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VOTING RIGHTS FOR U.S. CITIZENS RESIDING ABROAD

HEARINGS BEFORE THE SUBCOMMITTEE ON ELECTIONS OF THE COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 3211

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

FEBRUARY 25, 26; MARCH 11, 1975



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Ninety-Fourth Congress

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VOTING RIGHTS FOR U.S. CITIZENS RESIDING ABROAD

TUESDAY, FEBRUARY 25, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The committee met, pursuant to notice, at 2:35 p.m. in room H-328, the Capitol Building, Hon. John H. Dent (chairman of the subcommittee) presiding.

Present: Representatives Dent, Gaydos, Van Deerlin, Boggs, Burton of California, Wiggins, and Butler.

Also present: E. Douglas Frost, staff director; Paul Wohl, chief counsel; John McGarry, legal counsel; Louis Ingram, minority counsel, Committee on House Administration; Rick Oleszewski, clerk, Subcommittee on Elections.

[The bill (H.R. 3211) follows:]

(1)

(3) deny or abridge the privileges and immunities

guaranteed under the Constitution to citizens of the

United States and to the citizens of each State;

(4) in some instances have the impermissible pur-

H. R. 3211

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1975

Mr. DENT (for himself and Mr. HAYS of Ohio) introduced the following bill;
which was referred to the Committee on House Administration

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Overseas Citizens Voting
4 Rights Act of 1975".

CONGRESSIONAL FINDINGS AND DECLARATIONS

5
6 SEC. 2. (a) The Congress hereby finds that in the case
7 of United States citizens outside the United States—

8 (1) State and local residency and domicile require-
9 ments are applied so as to restrict or precondition the
10 right of such citizens to vote in Federal elections;

1 (2) State and local election laws are applied to such
2 citizens so as to deny them sufficient opportunities for
3 absentee registration and balloting in Federal elections;

4 (3) State and local election laws are applied in Fed-
5 eral elections so as to discriminate against such citizens
6 who are not employees of a Federal or State Government
7 agency, or who are not dependents of such employees;
8 and

9 (4) Federal, State, and local tax laws are applied in
10 some cases so as to give rise to Federal, State, and local
11 tax liability for such citizens solely on the basis of their
12 voting in Federal elections in a State, thereby discourag-
13 ing such citizens from exercising the right to vote in Fed-
14 eral elections;

15 (b) The Congress further finds that the foregoing condi-
16 tions—

17 (1) deny or abridge the inherent constitutional right
18 of citizens to vote in Federal elections;

19 (2) deny or abridge the inherent constitutional
20 right of citizens to enjoy their free movement to and
21 from the United States;

22 (3) deny or abridge the privileges and immunities
23 guaranteed under the Constitution to citizens of the
24 United States and to the citizens of each State;

25 (4) in some instances have the impermissible pur-

1 pose or effect of denying citizens the right to vote in
2 Federal elections because of the method in which they
3 may vote;

4 (5) have the effect of denying to citizens the equal-
5 ity of civil rights and due process and equal protection
6 of the laws that are guaranteed to them under the four-
7 teenth amendment to the Constitution; and

8 (6) do not bear a reasonable relationship to any
9 compelling State interest in the conduct of Federal elec-
10 tions.

11 (c) Upon the basis of these findings, Congress declares
12 that in order to secure, protect, and enforce the constitutional
13 rights of citizens outside the United States it is necessary—

14 (1) to require the uniform application of State and
15 local residency and domicile requirements in a manner
16 that is plainly adapted to secure, protect, and enforce
17 the right of such citizens to vote in Federal elections;

18 (2) to establish uniform standards for absentee reg-
19 istration and balloting by such citizens in Federal
20 elections;

21 (3) to eliminate discrimination, in voting in Fed-
22 eral elections, against such citizens who are not em-
23 ployees of a Federal or State Government agency, and
24 who are not dependents of such employees; and

25 (4) to require that Federal, State, and local tax

1 laws be applied so as not to give rise to Federal, State,
2 and local tax liability for such citizens solely on the
3 basis of their voting in Federal elections in a State.

4 DEFINITIONS

5 SEC. 3. For the purposes of this Act, the term—

6 (1) "Federal election" means any general, special,
7 or primary election held solely or in part for the pur-
8 pose of selecting, nominating, or electing any candidate
9 for the office of President, Vice President, Presidential
10 elector, Member of the United States Senate, Member
11 of the United States House of Representatives, Dele-
12 gate from the District of Columbia, Resident Commis-
13 sioner of the Commonwealth of Puerto Rico, Delegate
14 from Guam, or Delegate from the Virgin Islands;

15 (2) "State" means each of the several States, the
16 District of Columbia, the Commonwealth of Puerto Rico,
17 Guam, and the Virgin Islands;

18 (3) "United States" includes the several States, the
19 District of Columbia, the Commonwealth of Puerto Rico,
20 Guam, and the Virgin Islands, but does not include
21 American Samoa, the Canal Zone, the Trust Territory
22 of the Pacific Islands, or any other territory or possession
23 of the United States; and

24 (4) "citizen outside the United States" means a
25 citizen of the United States residing outside the United

1 States whose intent to return to his State and election
 2 district of last domicile may be uncertain, but who does
 3 intend to retain such State and election district as his
 4 voting residence and domicile for purposes of voting
 5 in Federal elections and has not established a domicile
 6 in any other State or any other territory or possession
 7 of the United States, and who has a valid Passport or
 8 Card of Identity and Registration issued under the
 9 authority of the Secretary of State.

10 RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN

11 FEDERAL ELECTIONS

12 SEC. 4. No citizen outside the United States shall be
 13 denied the right to register for, and to vote by, an absentee
 14 ballot in any State, or election district of a State, in any Fed-
 15 eral election solely because at the time of such election he
 16 does not have a place of abode or other address in such State
 17 or district, and his intent to return to such State or district
 18 may be uncertain, if—

19 (1) he was last domiciled in such State or district
 20 prior to his departure from the United States;

21 (2) he has complied with all applicable State or
 22 district qualifications and requirements concerning reg-
 23 istration for, and voting by, absentee ballots (other than
 24 any qualification or requirement which is inconsistent
 25 with this Act);

1 (3) he intends to retain such State or district as his
 2 voting residence and voting domicile for purposes of vot-
 3 ing in Federal elections;

4 (4) he does not maintain a domicile, and is not reg-
 5 istered to vote and is not voting in any other State or
 6 election district of a State or territory or in any terri-
 7 tory or possession of the United States; and

8 (5) he has a valid Passport or Card of Identity and
 9 Registration issued under the authority of the Secretary
 10 of State.

11 ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

12 SEC. 5. (a) Each State shall provide by law for the
 13 registration or other means of qualification of all citizens out-
 14 side the United States and entitled to vote in a Federal elec-
 15 tion in such State pursuant to section 4 who apply, not later
 16 than thirty days immediately prior to any such election, to
 17 vote in such election.

18 (b) Each State shall provide by law for the casting of
 19 absentee ballots for Federal elections by all citizens outside
 20 the United States who—

21 (1) are entitled to vote in such State pursuant to
 22 section 4;

23 (2) have registered or otherwise qualified to vote
 24 under section 5 (a);

1 (3) have submitted properly completed applica-
 2 tions for such ballots not later than seven days im-
 3 mediately prior to such election; and

4 (4) have returned such ballots to the appropriate
 5 election official of such State not later than the time of
 6 closing of the polls in such State on the day of such
 7 election.

8 (c) In the case of any such properly completed appli-
 9 cation for an absentee ballot received by a State or election
 10 district, the appropriate election official of such State or dis-
 11 trict shall as promptly as possible, and in any event, no
 12 later than—

13 (1) seven days after receipt of such a properly
 14 completed application, or

15 (2) seven days after the date the absentee ballots
 16 for such election have become available to such official,
 17 whichever date is later, mail the following by airmail to such
 18 citizen:

19 (A) an absentee ballot;

20 (B) instructions concerning voting procedures; and

21 (C) an airmail envelope for the mailing of such
 22 ballot.

23 (d) Such absentee ballots, envelopes, and voting instruc-
 24 tions provided pursuant to this Act and transmitted to citizens

1 outside the United States, whether individually or in bulk,
 2 shall be free of postage to the sender including airmail post-
 3 age, in the United States mail.

4 (e) Ballots executed by citizens outside the United
 5 States shall be returned by priority airmail wherever prac-
 6 ticable, and such mail may be segregated from other forms of
 7 mail and placed in special bags marked with special tags
 8 printed and distributed by the Postal Service for this purpose.

9 ENFORCEMENT

10 SEC. 6. (a) Whenever the Attorney General has reason
 11 to believe that a State or election district undertakes to deny
 12 the right to register or vote in any election in violation of
 13 section 4 or fails to take any action required by section 5, he
 14 may institute for the United States, or in the name of the
 15 United States, an action in a district court of the United
 16 States, in accordance with sections 1391 through 1393 of title
 17 28, United States Code, for a restraining order, a prelimi-
 18 nary or permanent injunction, or such other order as he deems
 19 appropriate.

20 (b) Whoever shall deprive or attempt to deprive any
 21 person of any right secured by this Act shall be fined not
 22 more than \$5,000, or imprisoned not more than five years, or
 23 both.

24 (c) Whoever knowingly or willfully gives false informa-
 25 tion as to his name, address, or period of residence for the

1 purpose of establishing his eligibility to register, qualify, or
 2 vote under this Act, or conspires with another individual for
 3 the purpose of encouraging the giving of false information in
 4 order to establish the eligibility of any individual to register,
 5 qualify, or vote under this Act, or pays or offers to pay or
 6 accepts payment either for registration to vote or for voting
 7 shall be fined not more than \$10,000, or imprisoned not more
 8 than five years, or both.

SEVERABILITY

10 SEC. 7. If any provision of this Act, or the application
 11 thereof to any person or circumstance, is held invalid, the
 12 validity of the remainder of the Act, and the application of
 13 such provisions to other persons or circumstances, shall not be
 14 affected.

EFFECT ON CERTAIN OTHER LAWS

16 SEC. 8. (a) Nothing in this Act shall—
 17 (1) be deemed to require registration in any State
 18 or election district in which registration is not required
 19 as a precondition to voting in any Federal election, or
 20 (2) prevent any State or election district from
 21 adopting or following any voting practice which is less
 22 restrictive than the practices prescribed by this Act.

23 (b) The exercise of any right to register or vote in Fed-
 24 eral elections by any citizen outside the United States, and
 25 the retention by him of any State or district as his voting

1 residence or voting domicile solely for this purpose, shall not
 2 affect the determination of his place of residence or domicile
 3 for purposes of any tax imposed under Federal, State, or
 4 local law.

AUTHORIZATION OF APPROPRIATIONS

6 SEC. 9. (a) Section 2401 (c) of title 39, United States
 7 Code (relating to appropriations for the Postal Service) is
 8 amended—

9 (1) by inserting after "title" a comma and the fol-
 10 lowing: "the Overseas Citizens Voting Rights Act of
 11 1975,"; and

12 (2) by striking out "Act." at the end and inserting
 13 in lieu thereof "Acts."

14 (b) Section 3627 of title 39, United States Code (relat-
 15 ing to adjustment of Postal Service rates) is amended by
 16 striking out "or under the Federal Voting Assistance Act of
 17 1955" and inserting in lieu thereof "under the Federal Vot-
 18 ing Assistance Act of 1955, or under the Overseas Citizens
 19 Voting Rights Act of 1975,".

EFFECTIVE DATE

21 SEC. 10. The provisions of this Act shall take effect with
 22 respect to any Federal election held on or after January 1,
 23 1976.

Mr. DENT. Inasmuch as it only requires two members of the committee to be present for the taking of testimony, we will begin.

The first witness this afternoon is a coauthor of this legislation. He is Senator Charles Mathias. You may proceed.

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MATHIAS. Thank you very much, Mr. Chairman, I appreciate the opportunity to be here. I want to conserve the time of the members of the committee. I would suggest, Mr. Chairman, I submit my statement in full and summarize it very briefly.

Mr. DENT. Without objection.
[Senator Mathias' statement follows:]

PREPARED STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR FROM THE STATE OF MARYLAND

Mr. Chairman, I thank you for the opportunity to meet with you and members of the Committee today to discuss the problems encountered by American citizens residing outside the boundaries of the United States who desire to vote in Federal elections.

This Committee showed last year that it was cognizant of the severe burdens placed upon these citizens as they try to exercise that most precious right of democratic societies. I am hopeful that with the Committee's leadership, we can enact this year the type of legislation needed to ensure that these Americans have the opportunity to vote.

The bill before this subcommittee is identical to a bill, S. 95, which Senators Pell, Goldwater, Brock, Bayh, Roth and myself have introduced this year in the Senate. It is similar to S. 2102 of the 93d Congress, which, you may recall, was the subject of extensive hearings by the Senate Subcommittee on Privileges and Elections of the Senate Rules Committee. S. 2102 was reported unanimously by that subcommittee and by the full Rules Committee. When we consider that both Republican leaders in the Senate, Senator Scott and Senator Griffin, and the Democratic Assistant Leader, Senator Byrd, all are members of the Rules Committee who supported S. 2102, we see the broad bi-partisan support which this bill has received. As a result of this type of support, S. 2102 was passed unanimously by the Senate as well.

The purpose of the legislation which you are considering is to correct those practices and procedures which have resulted in the fact that some 750,000 American civilians residing abroad still are barred from participating in Presidential or Congressional elections. Those civilians include thousands of businessmen, as well as church officials, teachers, lawyers, accountants, engineers, and other professional people serving the interests of their country abroad and subject to U.S. tax laws and the other obligations of American citizenship.

The legislation you are considering today would allow the American citizen residing outside the United States to vote in Federal elections in the State in which the citizen was last domiciled prior to his departure from the United States, as long as (a) he has complied with all applicable State absentee ballot qualifications and requirements (other than those inconsistent with this legislation); (b) he intends to retain that State as his voting residence and voting domicile for purposes of voting in Federal elections; (c) he does not maintain a domicile, and is not seeking to vote in any other State, territory, or possession of the United States and (d) he has a valid U.S. passport or card of identity and registration issued by the Secretary of State.

