the State as his voting domicile unless he can prove otherwise.

At present, even if a private citizen residing outside the United States could honestly declare an intent to return to the State of his last residence, he would have a reasonable chance to vote in Federal elections only in the 28 States and the District of Columbia which have statutes expressly allowing absentee registration and voting in Federal elections for citizens "temporarily residing" outside the United States. The remaining 22 States do not have specific provisions

governing private citizens temporarily residing outside the United States. Furthermore, all 50 States and the District of Columbia impose residency requirements which private citizens outside the country for more extended periods cannot meet.

The committee has found this treatment of private citizens outside the United States to be highly discriminatory. Virtually all States have statutes expressly allowing military personnel, and often other U.S. Government employees, and their dependents, to register and vote absentee from outside the country. In the case of these Government personnel, however, the presumption is that the voter does intend to retain his prior State of residence as his voting domicile unless he specifically adopts another State residence for that purpose. This presumption in favor of the Government employee operates even where the chances that the employee will be reassigned back to his prior State of residence are remote. The committee considers this discrimination in favor of Government personnel and against private citizens to be unacceptable as a matter of public policy, and to be suspect under the equal protection clause of the 14th amendment.

PRIOR LEGISLATION

The enfranchisement of Americans outside the United States in a nongovernmental capacity has received serious congressional consideration only in the last few years. The first important development was the adoption of the 1968 Amendments to the Federal Voting Assistance Act of 1955. Under these amendments, Congress recommended to the States that they adopt simplified absentee voting registration procedures for all citizens "temporarily residing outside the territorial limits of the United States and the District of Columbia." However, according to the Federal Voting Assistance Task Force appointed by the Secretary of Defense to help implement the act, only 28 States and the District of Columbia have so far heeded that recommendation; and even more important, the simplified absentee procedures adopted by the States do not resolve in some cases the serious legal questions referred to above concerning the voting eligibility of private citizens residing outside the country.

Confusion regarding the definition of "residence" under the law of each State remains a major obstacle to the reenfranchisement of citizens residing outside the country, even in those States which had adopted the legislation recommended in the Federal Voting Assistance Act, as amended. Moreover, some States have interpreted the meaning of the word "temporarily" in the act to exclude otherwise eligible persons who do not maintain an abode or other address in the State, or who for some other reason are not considered as having retained their State domicile.

The second important development was the adoption of title II of the Federal Voting Rights Act Amendments of 1970. In the legislative history, Senators Goldwater and Pell took the position that title II should be interpreted as providing for the enfranchisement of all civilian citizens who are temporarily living away from their regular homes, even if they are working or studying abroad. While this interpretation received favorable consideration by a few States, the overwhelming majority of States have declined to rule that this legislative history is sufficient to assure that absentee registration and

voting would be available for U.S. citizens residing outside the United States. The point generally made by the States is that the 1970 amendments dealt only with the issue of durational residency requirements and not with the question of domicile of a U.S. citizen outside the country. The Justice Department also expressed this view in a March 13, 1972, letter from the Assistant Attorney for Civil Rights.

The U.S. District Court for the Southern District of New York also considered the question, in *Hardy* v. *Lomenzo*, 349 F. Supp. 617 (S.D. N.Y. 1972), whether the 1970 amendments could limit a State's statutory standards of bona fide residence. The court rejected the legislative history developed by Senators Goldwater and Pell and held that "the remedy lies with the legislature and not in judicial elision." 349 F. Supp. at 620.

In sum, during the period in which Congress has gone to great lengths, including constitutional amendment, to enfranchise millions of Americans—racial minorities, the young, those in official Government service—most American citizens residing outside the United States, who are in the private sector, continue to be excluded from the democratic process of their own country.

PROTECTION AGAINST FRAUD

The committee has concluded that the potential of voting fraud in the implementation of the bill is remote and speculative. The bill imposes a $5,000 fine and 5 years' imprisonment for willfully giving false information for purposes of absentee registration and voting under the mechanisms set forth in the legislation.

The Federal Voting Assistance Task Force of the Department of Defense has not reported a single case of voting fraud in the entire 20 years that absentee registration and voting by private U.S. citizens overseas that been recommended to the States by Congress.

The States would still be free under this bill to establish further safeguards against fraud. Many of the States, for example, already require notarization by a U.S. official of at least one absentee voting document. The absentee voter often is required to go down to the U.S. consulate or other local American official with his passport and have his application for registration notarized. If the State does not also treat the registration request as an application for absentee ballot, the voter may be obliged to have another form notarized requesting the ballot. And if the State also requires notarization on the ballot, the voter may have to visit the U.S. consulate once again for this purpose.

The States would also have available the technical assistance of the State Department in verifying the U.S. citizenship and certain other qualifications of a citizen making application for absentee registration and an absentee ballot from outside the United States. The bill requires that a citizen seeking to register and vote absentee under this bill must have a valid passport or card or identity issued under the authority of the Secretary of State.