At present, a typical American citizen residing overseas in a nongovernmental capacity 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 the State, or raise doubts of voting eligibility of the overseas citizen 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.

I have recently been given the following illustration of a typical disenfranchised American residing overseas:

A qualified voting resident left the State a number of years ago to work overseas in a business or professional capacity. His former home in the State has been sold and he now only has a physical residence in a foreign country. He looks upon this as temporary and intends eventually to return to the United States, although he does not know to which State he will return. He may be working overseas for as many as 5 or 10 years. He considers that his last residence before his departure from the State remains his bona fide residence for voting in Federal elections, even though he has no present place of abode within the State and is unable to state an intent to return to the State.

What are his chances for voting in Federal elections back home?

First, it would appear that, in every State and the District of Columbia, the typical American citizen overseas 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 the 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 citizen does not retain the State as his voting domicile unless he can prove otherwise.

Second, even if such a citizen could honestly declare an intent to return to the State of his last residence, his chance for voting in Federal elections would be improved in only about half of the States. These 29 States—including the District of Columbia—appear to have statutes which expressly allow absentee registration and voting in Federal elections for "citizens temporarily residing abroad," that is, citizens residing overseas for a short time who can declare an intent to return to the State. Even in some of these States, however, the absentee registration for such citizens may be ambiguous.

Third, 12 States appear to have statutes which generally allow absentee registration and voting in Federal elections, but which do not have specific provisions governing nongovernmental overseas voters. Many of these 12 States impose burdensome residency requirements, including in some cases maintenance of a home or abode in the State.

Fourth, eight States appear to have statutes which allow absentee voting, but not absentee registration, by non-governmental overseas voters in Federal elections. Many of these States also have burdensome residency requirements.

Fifth, two States require that all non-governmental overseas voters register and vote in person.

The figures I have given on voting in Federal elections by U.S. citizens overseas are based primarily on the most recent report of the Federal Voting Assistance Task Force in the Department of Defense. These figures have also been reviewed by the Bipartisan Committee on Absentee Voting, an organization of distinguished business, professional, and religious leaders who have been seeking the enfranchisement of American citizens residing overseas.

It should be noted that 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 overseas. In the case of these Government personnel, 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 re-assigned back to this prior State of residence are remote. The result is continuing discrimination in favor of Government personnel and against private citizens overseas who are seeking access to the Federal franchise.

Strong enforcement provisions are contained in the bill to guard against fraudulent voting. I might add, however, that the potential of voting fraud in the implementation of this legislation is remote and speculative. The Federal Voting Assistance Task Force has not reported a single case of overseas voting fraud in the entire 19 years in which that task force has surveyed the situation.

It is evident, I think, that if someone wanted to commit voting fraud, the mechanisms provided by this bill would hardly be the way to do it. Many of the States require notarization by a U.S. official of at least one of the voting documents. As I have stated, the overseas citizens seeking to vote under the

bill must have a valid U.S. passport or other official State Department card of identity.

Distinguished constitutional authorities have already given the Senate Subcommittee on Privileges and Elections their opinion that if the pending legislation were subjected to challenge after enactment, the Supreme Court would have an appropriate constitutional basis on which to uphold the legislation. Other witnesses will testify in more detail about the constitutional authority for this legislation.

This legislation, as adopted by the Senate last year, has generated tremendous enthusiasm and support from American citizens residing in all parts of the world. Hundreds of these citizens have sent letters and returned questionnaires stating their support of the legislation and detailing their individual voting problems. We have also received many communications in support of the legislation from friends, relatives, and colleagues of those citizens in the various States.

I would join these Americans in urging that this committee again support this legislation to enable our fellow citizens to vote in Federal elections.

Senator MATHIAS. Mr. Chairman, this is a bill which is identical to one which was sponsored by Messrs. Pell, Goldwater, Brock, Bayh, Roth, and myself, we have introduced in the Senate. It is similar to a bill introduced in the 93d Congress as S. 2102. It was reported unanimously by the Rules Committee of the Senate. It might be useful for your staff to take a look at the record which was made at that time.

The purpose, of course, of the legislation is to insure the franchise to 750,000 American civilians residing abroad barred from participating in congressional and Presidential elections. It would allow the citizen to vote in the State in which he was last domiciled prior to his departure. At present the citizen residing overseas finds it difficult to vote. The reason is that many of the States impose requirements which require a voter's actual presence, or maintenance of a home or abode in the State, or raise doubts of voting eligibility of the overseas citizen 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.

One example is that of a qualified voting resident who left the State a number of years ago to work overseas in a business or professional capacity. His former home in the State has been sold and he now only has a physical residence in a foreign country. He looks upon this as temporary and intends eventually to return to the United States, although he does not know to which State he will return. He may be working overseas for as many as 5 or 10 years. He considers that his last residence before his departure from the State remains his bona fide residence for voting in Federal elections, even though he has no present place of abode within the State and is unable to state an intent to return to the State.

What are his chances for voting in Federal elections back home?

First, it would appear that, in every State and the District of Columbia, the typical American citizen overseas 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 the citizen did not have such an intent to return to the State, he could not make this declaration without committing perjury.

For all practical purposes, this citizen is debarred from participating in Federal elections. We only have 12 States which appear to have statutes which generally allow absentee registration and voting in Federal elections, but which do not have specific provisions governing nongovernmental overseas voters. Many of these 12 States impose

burdensome residency requirements, including in some cases maintenance of a home or abode in the State.

Eight States appear to have statutes which allow absentee voting, but not absentee registration, by nongovernmental overseas voters in Federal elections. Many of these States also have burdensome residency requirements.

Two States require that all nongovernmental overseas voters register and vote in person.

So, I think what we have here is a mechanism by which three-quarters of a million Americans who would like to vote would be enabled to vote by a rather simple change in our election laws and I would recommend it strongly to the committee.

Mr. DENT. Thank you very much, Senator, as you know, we are hoping to get a bill identical out of both houses because there is not that much difference in language or intent. We hope to have a bill expedited in time for the coming elections. I have no questions. I am very happy that you are taking a lead in the fight. After your comments are over and questions are over, I am going to introduce a statement by Mr. Goldwater.

Senator MATHIAS. It is strongly recommended by Barry Goldwater and Birch Bayh, which indicates the wide ideological support.

Mr. DENT. Mr. Van Deerlin.

Mr. VAN DEERLIN. Are there three quarters of a million citizens who are overseas?

Senator MATHIAS. Maybe more.

Mr. VAN DEERLIN. No further questions, Mr. Chairman.

Mr. DENT. Mr. Wiggins.

Mr. WIGGINS. Senator, the legislation proceeds on the assumption there is an inherent constitutional right for citizens of the United States to vote in all Federal elections. I would like for our record for you to clarify the nature of that constitutional right.

Senator MATHIAS. The right is spelled out in the several amendments of the Constitution which deal with suffrage. It is a right which has traditionally been exercised to the instrumentality of the States and provided for in State laws. But this is a case in which the traditional instrumentality of the States has not really operated satisfactorily in that you have up to 1 million people, perhaps up to 1 million people, but certainly three-quarters of a million disenfranchised by reason of the nature of their employment. Under the provisions of article I of the Constitution it is very clear that the Congress can provide a remedy.

Mr. WIGGINS. It is not absolutely clear to me, that is why I wanted your testimony. The express language of article I, section 2, says I believe, the qualifications for voters or electors, to use the constitutional language, shall be that which are the qualifications for voting in the most numerous branch of the State legislature. The State determines qualifications for voting in the most numerous branch of the State legislature and has required domicile as a precondition for voting. This legislation goes beyond article I, section 2, and says you do not have to have domicile in a State in order to vote. That would seem to be contrary to the language of article I, section 2, and since it does appear to be, I wonder where you find this constitutional right.

Senator MATHIAS. There is an inherent constitutional right of all

citizens to enjoy freedom of movement. It is one of the basic human rights.

Mr. WIGGINS. We are expressing here, Senator—

Senator MATHIAS. I will be glad to interpret your interpretation.

Mr. WIGGINS. I think the Constitution recognizes the principle that the right to vote is an inherent right of natural citizenship and Congress, I think, has both the power and obligation to protect that right under the 14th amendment and under the proper clause.

Mr. DENT. We allow, under the domicile requirement of Pennsylvania, the only thing required is that you have an address you can hang your hat in. But this poor devil overseas has no such chance because at his last domicile in the States he may not have any relatives or friends. It will be tested probably in court.

Senator MATHIAS. I might also refer Mr. Wiggins to the statement the chairman just introduced from Mr. Goldwater, which has an interesting discussion of this legal point in it.

Mr. WIGGINS. Perhaps the only law comes in *Oregon v. Mitchell*, which has to do with the legislating of the right to vote which supercedes the State right in Federal voting. I ask you if you could use *Oregon v. Mitchell* in this? I suppose you would agree.

I am concerned with the congressional findings, some of which I do not know that I agree with. The findings are not necessary to the legislation, are they, Senator, and might we not strike some of those portions that are rather broad?

Senator MATHIAS. Let me first comment on the *Oregon v. Mitchell* case and I do feel in that case Justice Stewart, Chief Justice Burger, and Justice Black give very detailed attention to the question of congressional power to regulate voter regulations. I think we have some judicial guidance here which is helpful. Of course, findings in a bill are never requisite. And I find they usually end up by offending somebody whose support you need. So I think if you can, you should get rid of thinking nonoperative, or which tends to clutter up the landscapes.

Mr. WIGGINS. The sixth finding on page 3, determines there is no compelling State interest in requiring domicile to vote in a Federal election. What do you think of the State interest in having voters be taxpayers in a State, for example? To give an illustration with more meaning to most of our colleagues present, this would authorize a resident who has abandoned his congressional district, has no intent to return to that congressional district, at least an uncertain intent, and is not a domiciliary of the district or the State, to vote in that district even though he is not a citizen of that district, is not counted for reapportionment purposes, for example.

In California, for example, you simply have to be a resident to prove a place of domicile. A U.S. Congressman living in Washington retains his domicile, a man in the military retains his domicile, a person on temporary duty overseas retains his domicile. But some may prefer to abandon that domicile so they will not have to pay taxes. Should they have the privilege of citizenship but not the burden imposed by taxation?

Senator MATHIAS. This is a question that has troubled me and it is one of the things which has helped to disenfranchise the citizens who have substantial earned or unearned income. They get the privilege of

voting only if they submit themselves to State taxation. It causes some to think twice about it.

Mr. WIGGINS. It is prevalent in the movie industry in California. Very high earners elect to take up residence in London or Switzerland.

Mr. DENT. I do not think you have to be worried about them wanting to vote.

Senator MATHIAS. It seems to me, whether or not they contribute to a local school system for which State taxes of most States are largely spent, or they contribute to construction of highways within a State which is another large item and which is a basis for State taxation, whether or not they use such facilities and help to pay for them does not affect the fact that as citizens they have certain rights and privileges, they have certain obligations. I am inclined to look upon voting as an obligation of a citizen as well as a privilege. I think everybody who is part of the body politic ought to contribute his judgment, his views, for the collective good of society, and I am not sure that you can exclude either a recognition of his rights as a citizen, even though he is not a taxpaying citizen, even though he is an absent citizen nor am I sure it is wise to exclude from society the benefit of his judgment and views.

Mr. WIGGINS. In State elections it is all right to do this.

Senator MATHIAS. It is a question of degree as all life is a question of degree. When you are dealing with the Federal Government, to which we associate the broader issues, we should consider a citizen overseas capable of making judgments. When you think of detailed State, and municipal elections his absence may affect his competence to take part in elections.

Mr. WIGGINS. Have you any information as to where these people come from? My question is to try to determine the impact of implementation of this bill on any given area of the country. If, for example, in the greater Washington, D.C. area there are half of these foreign residents, it might have a greater impact.

Mr. DENT. I will give you a partial answer. One of my committees also has jurisdiction over overseas schools. The students and faculties come from all around the United States. Nowhere would they make an impact of any kind in any particular congressional district. Then you have, of course, your great numbers of industry workers who are in the industrial nations, Germany, Italy, France, Great Britain, and Holland. We have in Holland, for instance, something like over 1,700 joint ventures by American companies with Dutch companies. We have altogether something like 8,000 in the Common Market which are joint ventures. I think the largest number will be in these industries which will probably be like our own. If they left any particular district it would be very rare. I doubt if anything we do would result in a determining factor in any congressional election.

Senator MATHIAS. There may be statistics available, but I think the fact that these people are not registered makes it difficult to collect in any one place who they are and where they come from. But my impression is they are drawn from the spectrum of American society. You have churchmen and teachers; there are many lawyers today who practice in foreign countries—sometimes as a foreign branch of American law firms; you have accountants, engineers and all sorts of peo-

ple. They are very widely drawn from this country and I do not think there would be a concentrated effect in any one area.

Mr. WIGGINS. That is all the questions I have, Mr. Chairman.

Mr. DENT. Thank you, Mr. Wiggins.

Mrs. Boggs.

Mrs. BOGGS. Thank you, Mr. Chairman. It is nice to have you here. Naturally all of us are interested in extending the privilege of the franchise to as many Americans as possible. We also have to recognize those people serving overseas do indeed serve the United States in a very special way. Of course, we also have to be concerned about the type of persons Mr. Wiggins has mentioned who have given up their domiciles or residences to avoid the payment of taxes and the obligation of citizenship in their States and districts. Mr. Wiggins asked the two questions that bothered me the most: One, do they have any other responsibilities of citizenship such as paying taxes; and two, can they make value judgments in a congressional district when they get very little information as to what is going on? I found in talking to women's groups overseas they have very, very little information as to what is going on at all. The other questions, if there are 750,000 persons of voting age, they could have a real impact on an election and all 750,000, if they all voted, could have quite an impact on a Presidential election. In implementing this bill would we implement any guidelines, or would there be a limit of time as to how they would be reported, and so on?

Senator MATHIAS. Let me take the latter part of the question first. Of course, what we are trying to establish is the right of citizens to vote in Federal elections. So what we are doing is providing basically for registration. Under section 5 of the bill we say each State shall provide by law for such registration and for the casting of absentee ballots.

So, this would remain a State function, although some standards are established. When we say these citizens are living abroad and whether or not their purpose is to avoid or evade taxation, we are talking about State taxation. I think that should be kept clearly in mind. Among these citizens, who are in all probability carrying a substantial burden of Federal taxation—and it is Federal elections we are talking about their voting in—I think there is a high degree of interest. I am glad you brought up this question, the degree of knowledge they would have as to legislative issues in the United States and political personalities who they might be called upon to think about. There is a high degree of interest on the part of many of these people. Just to give you one example, there is, in Rome, a very large American community and a very many interested people who are very anxious to have the right to vote. I think this could, in fact, be a means of stimulating their active participation in American politics and their active interest in being informed in a more detailed way than may presently be the case. I am sure that I can speak for Mrs. Boggs, who would be among the first, to make certain her constituents registered overseas would receive appropriate information from time to time as to what was happening in the Congress. I think all the rest of us would make a similar provision. This would be a means of not only establishing the right to vote, but of forging stronger ties with these people who do feel a sense of alienation, a sense of distance. That is the type of society we have

created where we have these important national interests which take people abroad and sever them from their normal relationships at home. We cast them adrift in a very large sense but it is obviously in the American interest that they are over there.

Mrs. BOGGS. I would like to say something positive about the wives who have had to accompany the husbands and the husbands who have had to accompany their wives to those jobs.

They have been disenfranchised, too.

Senator MATHIAS. Let us say spouses.

Mrs. BOGGS. Yes.

Mr. DENT. In travels for my other committees we have a dual jurisdiction. We have the schools where we meet all the women who are hepped-up on this; then we meet all the men because we visit all the industries overseas. That is another part of our jurisdiction. I find that the State Department has done a pretty good job on sending out current information. You can pick up a daily recording of the major events which have occurred in the Congress and Wall Street and the business sections of the country. I do not think they are too lacking of what is going on in legislation.

We would like to take you along next time, my dear, and maybe you can find some pretty fine and knowledgeable people in this area.

Mr. VAN DEERLIN. She accepts.

Mrs. BOGGS. I have spoken to several American groups abroad and I find they are amazed at some of the positive things Congress is doing.

Mr. DENT. Much of the American public would be amazed if they were told the truth of what we had done.

Senator MATHIAS. Some are even my constituents.

Mr. DENT. Mr. Butler, I was about to go to Mr. Burton unless you are ready now, sir.

Mr. BUTLER. I am not ready.

Mr. BURTON. I think clearly Congress can legislate in this area; 18-year-olds were voting federally before they were in some States. The question about taxation. Our own beloved Governor at one time did not even contribute to the State Treasury. Do these people pay Federal income tax?

Senator MATHIAS. Yes; they are liable.

Mr. BURTON. I like the legislation and think it meets the constitutional tests and even meets that degree of interest if, in fact, they are Federal taxpayers. We are talking about Federal elections. I do not think you could say those who pay taxes can vote any more than saying only those who own property can vote. It is like whereas clauses in a resolution. They do not do anything but get you nervous.

Mr. DENT. We had a city regulation which said all persons who arrive at the age of 65 are forgiven of all taxes. Of course, they do not earn enough to pay Federal taxes. I hope this would not preclude them from voting in Federal elections. They are some of my best constituents.

Mr. GAYDOS. Why the hurry to take care of these people overseas? I apologize for not reading your statement or the contents of your bill.

Senator MATHIAS. The cost would be very miniscule. The cost of the average absentee registration is about a fourth or maybe an eighth of that of a normal manual clerical registration. If you have to send

registrars around your home county to register persons in schools, county office buildings, that kind of thing, there is a figure, I cannot give it to you off the top of my head, I imagine it is in the range of \$2 to \$3. When you have mail registration it costs 40 or 50 cents per voter. Dollarwise it is a very economical way to deal with registration problems. I am not prepared to—

Mr. GAYDOS. We do have a new classification of the World employee. They worked for the World Bank, for IDA, which is overseas and who would be great beneficiaries of this bill. They do not pay Federal taxes, they pay them no place. My antenna went up when somebody mentioned the community in Italy whereby there is a nice cozy little group sitting over there who would like this legislation very much. I am concerned with uniform thinking among a lot of our people who are permanently overseas and have no intention of coming back. I am not talking about Congress, but the President—where President Kennedy won by 60,000 votes or so in Philadelphia. These groups whether in Italy, Bangladesh, they have no interest that is going on. I am worried and concerned about the fact we are so concerned about taking care of their voting rights we have not done it locally. Are we going to set up a priority? That is what troubles me. It is a practical down-to-earth salty approach to the whole thing. It does not smell right to me. I am scared of those people over there. Afraid might be the better term.

Senator MATHIAS. I would hope we could examine that concern and it could be that a group of citizens would get together in the State of Pennsylvania and so organize themselves in such a tightly knit group, they could influence the election of a Congressman. I think the real right of voters is a right of democracy.

Mr. GAYDOS. Missionaries, for example, their voting rights could be manifested by registration or otherwise, if they are in a state of flux. Now you are talking about, as I see it, the 750,000. You would be talking about a very small percentage spending 10 years or more overseas at one clip. To me, that seems practical and again a down-to-earth approach. I think this group you are speaking of comes back to this country on rotation. Again, I am more concerned in taking care of the voting residents in the 50 States, where I have difficulty, in response to one of the observations, in getting someone registered one block away from the voting poll. He is up in the hospital. Even in spite of all our absentee registration and ballots by mail, we have much difficulty and here we are worried about overseas people.

Senator MATHIAS. I am for postcard registration. I am for it and I think it marches in unison and harmony with this bill.

Mr. GAYDOS. Will it not be inherently unfair if we provided postcard registration for a person in Italy or England or Bombay, and here we have not done it for our own residents.

Senator MATHIAS. I would say to the gentleman, it is never unfair to be fair.

Mr. DENT. You have made the greatest argument in the world for the postcard bill.

Mr. GAYDOS. We are clashing if we talk about who should be taken care of first, your home-grown boys or those over in Italy.

Senator MATHIAS. These are our home-grown boys. It just happens that to keep them on the job, they are told "You take your wife and

family and go overseas for 2 or 3 years." They may not want to be living in Central Africa, but Kelley-Springfield or whatever, has told them, either do that or get off the payroll. These are the hometown boys.

Mr. GAYDOS. Would I be very fair if I were to say I would favor your legislation 1,000 percent if we take care of the whole problem completely?

Senator MATHIAS. That would be very fair, and I would be for you.

Mr. DENT. What do you mean? Put the postcard provisions in this bill?

Mr. GAYDOS. I do apologize with not being familiar with the suggested language in your bill but those are problems that cause difficulty to a lot of people.

Mr. DENT. Where a company has a rotation program, 9 out of 10 times it is on a 3-year basis but when they do get their time back to the States they find themselves with children in school or when working for the oil companies they will go to Italy for their 6-month tour then the next year go to France. So if you had an interval in the bill which stated you have to come back to the United States every 3 years then you would be eligible to vote by postcard registration, or whatever. It will not fit into the plans.

Mr. GAYDOS. I am not prepared to make a declaration—require a declaration, such as that but this is a fair observation, the majority of the 750,000 overseas do find their way into voting some way or another, under the present existing inadequate law. All those registered from Pennsylvania, they vote. Once those who are registered, they vote.

Mr. DENT. Mr. Butler.

Mr. BUTLER. Senator, I apologize for my delay. I will not rehash what has been gone over. If I have some questions I will call you. But I judge from your response to an earlier question, you have made no study of the anticipated cost.

Senator MATHIAS. I do not think there is any reliable study of costs. These costs would primarily be borne by the States.

Mr. BUTLER. That is whatever it would cost. The postage, of course, would be taken care of by the Postal Service.

Mr. DENT. Except for return of the vote.

Mr. BUTLER. Both ways.

Mr. DENT. No; only when you send it out.

Mr. BUTLER. That is correct. Excuse me. It was in the other bill; was it not?

Mr. DENT. That is right, but we changed that language.

Mr. BUTLER. The State Department has some burden.

Senator MATHIAS. Yes.

Mr. BUTLER. Have you read *The Drifters*? A novel about a bunch of kids drifting in Europe and so forth. The reason I ask this question, does it not only protect the employee overseas but also anybody who is overseas for any purpose and it also includes the person who becomes 18 years of age while overseas. He can register under this legislation. Is that your understanding?

Senator MATHIAS. That is my understanding.

Mr. BUTLER. I think that is clear. I just wanted to be satisfied.

Mr. VAN DEERLIN. Will the gentleman yield?

Mr. BUTLER. Yes.

Mr. VAN DEERLIN. There are some drifters who do not get overseas.

Mr. GAYDOS. Will you yield on that point?

Mr. VAN DEERLIN. Yes.

Mr. GAYDOS. Would the dope addict serving a term in Persia be eligible to vote?

Senator MATHIAS. I raise a question as to what happens to drug offenders in Iran and I do not think they would be voting.

Mr. GAYDOS. Is that provided for in your bill?

Senator MATHIAS. No, by a firing squad, pretty much.

Mr. BUTLER. Mr. Chairman, if I may reclaim my time.

Senator MATHIAS. There is only one sentence for that crime in Iran.

Mr. BUTLER. I am interested in your observation that this bill marches in unison with postal card registration. Is this some kind of poster plan that once we get this bill passed then there is the foot in the door for postcard registration?

Senator MATHIAS. No. It is for the benefit of all citizens no matter where they are. Whether bedridden citizens in Virginia, or employees of Exxon in Saudi Arabia. They are citizens and these are all steps which make it easier.

Mr. BUTLER. This legislation does not do anything for the bedridden citizen in West Virginia, does it?

Senator MATHIAS. This does not, but the other would. That is why I say they have some harmony.

Mr. BUTLER. I want also, clarification as to the effect of this legislation on an obligation to pay State income tax. It is my understanding if that obligation exists before this bill is passed, it would exist after the bill is passed.

Senator MATHIAS. That is correct.

Mr. BUTLER. Only to the extent it would ferret out people who are obligated.

Senator MATHIAS. That is right, but it will not create or dissipate obligations which exist.

Mr. BUTLER. I judge that absentee registration is probably the key to that. Those are the—there are people who might have objection to absentee registration in general. There is no way we can cut absentee registration out of this bill and satisfy you?

Senator MATHIAS. That is right because what we are—

Mr. BUTLER. I mention this because of the only other instance I know of is the part of the Voting Rights Act of 1970, which requires absentee registration in Presidential elections for dealing with the 30-day mobility provisions of voting in Presidential elections. I mention this, Senator, because what we do here we are extending the absentee registration to all Federal elections, not only Presidential.

Senator MATHIAS. The gentleman is correct.

Mr. BUTLER. Is it fair to give the right to register and vote in Federal elections to people overseas, when the right is nonexistent in the State, in Federal elections other than Presidential? This is an equal protection under the law. Have you gotten the drift of what I am saying? Everybody does not have the right to vote for every Congressman in every district.

Senator MATHIAS. I think it is a very thoughtful point he has raised. It may be the answer to your concern lies in an amendment to the

Voting Rights Act of 1970, which is within our legislative reach this year; it expires this year.

Mr. BUTLER. At this very moment they are holding meetings on it.

Senator MATHIAS. Perhaps what we ought to do is expand the scope of that legislation rather than contract the scope of this, if what we are trying to do is give the greatest number of people the right to participate in the political duties of American citizens.

Mr. BUTLER. I would still appreciate your view of what would happen if the Congress in its infinite wisdom, failed to extend the voting rights?

Senator MATHIAS. I would think it would be one of those unfortunate anomalies of the law which happen because we are human. But I do not think it would disqualify this act from support. The mere fact some unfairness existed in some other area, will not be any reason to perpetuate unfairness in this situation. If we are going to be committed to provide sovereign remedies for all the oaths of the world simultaneously, not very much is going to be done.

Mr. BUTLER. I yield to the gentleman from California.

Mr. WIGGINS. I just wanted to pin that down, Senator. I intended to go into this aspect of the bill. You do concede if this legislation were enacted and if the provisions of the Voting Act of 1970 are not changed, we would be granting rights to American citizens overseas which are not enjoyed by American citizens at home.

Senator MATHIAS. I do not question, for the sake of our discussion, the legal opinion which the gentleman from California has just given us but I would say, conceding he is absolutely right, I do not see that as being any reason for not supporting this legislation. I think the other legislation may be wrong, but I am not going to predicate my attitude toward this bill on the basis of another bill.

Mr. WIGGINS. If a resident of Maryland moved prior to October 1 to some residence overseas he would be qualified to vote in congressional races as a result of that. If he contrariwise moved from some State, in Maryland for example, my congressional district in California, he would be denied to vote either for or against me or for or against you. In other words, I will not have any right to vote for Congressman or Senator at all.

Senator MATHIAS. That is right.

Mr. DENT. Of course, there is a question which came up before. That is why we have that waiting period. In border cities or border areas, it was not uncommon to start a train across the border or to have floaters coming in across the Allegheny River, when there was a hot election. A man overseas cannot come back to the United States overnight.

Mr. BUTLER. Should we not vote?

Mr. DENT. Yes. The committee appreciates the time and thought you have given to this whole subject and I am happy you were able to come over.

[Senator Goldwater's statement previously mentioned, follows:]

PREPARED STATEMENT OF HON. BARRY GOLDWATER, A U.S. SENATOR FROM THE STATE OF ARIZONA

EXTENDING THE VOTE FOR OVERSEAS AMERICANS

Mr. Chairman, I am delighted at your decision to hold early hearings this year on the important subject of strengthening the voting rights of overseas

citizens. This is one type of election reform which can be handled immediately and simply by Act of Congress, rather than a constitutional amendment, and which can have a favorable impact upon the right to vote of up to one million citizens.