TAXATION

The Committee deleted, as inappropriate for this legislation, the provision in the Senate bill which would have expressly provided that the exercise by an overseas citizen of the right to register and vote in Federal elections under this bill would not affect the determination of his place of residence or domicile for purposes of any tax imposed

under Federal, State, or local law. The amended bill is neutral on the question of taxation.

The Committee notes the effect of voting in Federal elections on the determination of an overseas citizen's liability for Federal taxation is already dealt with in the Internal Revenue Code and the regulations and ruling of the Internal Revenue Service. Similarly, the Committee believes there is no need for Congress to interfere with existing State and local law governing the determination of the liability, if any, of the overseas citizen for State and local taxation which might result from his voting in Federal elections under this bill. The Committee does not intend either to restrict the right of a State or locality to attempt to tax an overseas citizen voting in Federal elections under this bill, or to limit the right of an overseas citizen to contest the imposition of such taxation under applicable law.

CONSTITUTIONALITY

The committee is of the view, based upon opinions submitted in the hearings, that the act would be upheld if subjected to constitutional challenge in the U.S. Supreme Court. The committee recognizes the principles that the right to vote for national officers is an inherent right and privilege of national citizenship, and that Congress retains the power to protect this right and privilege under both the necessary and proper clause and the 14th amendment.

The present application of many State residency and domicile rules in Federal elections denies or abridges the inherent constitutional right of citizens outside the United States to enjoy their freedom of movement to and from the United States.

The right of international travel has been recognized as "an important aspect of the citizen's 'liberty' " as long ago as *Kent* v. *Dulles*, 357 U.S. 116, 127 (1958), and was reaffirmed in *Aptheker* v. *Secretary of State*, 378 U.S. 500, 505 (1964). The right guaranteed in cases such as *Kent* and *Aptheker* is not limited to those who are always on the move. An American citizen has, under these decisions, the same right to international travel and settlement as he has to interstate travel and settlement under decisions such as *Crandall* v. *Nevada*, 6 Wall. 35 (1868), *Edwards* v. *California*, 314 U.S. 160 (1941), and *Shapiro* v. *Thompson*, 394 U.S. 618 (1969).

The Supreme Court in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970) upheld by an 8 to 1 vote the provision (hereinafter the "change of residence provision") in the Voting Rights Act Amendments of 1970 permitting a U.S. citizen who moved from one State to another within 30 days before a presidential election to vote in such election in his prior State even though he no longer retained the prior State as his residence or domicile. In *Oregon* v. *Mitchell*, at least three of the Justices (Stewart, Burger, and Blackmun) gave detailed attention to the question of congressional power to regulate voter qualifications in adopting the change of residence provision. And at least three other Justices (Brennan, White, and Marshall) also recognized the significance of this issue, although they did not discuss it in detail.[1]

[1] The two remaining Justices (Black and Douglas) approved the durational residency provisions of the 1970 amendments on broad constitutional grounds and were the only ones in the majority who therefore did not specifically address themselves to the scope of congressional power to enact the change of residence provision. *See* 400 U.S. at 134 (Black, J.), 147–50 (Douglas, J.).

In *Oregon* v. *Mitchell*, therefore, the Supreme court explicitly affirmed Congress' decision in the 1970 amendments that the protection of the voting rights of a specific group of citizens with a particular problem—those moving from State to State—does justify a reasonable extension of the bona fide residence concept. Under the 1970 amendments, the citizen moving to a new State may still retain a bona fide voting residence in his prior State even though he may not have retained bona fide residence in the prior State for other purposes. This retention of bona fide voting residence in the prior State constitutes an accommodation by the prior State to assure preservation of the citizen's voting rights. It is the committee's view that Congress may constitutionally require the State to make a similar accommodation to permit the private U.S. citizen overseas to vote in his last State of bona fide voting residence even though that State may not remain his bona fide residence for other purposes.

The extension of the bona fide residence concept in this manner already has a basis in the election laws and practices of many States. As noted above, at least 28 States and the District of Columbia already do allow private U.S. citizens who are "temporarily" residing overseas to retain a bona fide residence in the State for voting purposes. And virtually all States permit U.S. Government employees, and their dependents, who are residing overseas, even for an extended period, to retain a bona fide voting residence in the State. It is evident, therefore, that a majority of the States themselves have already extended their "political community" to include substantial numbers of U.S. citizens residing outside the country.

The State election laws and procedures providing this extension of bona fide voting residence, however, have imposed a checkerboard of residence and domicile rules that make it difficult for many private U.S. citizens outside the United States to take advantage of this extension and to cast their absentee ballots in a Federal election. Only about 25 percent of the private U.S. citizens residing outside this country who considered themselves eligible to vote actually cast a ballot in the 1972 election.

Virtually all States have successfully administered their elections under the liberal test of residence applied to military and other U.S. Government personnel (and their dependents). Since the total number of such absentee residents already on the voting rolls exceeds the additional number of persons accorded the same rights by the bill, Congress may rationally conclude that the setting of a uniform definition of residence for voting purposes based on criteria similar to those applicable to government employees and their dependents is an appropriate and workable means for protecting the vote of private citizens outside the United States in Federal elections, and their freedom of travel, without penalty by reason of loss of the vote.

The committee is aware of the principle in *Dunn* v. *Blumstein*, 405 U.S. 330, 343–44 (1972) that a State may impose an appropriately defined and uniformly applied requirement of bona fide residence to preserve the "basic conception of a political community." There is no doubt that private U.S. citizens overseas may have a different stake in voting in Federal elections than do their fellow citizens residing in this country. Nevertheless American citizens outside the United States do have their own Federal stake—their own U.S. legislative and administrative interests—which may be protected only through representation in Congress and in the executive branch. The fact that these interests may not completely overlap with those of citizens residing within the State does not make them any less deserving of constitutional protection. The President and Congress are concerned with the common interests of the entire Nation, along with the specific concerns of each State and district.

The committee also notes that the change of residence provision upheld in *Oregon* v. *Mitchell* dealt only with Presidential elections. However, each of the majority opinions dealing with the change of residence provision suggested in dictum that the provision probably would also have been upheld if it applied to congressional, as well as to Presidential, elections.[2]

The Committee specifically considered the question, whether a U.S. citizen residing outside the United States could remain a citizen of a State for purposes of voting in Federal elections, even though while residing outside the country he does not have a place of abode or other address in such State, and his intent to return to such State may be uncertain. The question was raised in the context of the requirement in Article I, Section 2 and the Seventeenth Amendment of the Constitution that voters in elections for Senators and Representatives "shall have the qualifications requisite for electors of the most numerous branch of the State legislature," and that the House of Representatives shall be chosen by the "people of the several States," along with the affirmation in the Fourteenth Amendment, Section 1 that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside."

The Committee believes that a U.S. citizen residing outside the United States can remain a citizen of his last State of residence and domicile for purposes of voting in Federal elections under this bill, as long as he has not become a citizen of another State and has not otherwise relinquished his citizenship in such prior State.

Furthermore, the Committee is persuaded that the Constitutional provisions regarding election of Senators and Representatives discussed above are not sufficient to prevent Congress from protecting a person who exercises his Constitutional right to enjoy freedom of movement to and from the United States, when Congress may protect this right from other less fundamental disabilities. As Justice Stewart said in *Oregon* v. *Mitchell*, 400 U.S. at 292, "The power of the States with regard to the franchise is subject to the power of the Federal Government to vindicate the unconditional personal rights secured to the citizen by the Federal Constitution."

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[2] *See* opinions of Justice Black referring to "federal elections" (at 134); Justice Douglas referring to the right to vote for Senators and Representatives as "national officers" (at 148–50); Justices Brennan, White and Marshall referring to "federal elections" in the broad context of the right of interstate migration (at 237–38); and Justices Stewart, Burger and Blackmun, whose opinion states that—

"[W]hile [the change of residence provision] applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from protecting those who have moved from one state to another, from disenfranchisement *in any federal election, whether congressional or presidential.*" 400 U.S. at 287. (Emphasis added.)

HEARINGS

The Committee, acting through its Subcommittee on Elections, held intensive hearings on February 25 and 26, and March 11, 1975, on H.R. 3211, a bill identical to S. 95 as passed by the Senate. In the course of those hearings, testimony was heard from the Honorable Charles McC. Mathias; the Honorable Gilbert A. Gude; Ms. Mary C. Lawton, Deputy Assistant Attorney General; the Honorable R. Sargent Shriver, Chairman, Ambassador's Committee on Voting by Americans Overseas; Dr. Eugene L. Stockwell, National Council of Churches of Christ in the United States; J. Eugene Marans, Counsel to the Bipartisan Committee for Absentee Voting, Inc., and Carl S. Wallace, Executive Director to the Bipartisan Committee for Absentee Voting, Inc.; William C. Whyte, and Robert R. Snure, Chamber of Commerce of the United States. A prepared statement from the Honorable Barry M. Goldwater was also submitted and made a part of the record.

ESTIMATED COST OF LEGISLATION

The Committee does not anticipate the need for any appropriation from the Federal treasury. The cost to individual States will vary and depend upon each State's individual provisions for registration and absentee voting.

SECTION-BY-SECTION EXPLANATION OF THE BILL

Short Title

The first section of the bill provides that the bill may be cited as the "Overseas Citizens Voting Rights Act of 1975".

Definitions

Section 2 of the bill contains the following definitions:

(1) The term "Federal election" is defined to mean any general, special, or primary election held for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential Elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or the Resident Commissioner of the Commonwealth of Puerto Rico.

(2) The term "State" is defined to mean each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) The term "United States" is defined to include the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. Such term, however, does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

Right of Citizens Residing Overseas to Vote in Federal Elections

Section 3 of the bill provides that each citizen residing outside the United States has the right to register for, and to vote by, an absentee ballot in any Federal election. Any citizen registering for an absentee ballot under section 3 may not be required to register in person for such absentee ballot. Any such citizen may vote in accordance with the provisions of section 3 in the State, or any election district of such State, in which he was last domiciled immediately before his departure from the United States and in which he could have met all qualifications established under any present law (except minimum voting age qualifications) to vote in Federal elections, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if (1) he has complied with State or district qualifications relating to absentee registration for, and voting by, absentee ballots; (2) he does not maintain a domicile, is not registered to vote, and is not voting in any other State or election district of any State or territory or in any territory or possession of the United States; and (3) he has a passport or card of identity and registration issued by the Secretary of State.