The legislation which your Committee is considering today is in line with a proposal which I first introduced in 1970 and I am happy to join with you in support of this latest effort to clear away unnecessary legal restrictions on the vote.

The legislation which I authored in 1970, and which became law as Section 202 of the Voting Rights Act Amendments of 1970, struck down the durational waiting limits preventing Americans from voting for President and Vice President solely because they had made a change of households before the election. Pertinent to your study today, this law also 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 feature of the latter provision of law was designed to facilitate the vote in Presidential elections for Americans outside the United States.

A survey completed by my office after the 1972 Presidential election turned up proof that this provision was helpful in extending the vote. We found that over 4 million citizens cast Presidential absentee ballots in 1972, a jump of 26% over the 1968 Presidential election. Approximately 150,000 Americans, not including federal employees or servicemen, voted in the 1972 election pursuant to this law while residing abroad.

However, it became clear during the last Presidential election that some States would not extend to Americans outside the United States the kind of interpretation which I and the other sponsors of the 1970 law believed we had made clear should be given to it. For example, New York State refused to permit Americans abroad to vote unless they kept a fixed, permanent home within the State. This meant that an absentee citizen had to be wealthy enough to maintain two homes, one here and one abroad, to vote in New York State.

Also, 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 requirements of the 1970 statute and extend its benefits to citizens who wish to vote in all federal elections, not only for the offices of President and Vice President.

Mr. Chairman, there is no question about Congressional power to protect the right of United States citizens to vote. In this connection, my counsel, Mr. J. Terry Emerson, has prepared a legal memorandum discussing the constitutionality of the legislation before you, and I ask that his paper may be printed at the conclusion of my statement.

In short, I would mention that 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, it is clear that both the right to vote and the freedom to travel are among the privileges of United States citizenship directly dependent on and secured by the Constitution. These principles of Constitutional law are among the grounds on which the Supreme Court, in the case of *Oregon v. Mitchell*, upheld the Constitutionality of the 1970 voting rights amendments as applied to Presidential elections. Consequently, I am convinced that you are on safe ground today in seeking to expand the earlier law to cover voting in Congressional as well as Presidential elections.

Also, in considering the legal issues, I believe you will want to focus on the fact that Americans abroad have a distinct and direct interest in federal elections similar to that of citizens who remain at home. My point is that U.S. citizens overseas have a great interest in decisions and policies acted upon by the two political branches of government and do have a very real stake in being allowed to participate in the political process.

For example, Americans living in a country which has no reciprocal tax treaty would have an obvious interest in securing one and in participating in the election of U.S. officers who will support this interest.

Or, it may be noted that a number of federal programs, involving education, vocational training and public welfare, are generally limited territorially to the United States. Citizens living abroad may well have an active interest in securing the extra territorial application of such programs and in electing officials who will be responsive to their needs.

At my request, the Library of Congress has prepared a compilation of U.S.

laws and treaties affecting our citizens residing abroad and I ask that this paper be printed with your Record of these hearings. It proves beyond any doubt that Americans overseas are affected in numerous and vital ways by policies and programs dealt with by the Executive and Congress jointly and that in acting to secure the franchise for these citizens, Congress is implementing the basic scheme of the Constitution that Americans shall enjoy a representative government whose officers are as responsive as possible to all the people.

Mr. Chairman, in conclusion, I welcome these hearings and endorse your effort to further the voting rights of Americans abroad.

[Appendix A]

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 . . . 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, too, is created by the Constitution and by that alone and indeed it and the Vice Presidency are the only national offices chosen in a nation-wide election. All doubt of the standing accorded this right should be 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 *Burroughs 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 rec-

ognized as being among the "rights" of National citizenship, but also among the "privileges" granted or secured by the Constitution. *In re Quarles, supra*; *Twinning v. New Jersey, supra*. Accordingly, Congress is free to enforce the privilege of voting pursuant to section 5 of the Fourteenth Amendment, the Enforcement Act.

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 (1887).

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. *Hidden 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 "rights 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.*, at 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 *Katzbach 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. H.R. 3211 IS APPROPRIATE LEGISLATION

Applying the above principles to the subject legislation, it is clear H.R. 3211 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.

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 H.R. 3211 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 Subcomm. 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 H.R. 3211 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 resident of that State for voting purposes, Congress has a rational basis for determining that these persons remain bona 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 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 7453.

Taxation:

Agreement for relief from double taxation on earnings derived from operation of ships and aircraft. (Washington, 1950), 1 UST 478; 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 Paz, 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 Belgian 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 REEdmond 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 Washington 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. Exchange 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, 1962. 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.

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 at Tehran July 27, 1960; entered into force July 27, 1960. UST 2163; TIAS 4581; 393 UNTS 338.

Iran

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, 1951. 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 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 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 nonimmigrants. Exchange of notes at London March 12, 1937; applicable to Malta April, 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. 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 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, non-intervention, 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 protocols 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 Belgian 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, Botswana, 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, Daho-

mey, 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, Nepal, 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:

Afghanistan, 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, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Netherlands, 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 Janeiro 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, 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 extra-territorial 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).

- § 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 decedents.
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.

Section A, page 8, provides a civil remedy through the Attorney General; section (b) provides a criminal penalty to be enforced, I presume, by the Department of Justice; section (c) makes it a crime for the person who registers overseas to give false information concerning his eligibility to vote.

Is there anybody who is concerned, other than myself, about the power of the United States to punish an act which may have been committed outside its jurisdiction; namely, overseas?

Mr. DENT. I do not know the legal answer to it, but I would say off-hand as a curbside lawyer, for instance, if a voter overseas illegally took a ballot which did not belong to him and he voted it, he would be in violation of this law no matter where he committed it. Where he committed it has nothing to do with the fact he is operating under an American statute. Therefore, if he violated that statute, he would be in violation of the law.

Mr. WIGGINS. My question is the power of Congress to reach out.

Mr. GUDE. He is physically outside the United States, but his action extends into the United States and affects the elections.

Mr. DENT. He is violating a right which is given to him by a law of the United States. For instance, if he has to pay income taxes to the United States, and he did not pay them, would it make any difference where he was? I think it is a tricky question and ought to be answered.

Mr. WIGGINS. Let us ask our staff to at least look into it.

Mr. DENT. Right.

Mr. WIGGINS. Assuming there is power to punish these acts, you do concede there is a serious enforcement problem; that is, the processes of the local U.S. district court are not going to be able to reach out and punish that man who may be in Germany, for example. In fact, it becomes unenforceable until and if the man returns to the United States. Will you not agree?

Mr. GUDE. That would be a problem. I do not know if this would be appropriate or not. Perhaps if there is a problem as far as this enforcement provision is concerned, you could provide any person registering outside the United States in the statement they signed in certifying their eligibility to vote and so on, they could give consent to prosecution overseas under the terms of this law.

Mr. WIGGINS. Maybe our staff ought to go into that.

Finally, this is more of a political than legal question. The question of fraud. In every State, every voter when registered makes the declaration most probably under the penalty of perjury that the statements are true. There is a system of poll watchers who are assumed to know their neighbors, and if a stranger shows up, they challenge his right to vote. That challenging mechanism is not possible here. Do you think by reason of that there is a chance of multivoting in fraud which would render the registration unacceptable?

Mr. GUDE. This, of course, is a problem in absentee voting in general, to the extent it would apply to this legislation across the board. I had a great deal of skepticism in regard to post card registration. I questioned the officials here in Maryland very closely as to their experience because my county has taken up post card registration and so has the city of Baltimore. The city of Baltimore, in reviewing their experience in using post card registration as opposed to the system set up in the city, found there was less error and fraud when using post card regis-

tration than when they used the election machinery of the city. So I do feel there is no more evidence there would be fraud under an absentee voting system using the post card system.

Mr. WIGGINS. There is less detection of fraud under absentee voting than one which requires the personal appearance of the voter.

Would you have any serious objection if, on page 8, line 20, commencing subsection (b) of Section 6, which makes it a crime punishable by imprisonment or a fine of not more than \$5,000 for any person or attempt to deprive or deprive any person of any right secured by this act shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both.

Would you have any objection to incorporating the words "knowingly or willfully" after the word, "whoever," just as we do in subsection (c) ?

Mr. GUDE. I should think that would be a fair provision.

Mr. WIGGINS. I think so, too.

Mr. DENT. As a sponsor, I will ask the clerk to draft that amendment. I am trying to give rights to some people but I do not want to deprive other people of their rights.

Mr. WIGGINS. Thank you, Mr. Chairman.

Mr. DENT. Mr. Burton, you are not prepared to question at this point, so I will ask Mr. Butler.

Mr. BUTLER. No questions.

Mr. DENT. Mr. Moore, you have listened for a little while.

Mr. MOORE. No questions.

Mr. WIGGINS. Mr. Chairman, do we have another witness here ?

Mr. DENT. Yes.

Mr. BURTON. May I ask one question ?

Mr. DENT. Yes.

Mr. BURTON. Is it safe to assume out of these, say, three-quarters of a million people, most of them are from this area or at least a fair piece ?

Mr. GUDE. A large number of them probably live in California involved in enterprises in the Pacific, probably a great deal in Japan and the perimeter of the Pacific. New York, I dare say, would have a great number. We have a large share of them.

Mr. WIGGINS. May I ask an additional question ?

Mr. DENT. Yes.

Mr. WIGGINS. Just parenthetically, John, as you know, we have a very large and growing community in Guadalajara, Mexico. Senator Mathias was asked to comment on a provision of this bill which is troublesome to him and me, also. The subject we were talking about is that this bill confers greater rights upon citizens overseas than are possessed by American citizens at home to vote in Federal elections. You want to comment on that problem ?

Mr. GUDE. As he gave his answer, I felt my feeling was the same. We cannot right all the inequities in one fell swoop but I think this bill is right and appropriate and I think that inequity or injustice should be looked at, also.

Mr. BURTON. How does it give them greater rights ?

Mr. WIGGINS. For example, a citizen residing in your Congressional District can move to my Congressional District and lose his right to

vote for a Member of Congress; whereas, if he moves overseas, he can vote.

Mr. BURTON. I see.

Mr. DENT. You fellows passed that legislation to keep the Oakies and the Pennsylvania nutpickers from voting.

Mr. BURTON. We have better legislation than that. We have guards at the State borders.

Mr. WIGGINS. We do not stop them all. We have a fair share of Pennsylvania nutpickers.

Mr. BUTLER. We have some from Milwaukee, also.

Mr. DENT. If there are no further questions, we will call upon Mr. Wallace and Mr. Marans. It is a privilege for us to be able to hear from you today.

Mr. Wallace is executive director of the Bipartisan Committee for Absentee Voting, Inc. He is accompanied by J. Eugene Marans, secretary and counsel for the Bipartisan Committee.

Without objection, your statement will be made a part of the record at the conclusion of your remarks. You may proceed.

[Statement of Mr. Wallace follows:]

STATEMENT OF CARL S. WALLACE, EXECUTIVE DIRECTOR, BIPARTISAN COMMITTEE FOR ABSENTEE VOTING, INC. AND BY J. EUGENE MARANS, ESQ., COUNSEL

PREPARED STATEMENT OF CARL S. WALLACE, EXECUTIVE DIRECTOR OF THE BIPARTISAN COMMITTEE ON ABSENTEE VOTING, INC.

INTRODUCTION

My name is Carl S. Wallace, appearing before you today as Executive Director of the Bipartisan Committee on Absentee Voting, Inc. I want to thank you for this opportunity to testify on H.R. 3211 and related overseas voting bills introduced by Representative Dent, the Distinguished Chairman of this subcommittee, and by Congressmen Hays, Frenzel, and Gude. The Chairman of the Bipartisan Committee is J. Kevin Murphy, who is also President of Purolator Services, Inc. Unfortunately, Mr. Murphy had to be in California today, and he apologizes for not being here personally to testify on behalf of the overseas voting bills.

The Bipartisan Committee wholeheartedly supports H.R. 3211 and commends the Subcommittee for expediting consideration of this important legislation. We understand that H.R. 3211 is virtually identical to S. 95, which has recently been introduced by Senators Mathias, Pell, Bayh, Goldwater, Brock, and Roth.

The Senate unanimously passed a similar bill in the last Congress, and the House Administration Committee reported out the Senate bill with minor changes. The full House, however, was unable to act on the bill in the press of business at the close of the session. We are hopeful that both chambers will be able to act favorably on the legislation early in this session.

THE BIPARTISAN COMMITTEE

The Bipartisan Committee was formed in 1965 by overseas leaders for the Democratic and Republic parties. It has a truly bipartisan membership, representing both of our major political parties. Its officers include representatives of both the Democratic and Republican parties. The principal objective of the Committee is to assure the right of absentee registration and voting for American citizens residing outside the United States. A list of the officers and principal constituent organizations of the Bipartisan Committee is attached as Appendix A to this statement (Page 75).

I would like now to introduce J. Eugene Marans, Secretary and Counsel for the Bipartisan Committee, who will discuss in detail the need for new overseas voting legislation, and our views on H.R. 3211.

AMERICANS SERVING THEIR NATION ABROAD

(Remarks of Mr. Marans)

Reliable estimates indicate that there are probably more than 750,000 American civilians of voting age residing overseas.¹ This overseas community of some 750,000 voting-age American civilians is larger than the 1970 population of each of a dozen States, including Delaware, Nevada and New Hampshire. Our studies have shown that nearly all of these overseas citizens 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 civilians 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 the 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.

FORMS OF DISENFRANCHISEMENT

At present, a typical American citizen residing overseas in a non-governmental capacity 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 the state, or raise doubts of voting eligibility of the overseas citizen 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.