Absentee Registration and Ballots for Federal Elections

Section 4(a) of the bill requires States to provide by law for absentee registration of citizens residing outside the United States who are entitled to vote in Federal elections in the State involved and whose application to vote in any such election is received not later than 30 days before the election involved.

Section 4(b) of the bill requires States to provide for the casting of absentee ballots in Federal elections by citizens residing outside the United States who (1) are entitled to vote in the State involved under section 3 of the bill; (2) have registered to vote under section 4(a); of the bill; and (3) have returned the absentee ballots to the appropriate election official in sufficient time so that the ballot is received by such official not later than the time of closing of the polls in the State on the day of the election.

Enforcement

Section 5(a) of the bill provides that whenever the Attorney General of the United States has reason to believe that a State or election district is denying the right to register to vote in any election in violation of section 3 of the bill, or fails to take any action required by section 4 of the bill, the Attorney General may bring an action in a district court of the United States for a restraining order, a preliminary or permanent injunction, or any other order he considers appropriate.

Section 5(b) imposes a fine of not more than $5,000, or a prison term of not more than 5 years, or both, against anyone who knowingly or willfully deprives or attempts to deprive any person of any right secured by the bill.

Section 5(c) of the bill imposes a fine of not more than $5,000, or a prison term of not more than 5 years, or both, against anyone who knowingly or willfully (1) gives false information in connection with registering to vote or voting under the bill; (2) conspires for the purpose of encouraging the giving of false information; or (3) pays or accepts payment either for registration to vote or for voting.

Severability

Section 6 of the bill provides that if any provision of the bill is held invalid, the validity of the remainder of the bill shall not be affected.

Effect on Certain Other Laws

Section 7 of the bill provides that nothing in the bill shall (1) be deemed to require registration in any State or election district in which registration is not required as a condition to voting in any Federal election; or (2) prevent any State or election district from adopting or following any voting practice less restrictive than the voting practices required by the bill.

Effective Date

Section 8 of the bill provides that the bill shall apply with respect to any Federal election held on or after January 1, 1976.

SUPPLEMENTAL VIEWS OF MR. FRENZEL

The Overseas Citizens Voting Rights Act of 1975, as amended by the Committee, is worthy legislation, long overdue, which is calculated to extend the franchise to Americans resident overseas who, for a variety of reasons, are now not voting.

According to a State Department estimate, there were in 1973, about 1.6 millionAmericans, not counting military personnel, living abroad. Of this total, about 410,000 were government employees, their dependents, or dependents of military personnel. Almost 1.2 million were non-government-affiliated Americans.

Typically, these Americans are business people, and their families. The Association of Americans Resident Overseas estimates that less than 10% of them are retired people who have chosen to live outside of the U.S. An informal AARO survey of 1,545 Americans resident in France showed that 76% of those responding did not vote in the last Presidential election.

The reasons these taxpaying American citizens do not vote are many. Several states prohibit absentee registration. Some prohibit some kinds of absentee ballots. Some states demand state income taxes for the privilege of voting. Much voting or registration material is hard to get. Some of it arrives too late. Local clerks and registrars often don't have voting information for overseas residents.

Americans resident overseas have special problems that often require Congressional help, but most of them now have no Member of Congress to give them help.

These people pay U.S. taxes, are U.S. citizens and should be allowed to vote in U.S. elections. S. 95, as amended, does just that, without frills and without unnecessary infringements on states' rights.

In the Committee, the objections to the bill were (1) that the Constitution requires that overseas residents be allowed only to vote for President, not Members of Congress, and (2) that overseas residents should be subject to state income taxes if they wish to vote.

The first objection would seem to be met by the one court test of the 1970 Voting Rights Act, *Oregon* v. *Mitchell*. The question there was the 30-day residency test for voters in Presidential elections who moved to another state, but several of the justices' opinions stated that Congress clearly had the right to determine residency requirements in the case of *all* Federal elections. I believe we have not only that right, but where the franchise has been denied, we have that obligation.

The second objection makes sense only for state elections. This bill refers to people who pay Federal taxes, and it covers only Federal elections. I don't believe Americans resident overseas should have to pay state taxes on income earned abroad as some kind of super poll tax. Simple equity demands that they have a voice in national elections, and that is all S. 95 tries to do for them.

S. 95 is an important step toward expanding the voting franchise to all eligible Americans. It does so without laying unnecessary costs or extra work on the states. It is confined solely to registration and voting in national elections. It does not tamper with other effects of establishing a domicile, because anything other than registration or voting would go beyond the jurisdiction of the Committee.

I support S. 95 as a vital piece of election legislation.

BILL FRENZEL.

MINORITY VIEWS

The Overseas Voting Rights Act of 1975 purports to confer upon U.S. citizens residing outside the United States the right to vote in all federal elections. This legislation allows the ballot of such a citizen to be cast in the State and in the voting district in which he last resided prior to assuming his foreign residence.

Believing that such a proposal exceeds the power of Congress to enact, we respectfully dissent. It is our conclusion that Congress may not, consistent with the Constitution, extend the right to vote in all federal elections to U.S. citizens *who are not residents*[1] *of any state.*

At the outset, it is essential to focus the issue presented by this legislation. We are *not* here concerned with the power of the Congress to establish uniform national procedures for absentee ballotting in federal elections; nor are we concerned with a Congressional effort to modify or even abolish State *durational* residence requirements as a condition to voting in federal elections.

Several decisions of the Supreme Court have recognized the broad discretion of the Congress to enact comprehensive regulations with respect to the times, places and manner of holding federal elections.[2] Other cases acknowledge Congressional authority to fix voter qualifications in federal elections if appropriate to enforce Constitutionally protected rights.[3] Although the question is not free of doubt, at least one case suggests that there may also be Constitutional power for Congress to enact voter qualifications in federal elections, even absent a finding that certain State imposed qualifications or procedures are unconstitutional or pose an unacceptable burden on federal Constitutional rights.[4]

But these cases do not stand for the proposition that the authority of Congress in this field is absolute. They go only so far as to establish Congressional power to make or alter voter qualifications in federal elections with respect to those citizens *Constitutionally eligible* to vote in such elections.

Unlike any previous act of Congress, the present legislation abolishes residency requirements entirely in all federal elections. Such a quantum jump in the exercise of federal power, if Constitutionally permissible, would authorize a future Congress to disregard State boundaries in fixing voter qualifications and, for example, authorize residents of State A to vote in State B for some perceived public pur-

[1] "Use of word residence. In the absence of evidence of a contrary legislative intent, 'residence' in a statute is generally interpreted, as being the equivalent of the domicile in statutes relating to . . . voting . . ." Restatement (Second) of the Conflict of Laws, sec. 11, comment *k* at 118–119 (1971). See also *In re Lassin's Estate*, 204 P. 2d 1071, 1072; *McHaney* v. *Cunningham*, 45 F.2d 725, 726; *Baker* v. *Keck*, 13 Fed. Supp. 486, 488; *Applications of Hoffman*, 65 N.Y.S. 2d 107, 111.

[2] *Smiley* v. *Holm*, 285 U.S. 355 (1932); *United States* v. *Classic*, 313 U.S. 299, 314 (1941); *Ex parte Siebold*, 100 U.S. 371 (1880); *United States* v. *Saylor*, 322 U.S. 385 (1944).

[3] *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966); *Oregon* v. *Mitchell*, 400 U.S. 112 (1970).

[4] *Oregon* v. *Mitchell*, *supra* at 119–135.

pose. Such a startling possibility requires a more convincing justification than reliance upon the principle, accepted in other contexts, that the right to vote is a cherished Constitutional right which may be protected by appropriate Congressional enactments.

The Constitution is not silent on the question of who may cast a ballot for members of the House of Representatives and members of the Senate. Article I, Section 2 of the Constitution provides:

> The House of Representatives shall be composed of Members chose every second year *by the People of the several States* and the Electors *in each State* shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislation. (Emphasis added.)

The Seventeenth Article of Amendment to the Constitution provides:

> The Senate of the United States shall be composed of two Senators from each State, *elected by the people thereof*, for six years; and each Senator shall have one vote. The Electors *in each State* shall have the qualifications requisite for Electors. (Emphasis added.)

Since H.R. 3211 unmistakably extends the power to vote for Representatives and Senators within a particular State to U.S. citizens who do not reside therein, we are faced with the question of whether such citizens may fairly be characterized as people "of the several States" or people "thereof".

It has been argued that voters for Representatives and Senators need only be "people of the several States", that is, citizens of the United States, rather than the particular State in which they voted, in order to meet the Constitutional test as an elector. Such a construction strains the plain meaning of the Constitution beyond permissible limits. If there is any doubt that electors must be "of" the State in which their ballot is cast, the reference in both Article 1, Section 2 and the Seventeenth Amendment to "Electors in each State" dispels that doubt. The words "in each State" can only have meaning in the context of particular State residency. It requires an unnatural and unwarranted construction of the Constitutional language quoted above to find that non-residents of a State can be included within the class of "people thereof" and we decline to do so.

Although we believe the limiting language of Article I, Section 2 and the Seventeenth Amendment to be decisive on the Constitutional question, it has been argued with great force that the Supreme Court in *Oregon* v. *Mitchell* 400 U.S. 112 (1970) and *Katzenbach* v. *Morgan* 384 U.S. 6416 (1966) has established a basis for sustaining this legislation. It is important, therefore, to reconcile our conclusion with the holding and reasoning of these cases.