Let me give you an illustration of this typical disenfranchised American residing overseas:

"A qualified voting resident left the state a number of years ago to work overseas in a business or professional capacity. His former home in the state has been sold and he now only has a physical residence in a foreign country. He looks upon this as temporary and intends eventually to return to the United States, although he does not know to which state he will return. He may be working overseas for as many as 5 or 10 years. He considers that his last residence before his departure from the state remains his bona fide residence for voting in Federal elections, even though he has no present place of abode within the state and is unable to state an intent to return to the state."

What are his chances for voting in Federal elections back home?

First, would appear that, in every state and the District of Columbia, the typical American citizen overseas 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 the 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 citizen does not retain the state as his voting domicile unless he can prove otherwise.

Second, even if such a citizen could honestly declare an intent to return to the state of his last residence, his chances for voting in federal elections would be improved in only about half of the states. These 29 states—including the District of Columbia—appear to have statutes which expressly allow absentee registration and voting in federal elections for "citizens temporarily residing abroad," *e.g.*,

¹ We have included as Appendix B (p. 76) to this statement the State Department's tabulation of U.S. citizens residing in foreign countries for the fiscal year 1972. This tabulation, which is based on the number of overseas citizens registering with U.S. consulates, shows that there were at least 1.14 million American citizens residing overseas exclusive of U.S. Government employees and their dependents. The Bureau of the Census estimates that in 1970 approximately 68% of the American population was of voting age, *i.e.*, 18 years or older. *Statistical Abstract of the United States 1972* at 8 (1972). We think it is reasonable to conclude, therefore, that at least 750,000 of the American civilians overseas (66% × 1.14 million = 752,400) are of voting age. Civilian in this context means non-governmental.

The most important fact, in any event, is that the number of voting-age American civilians overseas is substantial and continues to grow each year.

citizens residing overseas for a short time who can declare an intent to return to the state:

Alaska	Massachusetts
Arizona	Michigan
Arkansas	Minnesota
California	Mississippi
Colorado	Montana
Connecticut	Nebraska
Delaware	New Mexico
District of Columbia	North Dakota
Florida	Oklahoma
Georgia	Oregon
Hawaii	Tennessee
Idaho	Texas
Iowa	Washington
Kansas	Wyoming
Maryland	

Even in some of these 29 states, however, the absentee registration for such citizens may be ambiguous.

Third, 12 states appear to have statutes which generally allow absentee registration and voting in federal elections, but which do not have specific provisions governing non-governmental overseas voters. Many of these 12 states impose burdensome residency requirements, including in some cases maintenance of a home or abode in the state. The New York State statute is one of the most burdensome in this regard:

Indiana	New York
Kentucky	South Dakota
Maine	Utah
Missouri	Vermont
Nevada	West Virginia
New Hampshire	Wisconsin

Fourth, 8 states appear to have statutes which allow absentee voting, but not absentee registration, by non-governmental overseas voters in federal elections. Many of these states also have burdensome residency requirements:

Illinois	Rhode Island
New Jersey	South Carolina
North Carolina	Pennsylvania
Ohio	Virginia

Fifth, two states—Alabama and Louisiana—require that all non-governmental overseas voters register and vote in person.

The situation with respect to Presidential elections has been ameliorated somewhat as the result of the efforts of Senators Goldwater and Pell, during the debate on the Voting Rights Act Amendments of 1970 (sometimes referred to herein as the "1970 Amendments"). However, it appears that, in the 1972 election, only a few states—such as Connecticut and Illinois—specifically allowed an overseas citizen to vote for President solely on the basis of the Goldwater-Pell legislative history. Even these few states required the voter to be able to prove a definite intent to return to the state. The statement of the U.S. Chamber of Commerce, which we fully support, explains the keen disappointment of thousands of private American citizens overseas in seeking to vote in the 1972 Presidential election.

It should be noted that 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 overseas. 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 result is continuing discrimination in favor of government personnel and against private citizens overseas in seeking access to the federal franchise. Such discrimination certainly appears questionable as a matter of public policy, and may very well be suspect under the Equal Protection Clause of the Fourteenth Amendment.

INITIAL EFFORTS TO ENFRANCHISE AMERICANS OVERSEAS

The Voting Rights Act of 1965, the 1970 Amendments and the 26th Amendment to the Constitution have been major breakthroughs in providing effective instruments to meet the problem of discrimination against millions of American voters previously disenfranchised either by race, age or residence. As I have mentioned, the U.S. citizen abroad may have been an unexpected beneficiary of the 1970 Amendments, but in general, none of these landmark pieces of legislation has clearly resolved the problem of American citizens residing abroad.

The enfranchisement of Americans residing abroad in a non-governmental 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 and 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 29 states—including 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 earlier concerning the voting eligibility of citizens residing abroad. Confusion regarding the definition of "residence" under the law of each state remains a major obstacle to the re-enfranchisement of citizens residing abroad, even in those states which have adopted the legislation recommended in the Federal Voting Assistance Act, as amended. Moreover, some states have interpreted the meaning of the word "temporarily" in this 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, Senator Barry M. Goldwater 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. 116 Cong. Rec. 3539 (daily ed. March 11, 1970). The Senator viewed Title II as obliging the states to provide absentee registration and voting in Presidential elections for Americans abroad who satisfied a domicile test (*i.e.*, intent to return). While this interpretation received favorable consideration by a few states, the 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 abroad. 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 overseas.

The Justice Department also expressed the view, in a March 13, 1972 letter to the Bipartisan Committee, that the legislative history of Title II may not be sufficient to reach the domicile or bona fide residency question for such a citizen. The Justice Department letter stated, in pertinent part, that:

"In light of the general reservation of power to the states to determine voting qualifications, we do not consider it appropriate to assume Congressional intent to preclude the states from having a requirement of bona fide residency, or to enact a federal standard for measuring bona fide residency, in the absence of clear and unequivocal language."

We have attached the Justice Department letter as Appendix C to this statement (p. 78).

The United States District Court for the Southern District of New York also considered the question, in *Hardy v. Lomenzo* (Oct. 2, 1972), whether the 1970 Amendments could limit a state's statutory standards of bona fide residence, such as the New York State requirement that the overseas non-governmental voter maintain in a fixed, permanent and principal home in the state. 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." We have attached this District Court opinion as Appendix D to this statement (p. 80).

The *Hardy* decision was not appealed, in large part because there was an indication that the case would have been dismissed as moot on appeal. Even if the case had reached the Supreme Court, it was expected that the Justice Depart-

ment would support the District Court decision for the reasons stated in the March 13, 1972 Justice Department letter attached as Appendix C hereto.

In sum, during the period in which Congress has gone to great lengths, including a constitutional amendment, to enfranchise millions of Americans—the black, the young, those in official government service—American citizens residing overseas, who are in the private sector, continue to be excluded from the democratic process of their own country.

TWFOLD PROPOSAL: PRESERVATION OF VOTING DOMICILE AND DEVELOPMENT OF ABSENTEE REGISTRATION AND VOTING PROCEDURES

As I said at the outset, the Bipartisan Committee on Absentee Voting strongly favors H.R. 3211 and related overseas voting bills pending before this subcommittee. The first priority for American civilian voters overseas is to require, in clear and unmistakable statutory language, that private American citizens overseas be allowed 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. Both of the pending bills would satisfy this legislative need.

This is the heart of the matter. The checkerboard pattern of domicile rules among the states should no longer be permitted to deny private American citizens overseas the franchise in federal elections. Unless Congress paints with a broad brush, these citizens may continue, year after year, to be denied the right to register and vote absentee in elections for President and for the Congress.

The pending bills also deal effectively with the second legislative need of private American voters overseas, which is the adoption of uniform absentee registration and voting procedures covering these voters in federal elections. The bills would, in effect, require the states to provide the same absentee registration and balloting procedures for these overseas citizens in federal elections as the states provide in Presidential elections under the 1970 Amendments for citizens residing in this country. One of the most important of these provisions would require election officials to mail out balloting material as promptly as possible after receipt of a properly completed application.

We also fully support the provision in the bills assuring that federal and state governments would not seek to impose income or inheritance taxes on an overseas citizen *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.*

The provision is not meant to create any new tax exemption for the overseas citizen. It is designed only to assure that he will not be subjected to federal or state tax liability solely by registering and voting absentee in federal elections.

WHY CONGRESSIONAL ELECTIONS?

We strongly support the provisions of the pending bills assuring the right of American citizens residing overseas to vote in Congressional elections as well as in Presidential elections. It is plain from other testimony before this subcommittee that Americans residing overseas possess both the necessary interest and the requisite information to participate in the selection of Senators and Congressmen back home.

First, one must recognize that Congress is concerned with the common legislative questions of the entire nation, along with the specific legislative interests of each district. It is conceded that the local inhabitants of the district may not have the same bundle of interests as citizens residing overseas. The local citizen may be more interested in regional farm prices, the closing of a naval base, the construction of a new highway. Yet the citizen overseas also has his bundle of Congressional interests. The overseas citizen may be more interested, for example, in the exchange rate of the dollar, social security benefits, or immigration policy.

It is plain, moreover, that the local citizen and the overseas citizen share a number of common national interests, such as federal taxation, defense expenditures (*e.g.*, U.S. troops stationed overseas), inflation, and the integrity and competence of our national government.

We believe that U.S. citizens residing overseas should not be denied access to the ballot for Congress, and that Congress should not be deprived of the votes of American citizens residing overseas.

Second, ample evidence has been presented in these hearings that the U.S. citizen overseas can and does keep up with political developments in his own state, and would be encouraged to do so even more if he were unequivocally given the right to vote in federal elections. Americans overseas are by and large a well-educated and highly literate group, and from my own experience, I would venture to say that they are generally as well informed about important issues back home as the average citizen residing in the United States.

This subcommittee knows that legislative representation is a two-way street. If private citizens overseas have no vote for Congress, they have no representation in Congress. No legislator is directly responsible at the ballot box for their welfare. The American Senators and Congressmen, as you well know, long ago became our national ombudsmen. The American citizen not only wants to learn about the actions taken by his Congressman, but also wants to be able to make the Congressman aware of the citizen's interests, concerns and problems.

FRAUD PROVISIONS

The Bipartisan Committee believes that the potential of voting fraud in the implementation of the pending legislation is remote and speculative. You are aware, of course, that both of the pending bills provide \$10,000 fine and five years' imprisonment for willfully giving false information for purposes of absentee registration and voting under the mechanisms set forth in the legislation.

As noted by Senator Mathias, the Federal Voting Assistance Task Force of the Department of Defense has not reported a single case of overseas voting fraud through the use of the Federal Post Card Application in the entire 19 years that this form has been recommended by Congress.

It is evident, I think, that if someone wanted to commit voting fraud, the mechanisms provided by these bills would hardly be the way to do it. Many of the states require notarization by a U.S. official of at least one of the voting documents. The voter generally must 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 an 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 trek down the U.S. consulate once again for this purpose.

One can be confident that a U.S. citizen who has any continuing contacts with the United States, even without a stated intent to return to this country, is not casually going to risk an indictment for voting fraud. Extradition treaties do not generally cover voting fraud. However, if a citizen under indictment did not want to stand trial in the United States, he might well be obliged to remain a lifelong international fugitive, forever inhibited from entering the United States. There are of course constitutional problems in denying a U.S. citizen residing abroad his passport, social security or certain other benefits prior to a conviction. But I think it is evident that a citizen indicted on voting fraud charges could be subject to significant administrative sanctions by U.S. consular officials and various other federal agencies even before conviction.

CONSTITUTIONALITY

The distinguished constitutional lawyer, Nathan Lewin, has given the Privileges and Elections Subcommittee of the Senate Rules and Administration Committee his opinion that if the comparable bill which passed the Senate last year were subjected to constitutional challenge after enactment, the Supreme Court would have an appropriate constitutional basis on which to uphold the legislation. We have attached Professor Lewin's opinion as Appendix E to this statement (p. 84).

SUPPORT FOR THE LEGISLATION

The bills pending before this subcommittee have generated tremendous enthusiasm and support from American citizens residing in all parts of the world. Hundreds of these citizens have sent letters and returned questionnaires stating their support of the legislation and detailing their individual voting problems. The large number of business, civic, professional and religious

organizations represented at these hearings gives further indication of the desire for this legislation.

SUMMARY

In sum, I think we will see from these two days of hearings that—

1. There is a need for the pending legislation.
2. The legislation is constitutional.
3. The legislation has the overwhelming support of American citizens around the world, and in American business, civic, professional and religious communities, as well as from the election officials who have had an opportunity to review the bills.

American citizens overseas have been denied the vote too long. They suffered great disappointment in seeking to vote in the 1972 Presidential election. Their hope for future participation in the national political process rides on favorable action on the bills pending before this subcommittee.

We are gratified at your concern in holding these hearings and respectfully urge that legislation along the lines of H.R. 3211 will be adopted in time to allow all 750,000 U.S. private citizens overseas of voting age to participate fully in the Bicentennial elections.

Appendix A

BIPARTISAN COMMITTEE ON ABSENTEE VOTING, INC.

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Secretary/Treasurer/Counsel

J. Eugene Marans.

Executive Director

Carl S. Wallace, Corporate Vice President, Purolator, Inc.

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Alfred E. Davidson, Wilmer, Cutler & Pickering.

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Korea.—H. E. O'Neill.

Mauritius.—Julian P. Fromer.

Mexico.—Carl D. Ross, John E. Smith, Jr.

Netherlands.—G. Russell Pipe.

Spain.—Brigham Day.

Thailand.—Ralph C. Lambert, Martin McClintock.

United Kingdom.—Anthony Hyde, V. W. Warren Pearl.

Affiliated Organizations

American Club of Madrid, American Club of Paris, Association of Americans Resident Overseas, Baptist Joint Committee, Board of Global Ministries, Catholic

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James Trowbridge, The Ford Foundation.
Bishop Paul A. Washburn, The United Methodist Church.
Walter Whitmyre, IBM—Taiwan.
James E. Wood, Jr., Baptist Joint Committee of Public Affairs.