Katzenbach is the easier to dispose of. That case sustained the Constitutionality of Section 4(e) of the Voting Rights Act of 1965 outlawing certain literacy tests as a qualification for voting. It stands for the proposition that Section 5 of the Fourteenth Amendment gives to Congress authority to enact appropriate legislation to enforce the guarantees of that Amendment. Since Congress found that a literacy qualification for voting operated to discriminate against certain otherwise qualified voters, and since there was a factual and rational basis for such a finding, the Court concluded that the provisions of the Voting Rights Act under challenge were "appropriate" and within the power of Congress to enact.

It is reasoned that Congress could similarly find that a requirement of residency within a State for voting therein operates to discriminate against the right of non-residents of such State, and that the proposed legislation is an appropriate vehicle for enforcing the Fourteenth Amendment right to vote without discrimination.

There are several answers to this contention.

First, Congress *has not* found that residency imposes an unconstitutional burden upon voting. The bill as originally introduced contained a series of findings of fact which, in total, concluded that U.S. citizens residing abroad were denied a right to vote by reason of burdensome or discriminatory State absentee voting procedures. These findings were stricken in subcommittee and are not part of the legislation now before the House.[5]

Secondly, Congress *could not* find a State violation of the Equal Protection Clause of the Fourteenth Amendment in denying a right to vote to non-residents thereof, since the Equal Protection Clause of that Amendment reaches only to persons within the jurisdiction of a State. We have acknowledged that Congressional authority over federal elections may not be dependent upon a preliminary finding that State qualifications or procedures amount to Fourteenth Amendment violations; but the point here is that Congressional authority to grant to an overseas citizen the right to vote in a State in which he is not a resident cannot be pegged to the Equal Protection rights of such a citizen as was done in *Katzenbach*.

Of course, the Fourteenth Amendment is not limited to Equal Protection guarantees. It also prohibits any State from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States. It is our view that Congress *could not* have established a privileges or immunities violation so as to justify this legislation on a *Katzenbach* theory.

Without question, voting in national elections is a privilege of U.S. citizenship,[6] but national citizenship has never been understood to confer a right to vote in a particular State without first establishing bona fide residence therein. If this were not true, there would be a national citizenship right to vote in any State at any time—clearly an untenable proposition.

Also unquestioned is the right of interstate and foreign travel as one of the privileges of U.S. citizens protected against State abridgement by the Fourteenth Amendment.[7] There is, of course, no direct barrier to foreign travel in State laws requiring continuation of residency as a condition to voting therein. The assertion is made, however, that losing one's vote is an unconstitutional burden upon the protected right to travel.

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[5] In passing, if the present bill were confined to the matter of eliminating burdensome absentee voting procedures in federal elections imposed by a State upon its own citizens, these views would be addressed to issues of policy rather than Constitutional power.

[6] *Twining* v. *New Jersey*, 211 U.S. 78, 97 (1908); *In re Quarles*, 158 U.S. 532, 535 (1895).

[7] *Dunn* v. *Blumstein*, 405 U.S. 330 (1972); *Kent* v. *Dulles*, 357 U.S. 116, 127 (1958).

Foreign or interstate travel does not require an abandonment of a domestic domicile unless that be the free choice of the traveler. If an overseas citizen loses his right to vote in a particular State by abandoning his residence therein, the cause of his loss is not State action. It is a personal decision to forfeit his State citizenship, the consequences of which are not forbidden by the Privileges and Immunities Clause of the Fourteenth Amendment. Moreover, the traveler, in the case of interstate migration, is free to establish a new residence in his State of destination and to vote therein. Any durational bar to such voting in federal elections *in the State of destination* in which residency has been established is subject to federal supervision; but that is not to say that federal power can be asserted so as to compel voting in a State voluntarily abandoned by the traveler.[8]

Third, the reasoning of *Katzenbach* itself precludes acceptance of the proffered argument that the granting of the right to vote in a particular State to a non-resident thereof is appropriate legislation to enforce Fourteenth Amendment guarantees. The decision in that case is based upon an expansive construction of the words "appropriate legislation" in Section 5 of the Fourteenth Amendment. It was there held that the quoted words were to be given the same interpretation as that accorded the "necessary and proper" clause by Chief Justice Marshall in *McCulloch* v. *Maryland*, (17 U.S. 316 (1819)).

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end which are not prohibited but is consistent with the letter and spirit of the Constitution, is Constitutional.

It is evident that neither the "necessary and proper" nor the "appropriate legislation" clauses provides carte blanche authority for Congress to legislate without Constitutional restraints. It cannot with impunity disregard "the letter and the spirit of the Constitution."

It is our view that an attempt to confer federal voting rights within a State to non-residents thereof is plainly inconsistent with the letter and spirit of Article I, Section 2 and the Seventeenth Amendment.

Oregon v. *Mitchell* is more troublesome. That case considered the Constitutionality of the 1970 Amendments to the Voting Rights Act which, *inter alia*, (1) granted the right to vote in all elections, State and federal, to 18-year-old citizens of a State; (2) permitted a citizen of a State who moved to a new State more than thirty days prior to a Presidential election to vote for Presidential electors in the State to which he moved notwithstanding that State's durational residency requirements; and (3) permitted a citizen moving from a State within thirty days of a Presidential election to vote for Presidential electors in the State from which he moved.