TABLE 1

Appendix B

DEPARTMENT OF STATE

U.S. CITIZENS RESIDING IN FOREIGN COUNTRIES, FISCAL YEAR 1972

Countries dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
Afghanistan	182	307	296	785
Algeria	22	28	650	700
Angola	4	4	361	369
Arab Republic of Egypt	20	49	1,218	1,287
Argentina	128	266	4,880	5,274
Australia	102	975	35,464	36,541
Austria	157	274	8,095	8,526
Bahamas	27	200	5,227	5,454
Bahrain ²	1	173	748	922
Barbados	36	162	1,610	1,808
Belgium	410	3,596	14,250	18,256
Bermuda	217	1,204	7,900	9,321
Bolivia	92	218	560	870
Botswana	10	11	250	271
Brazil	534	803	22,735	24,072
British Honduras	6	6	410	422
Bulgaria	22	26	100	148

Countries dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
Burma	47	60	36	143
Burundi	11	17	94	122
Cambodia (see Khmer Republic)	43	61	369	473
Cameroon	384	5,556	267,000	272,940
Canada	9	15	185	209
Central Africa Republic	36	54	195	285
Ceylon	69	21	88	178
Chad	93	267	2,866	3,226
Chile	228	495	13,096	13,819
Colombia	58	151	6,488	6,697
Congo (see Zaire)	76	416	619	1,111
Costa Rica	24	43	635	702
Cyprus	65	27	70	162
Czechoslovakia	47	121	4,179	4,347
Dahomey	196	336	7,300	7,832
Denmark	287	547	3,700	4,534
Dominican Republic	77	161	1,705	1,943
Ecuador ²	338	2,034	1,850	4,222
El Salvador	10	22	1,177	1,209
Equatorial Guinea	41	98	760	899
Ethiopia	467	797	23,106	24,370
Fiji Islands	3	7	150	160
Finland	8	10	79	97
France	4	5	76	85
French West Indies	6,762	156,349	63,732	226,843
Gabon	84	135	950	1,169
Gambia	295	3,587	34,920	38,802
Germany	136	294	9,505	9,935
Ghana	16	11	70	97
Greece	29	49	401	479
Guatemala	43	61	3,209	3,313
Guinea	29	49	5,150	5,577
Guyana	183	244	5,500	5,892
Haiti	118	37	510	571
Honduras	24	1,733	400	2,215
Hong Kong	82	709	4,209	5,265
Hungary	347	49	3,290	3,772
Iceland	168	314	7,660	9,087
India	299	1,128	10,235	10,683
Indonesia ²	14	434	50,000	50,201
Iran	67	134	65,515	80,628
Ireland	692	14,421	65,515	80,628
Israel	53	80	537	670
Italy	38	69	6,000	6,107
Ivory Coast	3,847	32,950	23,091	59,888
Jamaica	30	27,493	156	27,493
Japan ¹	41	36	3,724	4,464
Ryukyu Islands	441	299	10	94
Jordan	62	22	5,165	9,201
Kenya	26	45	925	996
Khmer Republic (Cambodia)	725	936	166	1,827
Korea	110	302	4,937	5,349
Kuwait	7	10	149	166
Laos	197	463	3,758	4,418
Lebanon	32	42	2,928	3,002
Lesotho	34	75	640	749
Liberia ²	11	12	478	501
Libya	35	39	520	594
Luxembourg	58	215	2,055	2,328
Madagascar	40	24	105	169
Malawi	18	26	700	744
Malaysia	5	7	5	17
Mali	9	15	38	62
Malta	311	645	97,985	98,941
Mauritania	234	1,956	796	2,986
Mauritius	5	11	92	108
Mexico	99	163	422	684
Morocco	131	3,050	9,050	12,231
Mozambique	6	13	1,450	1,469
Nepal	35	333	4,500	4,868
Netherlands	73	171	2,900	3,144
Netherlands Antilles	106	32	128	266
New Zealand	185	380	3,418	3,983
Nicaragua	70	603	9,000	9,673
Niger	203	343	1,341	1,887
Nigeria	116	2,616	4,513	7,245
Norway	68	173	730	971
Pakistan ²	276	319	9,000	9,595
Panama				
Paraguay				
Peru				

TABLE 1—APPENDIX B—DEPARTMENT OF STATE
U.S. CITIZENS RESIDING IN FOREIGN COUNTRIES, FISCAL YEAR 1972—Continued

Countries dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
Philippines.....	1,273	20,051	20,723	41,597
Poland.....	52	96	5,800	5,948
Portugal.....	181	2,976	5,438	8,595
Azores.....	152	190	10,800	11,142
Romania.....	23	59	134	216
Saudi Arabia.....	5	11	80	96
Senegal.....	82	234	6,032	6,348
Sierra Leone.....	49	71	207	327
Singapore.....	200	17	328	545
Somali Republic.....	50	118	7,300	7,468
South Africa, Republic of.....	16	23	93	132
Soviet Union.....	52	118	7,360	7,530
Spain.....	79	162	160	401
Sudan.....	535	15,778	27,700	44,013
Surinam.....	11	17	48	76
Swaziland.....	5	7	229	241
Sweden.....	12	25	262	299
Switzerland.....	46	117	3,900	4,063
Taiwan.....	109	198	21,600	21,907
Tanzania.....	369	7,009	3,603	10,981
Thailand.....	46	84	1,300	1,430
Togo.....	920	6,185	8,645	15,750
Trinidad and Tobago.....	82	17	78	177
Tunisia.....	9	44	1,326	1,379
Turkey.....	72	148	393	613
Uganda ²	350	7,219	2,389	9,958
United Kingdom.....	42	58	791	891
Upper Volta.....	1,054	31,190	67,460	99,704
Uruguay.....	14	24	156	194
Venezuela.....	67	179	902	1,148
Vietnam.....	111	392	15,183	15,686
Yemen ²	2,054	242	7,500	9,796
Yugoslavia.....	4	6	20	30
Zambia.....	64	136	3,246	3,446
Zaire.....	16	33	1,000	1,049
Other:	218	318	2,852	3,388
Leeward Islands.....		117		117
Marshall Islands.....	64	40		104
Undistributed.....	8	40		48
Grand total.....	31,612	369,820	1,141,606	1,543,038

¹ Includes employees at Ryukyu.

² 1971 figures used because the 1972 figures were not available.

³ 1970 figures used because new figures unavailable.

Appendix C

DEPARTMENT OF JUSTICE,
ASSISTANT ATTORNEY GENERAL,
Washington, D.C., March 13, 1972.

J. EUGENE MARANS, Esquire,
Cleary, Gottlieb, Steen and Hamilton, 1250 Connecticut Avenue NW., Wash-
ington, D.C.

DEAR MR. MARANS: This is in response to your discussion with members of my staff on February 1, 1972, and your letter of February 3, 1972, concerning the Voting Rights Act Amendments of 1970, 42 U.S.C. 1973aa-1, particularly the provisions of Sections 202(d) and (f) pertaining to absentee registration and absentee balloting in presidential elections. As counsel for the Bipartisan Committee on Absentee Voting, you have asked whether, in our judgment, the 1970 Amendments require a state to provide absentee registration procedures and absentee ballots to former residents of that state now temporarily residing abroad.

In brief, our conclusions are (1) that the 1970 Amendments do not *per se* preclude a state from applying a requirement of residency to those seeking to register within that state and (2) that the question of whether a person outside a state is a resident of that state for voting purposes is, at least in the first instance, a question of that state's law.

The United States Constitution reserves to the federal government the power to regulate the time and manner of federal elections (Article I, section 2; Article I, section 4; Article II, section 1) while reserving to the states the power to determine voter qualification. (*Beachman v. Brateman*, 300 F. Supp. 182 (S.D.

Fla.), affirmed 396 U.S. 12 (1969); *Lassiter v. Northhampton County Board of Elections*, 360 U.S. 45, 50-51 (1959)). Traditionally, this right has included the power to determine bona fide residency. (*Hall v. Beals*, 396 U.S. 45, 53 (1969) (Marshall, J., dissenting); *Carrington v. Rash*, 380 U.S. 89 (1965)). The Congress and the states acting together have, through the amendment process, placed additional restrictions on the powers of the states so that they may not now establish procedures violative of the equal protection clause nor deny or abridge the right to vote on account of race, color, or sex or age if the age is eighteen or more. Legislation passed by Congress to implement the equal protection clause and the voting amendments, such as the suspension of literacy tests, has placed additional limitations on the powers of the states. It is with this constitutional scheme in mind that we must look to the 1970 Amendments to determine what, of any, limitations Congress placed upon the traditional right of the states to determine voter qualifications.

At the beginning, it is necessary to distinguish between two general types of voter qualifications, durational residency requirements and bona fide residency. The former require an individual to have resided in a certain state or political subdivision for a specified length of time before he can be qualified to vote, while the latter is a determination of whether an individual is a bona fide resident of the state or political subdivision regardless of the length of his residency.

Congress expressly dealt with durational residency requirements in Section 202(c) of the 1970 Amendments (hereafter cited by section only) by prohibiting a state from imposing such a requirement to deny or abridge the right of a citizen otherwise qualified to vote in a presidential election. The Amendments provide that applications for registration or other means of qualification must be accepted up to the 30th day before the presidential election. (Section (d)). The limitation of this section, however, does not supersede the power of the states to require a citizen to be a bona fide resident of that particular state as a qualification for registration and voting in that particular state.

Section (e) is, to a limited extent, a restriction on the power of the states to require bona fide residency as a condition to obtaining a ballot. Under that Section, when a citizen moves from one state or political subdivision to a new state or political subdivision within 30 days of a presidential election and is unable to register at his new residence because the registration deadline has passed, he must be allowed to vote, either in person or absentee, in the place of his former residence. Section (e) did not expand or qualify the concept of bona fide residency in any other manner.

With regard to the absentee provisions, Section (c) provides that if a citizen of the United States has complied with the requirements of state law providing for the casting of absentee ballots, no state may deny such citizen the right to vote in a presidential election because of his failure to be physically present in such state or political subdivision at the time of such election. A state is, accordingly, prohibited from restricting the availability of absentee ballots to persons or classes absent for particular purposes, but this language does not appear to preclude a state from establishing bona fide residency as a requirement for obtaining an absentee ballot in that state.

Sections (d) and (f) establish standards for absentee registration and the casting of absentee ballots. Under Section (f), each citizen "who is otherwise qualified to vote by absentee ballot in any State or political subdivision" in an election for electors for President or Vice-President must be given the opportunity, if registration or other qualification is necessary, to register or qualify absentee. The provision applicable to absentee balloting, Section (d), requires each state to provide procedures for the casting of absentee ballots by "all duly qualified residents of such state" who will be absent from the state on election day and who have applied for an absentee ballot not later than seven days prior to a presidential election and return the ballot up to the time of the closing of the polls.¹

Since anyone who is qualified to vote absentee may also register absentee, we must look to Section (d) to determine which citizens are covered by the absentee provisions of the Amendments. This Section requires the state to provide absentee ballots to each "duly qualified resident of such state." While Sections (c) and (e), by prohibiting durational residency requirements, as discussed above, expressly limit the power of the states in certain situations, there

¹ Section (g) provides generally that any state or political subdivision may adopt voting procedures which are less restrictive than those contained in Section 202.

is no language in Section (d) placing additional limitations on the right of the states to ascertain the residency of an individual. Since there is no language in Section (d) restricting the states' right to determine bona fide residency, we must, under this Section, follow the constitutional scheme of reserving to the states the power to determine which citizens are "duly qualified residents" according to state law.

From our reading of the legislative history of the 1970 Amendments, it appears that Senator Goldwater was, among other things, concerned with instances in which states did not accord civilians the same absentee registration and voting privileges they gave military personnel. However, in light of the general reservation of power to the states to determine voting qualifications, we do not consider it appropriate to assume Congressional intent to preclude the states from having a requirement of bona fide residency, or to enact a federal standard for measuring bona fide residency, in the absence of clear and unequivocal language. While a state may not conclusively presume that a certain class of citizens may never be considered bona fide residents, each state must determine, on a case-by-case basis, the true intent and residency of the individual requesting to register absentee or obtain an absentee ballot. (See *Carrington v. Rash, supra.*) Under Sections (c), (d) and (f) a state may not deny absentee registration procedures and absentee ballots to individuals outside the country if such person has been determined by the state or local officials to be a "duly qualified resident of such state."

Sincerely,

DAVID L. NORMAN,
Assistant Attorney General,
Civil Rights Division.

Appendix D

HARDY v. LOMENZO

Cite as 349 F. Supp. 617 (1972)

JACK G. HARDY AND RALPH S. VON KOHORN ON BEHALF OF EACH AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS,

v.

JOHN P. LOMENZO, SECRETARY OF STATE OF THE STATE OF NEW YORK, ET AL.,
DEFENDANTS

No. 72 Civ. 3965

UNITED STATES DISTRICT COURT, S.D. NEW YORK, OCT. 2, 1972

ON REARGUMENT OCT. 18, 1972

Action was brought for declaratory relief in regard to the plaintiffs' right to participate in the presidential election. The District Court, Cannella, J., held that the Voting Rights Act of 1970 while abolishing durational residency requirements in no sense abrogates the rights of the several states to enact bona fide residence requirements, that the word "deemed," in the New York Election Law provision relating to qualifications of voters and requiring state residency creates a presumption only, which is effective only on presentation of suitable evidence of continued residence, and that the statute did not abridge the plaintiffs' constitutional rights.

Complaint dismissed.

New York Civil Liberties Union, by Burt Neuborne, New York City for plaintiffs.

Louis J. Lefkowitz, Atty. Gen., of the State of New York, by A. Seth Greenwald, Asst. Atty. Gen., New York City, for defendants Rockefeller and Lomenzo and pro se.

John J. S. Mead, Westchester County Atty., by John J. Sherlock, Senior Asst. County Atty., White Plains, N.Y., for defendants Van Wart and Hayduk, Commissioners of the Westchester County Board of Elections.

CANNELLA, District Judge.

This matter came originally before the Court on motion of plaintiffs for an

order, pursuant to Title 28 U.S. Code Section 2281 and 2284, convening a statutory three judge court to hear and determine this action or in the alternative for appropriate relief declaring plaintiffs' rights and the defendants' responsibilities herein. On the hearing plaintiffs withdrew the request for a three judge court, and submitted the case to this court with the stipulation that declaratory as opposed to injunctive relief is sought.

The plaintiff's claims are that defendants' refusal, under color of Sections 150 and 151(b) of the New York Election Law, McKinney's Consol. Laws, c. 100, to permit plaintiffs to participate in the November 7, 1972 Presidential election is violative of plaintiffs' rights under the First and Fourteenth Amendments to the Constitution of the United States; and that defendants' refusal, under color of Section 151(b) of the New York Election Law to permit plaintiffs to participate in the Presidential election abridges their right to participate in the electoral process in violation of the Voting Rights Act of 1970 (42 U.S.C. § 1973aa-1).

Defendants Rockefeller and Lomenzo and the New York Attorney General, on their part, move for an order pursuant to Rules 12(b) (1) and (6) of the Federal Rules of Civil Procedure, dismissing the complaint upon the grounds that the court lacks jurisdiction, and further that the complaint fails to state a claim upon which relief may be granted and that the complaint is banned by laches.

The motion addressed to the court's jurisdiction is without substantiation and is denied. The motion based on laches although of some merit also is denied. That part of the defendants' motion which is addressed to the sufficiency of the complaint is granted for reasons hereafter discussed.

The facts as taken from the submitted papers are as follows: Plaintiff, Von Kohorn resided in Westchester County, New York, from 1938 to 1963 when he moved from Westchester County to New Zealand where apparently he has since remained, except for a visit to the Westchester County Board of Elections on or about April 11, 1972 where he submitted an application for absentee registration which was on the same day rejected. He abides in New Zealand and his future domiciliary plans are uncertain but he does wish to vote in the 1972 Presidential election.

Plaintiff, Hardy, resided in Scarsdale, Westchester County, New York, until December 1964 when he moved to Brazil because of business obligations. He intends to return to Westchester County upon completion of his business obligations but has no nexus with New York or the county except that he maintains a telephone listing at his mother's home in Westchester. His request for absentee registration to vote in the 1972 Presidential election was rejected by the Westchester County Board of Elections early in 1972.

[1] The claim of Von Kohorn may be disposed of summarily. After a temporary residence in Westchester County, New York, he moved to Wellington, New Zealand. The reason for his move is not assigned and he evinces no intention ever to return to New York, or, indeed, to the United States. His expressed desire to vote in the 1972 Presidential election gives him no grievance against the defendants or any of them. He is for the purposes of the present record a resident in Wellington and so far as known intends so to remain.

Hardy's claim requires an examination of the statutes here involved. New York Election Law Section 151(b) provides as to residence for the purpose of registering and voting:

"(b) As used in this article, the word 'residence' shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return."

[2] The question first to be considered is whether or not the Voting Rights Act of 1970, 42 U.S.C. § 1973aa-1, is preemptive of that definition. The avowed purpose of the Voting Rights Act is to abolish durational residency requirements as a precondition to voting for the offices of President and Vice President and to prescribe uniform opportunities for absentee registration and absentee balloting in presidential elections. 42 U.S.C. § 1973aa-1 (a), (b); *Oregon v. Mitchell*, 400 U.S. 112, 134, 236, 286, 287 (1970). The rationale is that the imposition of parochial durational residency requirements unreasonably burdens the privilege of taking up residence in another state. It seems clear, however, that the Voting Rights Act did not intend to abrogate the power of the several states to define residence so as to insure that voting be limited to bona fide residents. The sole exception is found in 42 U.S.C. § 1973aa-1, Subd. (e) which permits persons moving within 30 days prior to election to vote in the State of prior residence.

Thus, with particular reference to the present case the Voting Rights Act, 42 U.S.C. § 1973aa-1(c), provides:

" . . . nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election. (Emphasis supplied).

Similarly, subdivision (d) provides:

"For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State . . . ; and each State shall provide by law for the casting of absentee ballots . . . by all duly qualified residents of such State who may be absent . . ." (Emphasis supplied).

Plaintiffs urge that the emphasized phrases of the Act should be ignored in its construction, but the court cannot take the view that this recurrent language was inserted into the Act without meaning. If, as suggested the language is inadvertent, the remedy lies with the legislature and not in judicial elision.

The court finds that the Voting Rights Act of 1970 while abolishing durational residency requirements, in no sense abrogates the rights of the several states to enact bona fide residence requirements. The distinction is clearly recognized in *Dunn v. Blumstein*, 405 U.S. 330 at 343, 92 S.Ct. 995 at 1003-1004, 31 L.Ed.2d 274 (1972).

" . . . We emphasize again the difference between bona fide residence requirements and durational residence requirements. We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision. E.g., *Evans v. Corman*, 398 U.S. 419, at 422, 90 S.Ct. 1752, 26 L.Ed.2d 370; *Karmer v. Union Free School District*, *supra*, 395 U.S. 621, at 625, 89 S.Ct. 1886, 23 L.Ed.2d 583; *Carrington v. Rash*, 380 U.S. 89, at 91, 85 S.Ct. 775, 13 L.Ed.2d 675; *Pope v. Williams*, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904). An appropriately defined and uniformly applied requirement of bona fide residence may be necessary to preserve the basic conception of a political community, and therefore could withstand close constitutional scrutiny. But *durational* residence requirements, representing a separate voting qualification imposed on bona fide residents, must be separately tested by the stringent standard. Cf. *Shapiro v. Thompson*, *supra*, 394 U.S. 618, at 636, 89 S.Ct. 1322, 22 L.Ed.2d 600. (Emphasis in original.)

[3] The court finds that the defendants' refusal under Section 151(b) of the New York Election Law, to permit plaintiffs to participate in the 1972 Presidential election does not abridge the plaintiffs' rights under the Voting Rights Act of 1970.

This conclusion requires consideration of plaintiffs' remaining claims namely, that defendants' refusal under color of Sections 150 and 151(b) of New York Election Law, to permit plaintiffs to participate in the November 7, 1972 Presidential election denies them equal protection of the laws and abridge their privileges and immunities in violation of the Fourteenth Amendment of the United States Constitution and abridges their right to participate in the electoral process in violation of the First Amendment.

New York Election Law, Section 150, relates to qualifications of voters requiring among other things residency of the State. The definition of "residence" is set forth in Section 151(b) and is quoted above. Plaintiffs' memorandum makes clear, however, that the claim of unconstitutionality derives from New York Election Law, Section 151(b), which provides, in part, as follows:

"(a) For the purpose of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison . . ." (Emphasis Supplied).

[4, 5] The argument in that "no rational basis exists for such an arbitrary discrimination which acts to disenfranchise Americans residing abroad simply because they are employed in a private rather than a governmental capacity".

In the opinion of the court, however, no such arbitrary discrimination is made. The word "deemed", given proper cognizance, creates a presumption only and the further provisions of the quoted subdivision make it clear that the presumption is effective only upon presentation of suitable evidence of continued residence. Thus:

" . . . Any person applying for registration who claims to belong to any class of persons mentioned in this section shall file with the board taking his registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong . . . "

The court finds that the New York statutory requirements serve a legitimate purpose in seeking to ensure that voters be bona fide residents and do not discriminate against or abridge the plaintiffs' rights under the Constitution of the United States. The complaint, accordingly is dismissed.

So ordered.

ON REARGUMENT

The motion to reargue is granted and on reargument the court adheres to its opinion of October 2, 1972. For the purposes of reargument, the court by order of October 12, 1972, on consent granted the application of United States Senator Barry Goldwater to intervene *amicus curiae* in behalf of plaintiffs and has considered the brief submitted in his behalf, as well as the brief and affidavits of plaintiffs and the opposing brief of defendants Lomenzo and Rockefeller.

The basis of submission of this action to the court is set forth in the court's original opinion. On reargument plaintiffs address themselves specifically to the Equal Protection clause of the Fourteenth Amendment. (Petitioner's memorandum of law, p. 2). The intervenor asks review of all aspects of the case as originally submitted.

[6] It is noted that with plaintiffs' memorandum plaintiff, Von Kohorn, has submitted an affidavit stating, among other things, "I intend to reestablish a domicile in White Plains although my future domiciliary plans are still uncertain." This differs little from Von Kohorn's original position and is utterly lacking of that element of present intent required to establish voting residence. See *Ramey v. Rockefeller*, 348 F. Supp. 80 (E.D.N.Y. 1972).

[7] Recognizing fully the intervenor's position that the legislative history of the Voting Rights Act Amendments of 1970, and his personal purpose show a clear intent to provide the broadest possible opportunity to citizens to register to vote in a Presidential election, the court finds no reason to alter its original opinion that this objective, by the terms of the Act, does not transcend the power of the States to require that voters be bona fide residents. See *Dunn v. Blumstein*, 405 U.S. 330, 343, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972).

On October 3, 1972, the day following this court's opinion of October 2, 1972, a statutory three judge court convened for the United States District Court for the Eastern District of New York, handed down an opinion in which Sections 151(a) and 151(b) of the New York Election Law are considered learnedly and at length. *Ramey v. Rockefeller*, 348 F.Supp. 780 (E.D.N.Y. 1972). These are the sections of the New York Law here under assault on constitutional grounds. The case arose in different context (dormitory students physically present in New York), but it is noted the court found no inconsistency between the sections and no reason to declare the New York statutes unconstitutional.

Relevant to the claim of the plaintiff Hardy is the following, taken from *Ramey*: "The objective is to determine the place which is the center of the individual's life now, the locus of his primary concern. The determination must be based on all relevant factors; . . . the state may insist on other indicia . . ." (Emphasis supplied). Hardy moved from New York to Brazil in 1964. In the years intervening, until his present application never has he offered to vote in New York. His professed intention to return at some indeterminate time is bolstered only by a telephone listing at his mother's home. The court is of the opinion that under section 151(b), even as modified in *Ramey*, New York is entitled to stronger evidence of allegiance than that here presented.

The court does not consider this a class action. For evident reasons each application to register to vote is distinct and requires separate consideration.

The court having granted and considered the motion to reargue adheres to its opinion of October 2, 1972.

SEPTEMBER 26, 1973.

STATEMENT OF NATHAN LEWIN, FORMER ASSISTANT SOLICITOR GENERAL, AND
FORMER DEPUTY ASSISTANT ATTORNEY GENERAL

It is a privilege to be before this Subcommittee to testify in support of proposed legislation that would facilitate the right of American citizens, residing temporarily or permanently abroad, to vote in federal elections. I am here for a limited purpose—to give my view on the constitutionality of this proposed federal law—and I leave to future witnesses the very compelling practical case that I know can be made for the exercise of this federal legislative power.

Let me begin the constitutional analysis where any good constitutional lawyer should begin it—with a statement of the precise exercise of power that is at issue. Courts often attack that preliminary question by pointing out what is *not* involved, and one observation along that line is necessary.

The proposed bill does not alter, or in any way affect, what a State may do in imposing evenhanded legitimate qualifications on those who seek to vote in local elections. It is important for the Subcommittee to bear this in mind, because I am sure that if any question is raised as to the constitutionality of this legislation, it would be based on statements contained in Supreme Court opinions that relate to the authority of a State to impose "bona fide residence requirements" for all elections conducted in the State—both local and federal. The issue presented here today is entirely different. It is whether the federal legislature may secure, by statute, against the disenfranchisement in federal elections of American citizens whose presence overseas keeps them from claiming present residence in any State and whose State of last residence views them as non-residents for local election purposes.

The first question to be answered is whether Congress has any power at all to enact a law that overrides, for federal elections, what the State legislatures fix as qualifications for all elections. A strong argument could once have been made for the proposition espoused by the late Mr. Justice Harlan in *Oregon v. Mitchell*, 400 U.S. 112, 152 (1970), but Congress has no power whatever to prescribe voting standards even for President and the U.S. Congress that vary from what the State prescribes for votes for governor and state legislator. But all the other Justices of the 1970 Supreme Court felt otherwise—Justice Black because he believed Congress' power was plenary over federal elections (400 U.S. at 134), Justices Brennan, White and Marshall on the ground that Congress could override state qualifications when, in its view, those qualifications endanger rights protected by the Fourteenth Amendment (400 U.S. at 237-239), and Chief Justice Burger with Justices Stewart and Blackmun, along with Justice Douglas, reasoning that Congress may protect and facilitate the exercise of privileges and immunities of national citizenship (400 U.S. at 148-49; 385-386).

The next step is to determine whether the justification for Congressional action here falls within the standards set by the various groupings in *Oregon v. Mitchell*. Does the proposed bill constitute "appropriate legislation," within the meaning of Section 5 of the Fourteenth Amendment, for the enforcement of rights protected by that Amendment? Or, to follow the route taken by the Chief Justice and Justices Stewart and Blackmun, as well as Justice Douglas, is it a reasonable means of securing privileges and immunities of national citizenship? No such inquiry need be made according to the Black view because the authority of Congress to deal with "times, places and manner of holding elections for Senators and Representatives" conferred by Article I, § 4 of the Constitution grants, in the late Justice's opinion, the authority to set "age and other qualifications of the voters" in all federal elections.

In *Oregon v. Mitchell*, the constitutionality of various provisions of the Voting Rights Act of 1970 was in issue, and the elimination of durational residency requirements for Presidential voting was sustained because, in the view of Justices Brennan, White and Marshall, local requirements of extended residence in a State might impermissibly burden the constitutionally protected right of "interstate travel and settlement." In the proposed bill, there are Congressional findings that parallel the burden-on-interstate-travel findings of Section 202(a) of the 1970 Voting Rights Act. Subsection (2) of this law declares that the residency requirement imposed by many States as a condition of voting in federal elections "denies or abridges the inherent constitutional right of citizens to enjoy their free 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 *Aptheker* Court quoted the sweeping language that had been used in *Kent* to describe the fundamental nature of the right to international travel:

"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 as colse 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."