[8] The "right to travel" cases focus primarily upon the restrictions which may not be imposed upon newly arrived citizens of a State. For example, unreasonable durational residency requirements upon new citizens of a State may not deprive such citizens of welfare benefits therein. It has been held that such a denial unconstitutionally burdens the right of interstate travel. But no case has held that a welfare mother who voluntarily cuts her ties with State A and moves to State B must be retained on the welfare roles of State A. Such reasoning, which is applied by the proponents of this legislation, actually burdens the right to travel, rather than fosters it.

Five members of the Court agreed, for differing reasons, that the Congress possessed the power to fix minimum age qualifications for voting in federal elections and that no such power exists with respect to State elections. The other Amendments with respect to voting for Presidential and Vice Presidential electors were sustained by an eight to one margin.

Since eight members of the Court concluded that a non-resident of a State could, under limited circumstances, vote for Presidential and Vice Presidential electors in the State of his former residence, we carry a heavy burden to demonstrate that such a conclusion is Constitutionally inappropriate in the case of elections for federal Representatives and Senators.

The late Justice Black, who announced the judgment of the Court in *Mitchell*, treated the matter summarily in one paragraph. He viewed the Voting Rights Amendment in question as a Congressional effort to establish uniform *durational* residency requirements and uniform procedures for *absentee* voting by State citizens in Presidential elections. His conclusion that Congress has ample authority in both such cases is eminently correct; but, as indicated at the outset, we are not concerned in this case with either of those issues. In short, Justice Black did not speak to the troublesome question presented by this legislation.

Mr. Justice Douglas wrote a separate opinion in *Mitchell* concurring with the judgment of the Court on the residency issue. He, like his brother Black, treated the issue solely as one of Congressional power to alter *durational* residency requirements. Although his analysis includes a "privileges and immunities" argument to buttress his "equal protection" rationale, it is a simple fact that Justice Douglas did not concern himself with the question, presented by this legislation, as to whether Congress could disregard residency requirements entirely.

Justices Brennan, White, and Marshall joined in a common opinion sustaining the residency Amendments of the Voting Rights Act of 1970. They, like Black and Douglas, viewed the issue as one of Congressional power to alter *durational* residency requirements. Unlike Black and Douglas, however, these Justices found Congressional authority to alter such durational residency rules in Presidential elections in the Constitutional right of citizens to travel interstate. Such a right, the Justices argued, could be secured by appropriate Congressional legislation to "eliminate an unnecessary burden on the right of interstate migration." (Mitchell, page 239)

Once again, however, the Justices did not address the issue before use. Their focus was upon State durational residency requirements. We are here presented with a different question.

Justice Stewart, with whom Chief Justice Burger and Justice Blackmun joined on this issue, in contrast with his colleagues Black and Douglas, gave extended consideration to the residency question.

Relying primarily upon the *Slaughter-House Cases*, 83 U.S. 36 (1873), Justice Stewart bottomed his agreement that it was well within the power of Congress to modify *durational* residency requirements upon the right of interstate travel as a protected privilege of national citizenship. In the course of his opinion, Justice Stewart ad-

vanced the suggestion that the power in Congress to protect the right of all U.S. citizens to vote for Presidential electors was not limited to that office. ". . . [N]othing in the Constitution prevents Congress from protecting those who have moved from one State to another from disenfranchisement in any federal election, whether Congressional or Presidential." But this suggestion must be read in the context in which it was advanced. Justice Stewart was addressing himself to *durational* residency requirements only.

In summary, then, it is fair to conclude that all of the Justices, including Harlan in dissent, treated the 1970 Amendments to the Voting Rights Act as modifying the *durational* residency requirements of State laws affecting the right to vote for Presidential and Vice Presidential electors. No separate consideration was given by any of the Justices to the implications of Section 202(e) of the Voting Rights Act allowing a citizen to vote in the State of his former residence.

It is understandable that the Justices focused upon durational residency requirements, rather than the Constitutionality of permitting citizens to vote in a State in which they no longer maintained a residence, since the Congressional findings supporting the enactment of the Voting Rights Act referred to durational residency requirements only.

Section 202 of the Act states:

> (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President * * * operates to deny various Constitutionally protected rights.
>
> (b) Upon the basis of these findings, Congress declares that * * * it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President * * *.

Support for our conclusion that *Oregon* v. *Mitchell* holds only that Congress acted within its power in abolishing durational residency requirements for voting for President and Vice President, and may not properly be cited as authority for Congress to abolish *all* residency requirements in *all* federal elections, can be found on an additional ground as well.

In *Mitchell*, the issue was the right to vote for Presidential and Vice Presidential electors. The Constitution does not expressly limit the right to vote for such electors to the people of the several States as in the case of Congressional and Senatorial electors.[9] Even so, when a right to vote for *Presidential* electors was granted to citizens of the District of Columbia, non-residents in any State, it was necessary to amend the Constitution to do so. *A fortiori*, a right to vote in Congressional and Senatorial elections by non-residents in any State would seem to require a Constitutional Amendment.

[9] Compare U.S. Constitution, Art. I, sec. 2 and Amendment XVII with Art. II, sec. 1, cl. 2, regarding the selection of Presidential electors. The Constitution therein merely provides that "Each State shall appoint, in such Manner as the Legislature thereof may direct . . ." its Presidential electors. Whether the term "each State" has a significantly different connotation, with distinct Constitutional requirements, from "by the People . . . of each State" is a question apart from that addressed in these views. Suffice that there would seem to be no explicit Constitutional enunciation of whom shall be such electors and whom shall be the voters choosing them, and for that reason these comments focus solely upon an analysis of the Constitutional infirmity of the Overseas Citizens Voting Rights Act as it relates to congressional elections.

A final argument needs to be considered. Mr. Justice Black, in *Mitchell*, stated, at page 124, "I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over Congressional elections." In a footnote (at page 124) he justified this conclusion as follows. ". . . [I]nherent in the very concept of a supreme national government with national officers is a residual power in Congress to insure that those officers represent their national constituency as responsively as possible. This power arises from the nature of our Constitutional system of government and from the Necessary and Proper Clause." But Justice Black later qualified this sweeping claim of ultimate supervisory power by recognizing, as he must, that Congress could not by legislation repeal other provisions of the Constitution in attempting to regulate federal elections. (*Oregon* v. *Mitchell*, page 128) This "inherent" authority of Congress over federal elections, therefore, is not an independent, unlimited source of power. It is merely a restatement of Congressional power under Article I, Section 4 and the Necessary and Proper Clause.

For all of the foregoing reasons we are satisfied that Congress may not grant the right to vote in all federal elections to non-residents of the State in which their vote is to be cast. The objectives of this legislation may be laudable. As a matter of policy, participation by all U.S. citizens, wherever situated, in the selection of federal representatives may be wise; but good policy is not in itself a source of Constitutional power. In an effort to effectuate a salutary policy, this legislation exceeds Constitutional limits. Accordingly, a "no" vote on passage of the bill is required.

CHARLES E. WIGGINS.
SAMUEL L. DEVINE.
MARJORIE S. HOLT.
W. HENSON MOORE.

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S. 95

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

To guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1975".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 3. Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any Federal election in the State, or any election district of such State, in which he was last domiciled immediately prior to his departure from the United States and in which he could have met all qualifications (except any qualification relating to minimum voting age) to vote in Federal elections under any present law, even though while residing outside the United States he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he has complied with all applicable State or district qualifications and requirements, which are consistent with this Act, concerning absentee registration for, and voting by, absentee ballots;

(2) he does not maintain a domicile, is not registered to vote, and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(3) he has a valid passport or card of identity and registration issued under the authority of the Secretary of State.

ABSENTEE REGISTRATION AND BALLOTS FOR FEDERAL ELECTIONS

SEC. 4. (a) Each State shall provide by law for the absentee registration or other means of absentee qualification of all citizens residing outside the United States and entitled to vote in a Federal election in such State pursuant to section 3 whose application to vote in such election is received by the appropriate election official of such State not later than thirty days immediately prior to any such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing outside the United States who—

(1) are entitled to vote in such State pursuant to section 3;

(2) have registered or otherwise qualified to vote under subsection (a); and

(3) have returned such ballots to the appropriate election official of such State in sufficient time so that such ballot is received by such election official not later than the time of closing of the polls in such State on the day of such election.

ENFORCEMENT

SEC. 5. (a) Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 3 or fails to take any action required by section 4, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever knowingly or willfully shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of establishing his eligibility to register, qualify, or vote under this Act, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this Act, or pays, or offers to pay, or accepts payment either for registration to vote or for voting shall be fined not more than $5,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 6. If any provision of this Act is held invalid, the validity of the remainder of the Act shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 7. Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election; or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

EFFECTIVE DATE

SEC. 8. The provisions of the Act shall apply with respect to any Federal election held on or after January 1, 1976.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

JANUARY 2, 1976

Office of the White House Press Secretary

NOTICE TO THE PRESS

The President has signed S. 95--Overseas Citizens Voting Rights Act of 1975--this bill requires States to permit their former residents, who are now living outside the U. S., to register and vote in Federal elections.

The provisions of the bill apply to any Federal election held on or after January 1, 1976, and would: establish a national right for all voting-age U. S. citizens residing outside the United States to vote by absentee ballot in Federal elections in their State of last residence even though they have no place of abode in such State and their return is uncertain.

# # #

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

H.J. Res. 749	H.R. 8304	H.R. 11184
H.R. 4016	H.R. 9968	S.J. Res. 157
H.R. 4287	H.R. 10035	S. 95
H.R. 4573	H.R. 10284	S. 322
H.R. 5900	H.R. 10355	S. 1469
H.R. 6673	H.R. 10727	S. 2327

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.