It is clear to me that Congress could view the disenfranchisement of the foreign traveler in federal elections as a substantial hindrance to the exercise of this very "basic" privilege. The inequity which this bill corrects is, of course, a far greater burden on foreign travel than the durational residence requirement was on interstate travel. The citizen who moves to Rhode Island from Texas is not permanently deprived of his franchise; indeed, he may not be deprived of it at all if he moves long enough before the registration date. But the citizen who has the misfortune of leaving Alabama to live, either temporarily or permanently, in London, foregoes forever his right to be heard in the chambers of Congress or to cast a vote for President of the United States. The privileges of American citizenship include more than the right to carry a green passport with the imprimatur of our Secretary of State and the right to return, whenever one wishes, to the territorial United States. The aspect of citizenship that the Supreme Court has characterized as "preservative of all rights" *Reynolds v. Sims*, 377 U.S. 533, 562, (1964)—the right to vote for those who affect one's future—is perhaps the most important and personal privilege.

Surely, if a State were to be so bold as to penalize every person who traveled overseas during the preceding year by depriving him of his right to vote, and courts would declare that penalty to be an abridgement of both fundamental rights—the right to international travel and the right to vote. When a State declares that its citizens are ineligible because they are out of the country on Election Day, the consequence of its action is not much different. At the very least, one can say with confidence, Congress may secure the right to international travel by foreclosing State penalties of this kind upon such travel.

All this, it may be argued, is well and good as applied to the peripatetic traveler who intends to return to his home State. The proposed law, of course, goes further and invalidates residency requirements even as applied to the citizen who permanently takes up a home overseas. To draw a distinction between these two travelers for purposes of the constitutional protection for international movement would, however, be unjustified. 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).

This brings me to the second half of the constitutional analysis—the interest of a State in preserving residency as a requirement for citizens living overseas. The proposed bill contains a finding that the residency requirement, taken with the lack of opportunity for absentee voting, "does not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections." It will be argued that bona fide residency is a legitimate State concern in distributing the franchise. But that argument overlooks the critical distinction between federal and local elections. It makes all the sense in the world to say that no one can vote for the village constable who does not live in the village. But the federal Congress and the President of the United States deal with matters of legislative and executive concern that transcend not only the boundary lines of individual Congressional districts, but the borders of the country. American citizens residing temporarily or permanently abroad have an immediate and personal interest in every general subject covered by the United States Code from Agriculture and Aliens and Nationality to War and National Defense. Laws which Congress passes affect them so long as they retain their citizenship, and they have a right to turn to some Congressman and Senator somewhere to speak for them.

Why, it may be asked, should the State of last domicile be the one through which the traveler is represented in Congress? From the vantage point of a knowledgeable electorate, it is most likely, one supposes, that the voter would

be most familiar with candidates from his last district of residence and best able to cast an intelligent vote in that election. In addition, he is likely to have ties—through friends or family—with the district so as to be aware of its current needs. Finally, the authorities in the district of last residence are most likely to have some record of the traveler's existence and an ability to check on the *bona fides* of his claim to voting status. For a variety of reasons that are significant from a constitutional standpoint, it is a solid and reasonable legislative judgment to say that if a traveler is not to be disenfranchised and is to be given a voice in Congress through some Congressional district, the one where he last resided is the most reasonable.

Presidential elections seem to me clearer still. The act of voting for President has great symbolic significance, as well as importance to the electoral process. There is very little legitimate State interest—much less a “compelling” one—to justify denying to an American citizen residing abroad the right to cast his vote for President through the State where he last lived. And there is a very substantial increment in the pride and national esteem felt by American citizens overseas if they are able to exercise this very elemental privilege of national citizenship every four years.

In short, in the language of Justice Stewart's opinion in *Oregon v. Mitchell* (joined by Chief Justice Burger and Justice Blackmun), the Congress “has the power under the Constitution to eradicate political and civil disabilities that arise by operation of state law following a change in residence . . .” Justice Stewart completed that sentence with the words “from one State to another” but his reasoning applies as fully to “from the United States to a foreign country.” It is, after all, Congress' job under the concluding clause of the Fourteenth Amendment “to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment.” *Katzenbach v. Morgan*, 384 U.S. 641 (1966). And the Fourteenth Amendment protects the right to settle abroad no less than the right to move from State to State.

In the same vein, Congress may decide when the burden placed by state law on the rights to travel and to vote becomes too great and may, for this reason, invalidate local nuisances that authorities may attach to the exercise of the rights secured by the law. Section 8 of S. 2102 and S. 2384 is designed to achieve this result by precluding States from imposing special registration requirements for foreign-resident voters when no registration is required for local voters and from scaring off the potential voter by threatening him with a tax bill. The right to vote should remain unfettered by such local restrictions, and Congress can legitimately conclude that in the absence of such provisions, nuisance regulation might inhibit the constitutionally protected freedoms.

I think it is important to emphasize in closing, as I did at the outset, that I would not, on the present state of constitutional law, for a moment suggest that the requirements of bona fide residency for voting in local elections is unconstitutional, or that the courts would declare it invalid as applied to federal elections. Indeed, strong dicta in cases such as *Dunn v. Blumstein*, 405 U.S. 330 (1972); *Evans v. Cornman*, 398 U.S. 419 (1970); *Carrington v. Rash*, 380 U.S. 89 (1965), establish the contrary. But we deal here with Congress' power to find that such restrictions, as applied to federal elections only and in combination with inadequate opportunities for absentee voting, burden the right to international travel as well as permanently deprive certain American citizens of the right to vote. To me it is as clear that Congress may make and implement that finding as it could enact the non-English-language proviso sustained by the Supreme Court in *Katzenbach v. Morgan*, 384 U.S. 641 (1966). And, I might just add in conclusion, if the legislation is not enacted, there will never be an opportunity for the Supreme Court to decide whether I and its other supporters are right.

Mr. MARANS. I am with the Washington office of a law firm which also has an office in Paris. I experienced, firsthand, the problem of not being able to vote when I was assigned to that office some time ago.

Since the questions this afternoon have been so perceptive, I thought I would give you an opportunity to read our prepared statement at your convenience and I would try to answer some specific questions

members of the committee have raised on the bill. Would that be satisfactory, Mr. Chairman?

Mr. DENT. Yes.

Mr. BUTLER. You want our questions today or do you want to come back?

Mr. MARANS. I thought perhaps, Mr. Butler, I could try to answer them more or less in the way they were asked this afternoon.

First, I think there may be a misunderstanding as to what this bill does. This bill does not purport to eliminate the importance of State domicile. This bill purports to provide an extended concept of State domicile. It tries to give the U.S. citizen going overseas the opportunity to retain the domicile in his State solely for voting purposes. It is in a sense a fraction domicile. Why is this necessary? Because Federal law provides a citizen who fails to vote in an election loses his citizenship.

Mr. BUTLER. Is there a Federal standard?

Mr. MARANS. United States Code, sections 1481 and 1489.

This has been upheld in several decisions of the Supreme Court. The short of the matter is that no U.S. citizen unless he wants to make a test case, is easily going to vote in a U.S. election. In theory he cannot establish domicile for foreign purposes. If one cannot establish a foreign domicile for any purpose it seems reasonable to assume he must retain his prior domicile for that purpose. That is the concept of this bill. That a U.S. citizen can retain his prior domicile in the United States because there is no place else he can vote if he goes overseas. The bill attempts to build on our Federal system which provides that citizens will vote on a State-by-State basis. At the same time there is an inherent national interest in allowing U.S. citizens to vote in Federal elections. This law in effect provides there will be an accommodation and enables the citizen to vote in Federal elections in his State of last domicile. It is important to him both in this connection that the basic standards of qualifications for U.S. citizens residing overseas are still left to the State. The question was raised earlier by Mr. Gaydos as to the possibility of a convicted felon in Iran voting in his State of last domicile. That will not happen unless the State itself allows the citizen to vote.

Mr. BUTLER. May I interrupt?

Mr. DENT. Yes.

Mr. BUTLER. Have you researched this point or is this—

Mr. MARANS. We have researched the various election laws and each State provides—

Mr. BUTLER. I am dealing simply with the question of a felon.

Mr. MARANS. The law in each State varies. Not all States deny the right to vote for felons.

Mr. BUTLER. But what I am saying is a felon defined except as a person convicted under the laws of the United States of a felony? I do not think it has a thing to do with the law of Turkey. I do not think it is a serious point but—

Mr. MARANS. My point is if a State feels it wants to pass a law extending to persons residing overseas saying persons convicted of crimes overseas cannot vote in Federal elections that is something a State can do. I have not seen any court decisions in which this has

been discussed. I see no reason why it cannot be done if a State wanted to do it.

Mr. BURTON. Actually, under our present laws if I were temporarily in Iran and was legally eligible in California, San Francisco, my own district, and I was convicted of a crime over there, I could still vote in the local election assuming residency in this bill. In fact, I think in our own State ex-felons now can vote but that is not relevant to this bill.

Mr. MARANS. If the State wants to allow ex-felons to vote they can do this whether the felony was committed in Iran or the United States. This bill does not affect the basic State right to set qualifications of voters other than actual physical presence or domicile in the State.

Mr. BURTON. The other State laws would apply—

Mr. MARANS. For example, the age limitations, other competence requirements, all other State requirements continue to apply whether or not this bill is passed.

Mr. BUTLER. The indicia of domicile in many States is a place to vote. That is probably the disabling shortcoming that many people have. Now, we have that particular provision in Virginia's constitution for the very reason that not infrequently people will have an intention to reside but there is no evidence of it. Now, that is not necessary to domicile. That is just a residential requirement that we have. Do you think the Federal Government has a right to set that aside under the Constitution?

Mr. MARANS. Yes, I do think so. And I think that as Mr. Wiggins had earlier stated, there is a basis for it in the *Oregon v. Mitchell* opinion. As you know, in the *Oregon v. Mitchell*, there was a so-called change of residence provision. This provision stated a U.S. citizen who resides in one State, could move to another State within less than 30 days before the next Presidential election and if he were too late to register in his new State, he could continue to vote for President in the next election in his prior State of domicile, even though he no longer retained any place of residence or vote or intent to return. This builds on that concept and says if a U.S. citizen moves from Virginia to France, and he is not able to vote in Federal elections in France because he would lose his citizenship, American citizenship, he would continue to be able to vote in his last State of domicile which is Virginia, even though he no longer retains a place of poll or residence in Virginia.

Mr. BUTLER. Would it be fair to say that particular piece of legislation was limited to Presidential elections and the theory would be that everybody in the United States was voting for President and for the same President and Vice President but it was not extended to Congress, because everybody was not voting for the same Congressman? Would it not be fair to state it was also tied to the commerce clause in that the person should be allowed to move freely from State to State and this was a real basis for it and that was one of the privileges of a citizen? I ask you that because I am not sure whether the privilege of moving from one State to a foreign country is a privilege of an American citizen that depends on what the foreign country says. Is that correct?

Mr. MARANS. That is correct. In the first place, the *Oregon v. Mitchell* decision was based primarily on the right of travel. The right of travel

applies equally to travel outside the United States back to the United States as it does from one State to another.

Mr. WIGGINS. And intrastate travel.

Mr. MARANS. So the Supreme Court in the *Kent v. Dallas* and *Aptheker* case and several other decisions has stated this clearly. The basic theory would appear to apply to both types of elections.

Mr. BURTON. Excuse me. It applied to both types of elections, in other words, Congress as well as the President.

Mr. MARANS. It does, I think, apply to both President and Congress.

Mr. BURTON. Do you see a distinction between a bigger right to vote for the President as opposed to voting for a Congressman?

Mr. MARANS. It is my opinion that Congress made a policy judgment as to the right for a U.S. citizen to vote. I think it was erroneous and I agree with Mr. Mathias. Congressional responsibility should be equal to Presidential responsibility. The Bipartisan Committee believes the U.S. citizen should not be denied a voice to vote whether residing in the United States or outside the United States. Congress is a national body as much as it is a representative of all the districts, it is a representative of all U.S. citizens. It would be desirable in an ideal system for all citizens to reside in the United States and be able to vote for the Congressman of their district of residence. In fact, that is not the case. Therefore, in this instance the Federal system must make an accommodation for these citizens residing overseas. If those citizens overseas are to have representation at all it has to be through a Senator or Congressman. This bill provides the accommodation for that to happen.

Mr. BUTLER. I do not want to argue with the witness, but I am concerned with a constitutional argument. Here is a man who lives in my district, and he concludes he will move elsewhere. He knows he is going to move elsewhere. He moves to Mr. Burton's district in California. He gets there on the 29th day before the election so he cannot vote in California in a congressional election. He cannot vote for me in my State because he is no longer a resident of my State. The law says I have a clear distinction that we can say under the Constitution this man has a right to vote for the President somewhere. I can see that. But can the Federal Government say that man who has moved to California, that man can vote in Virginia, because we, the Federal Government, say so and for no other reason? Are you saying constitutionally they can do this?

Mr. MARANS. I am saying in this instance it can because the man who moves to California from Virginia is not the same as the man who moves to Paris from Virginia. I am saying the man who moves to Paris could not easily try to come back to Virginia to vote if that is what he had to do. But more important, we have, I think, passed off lightly today, the rights which virtually every State now gives to U.S. citizens in Government service, to register and vote absentee outside the United States. It seems to me that the real discrimination here is against the private U.S. citizen residing overseas and this bill would right that discrimination and will not create any new discrimination.

Mr. BURTON. Is that with or without a residency or an intent to return? In other words, if I am a Government employee or a soldier enlisted in the Army, go overseas, I do 8 years in France, I have no

residence, nothing in San Francisco anymore, but I am still eligible to vote in the congressional district.

Mr. MARANS. As a practical matter—

Mr. BURTON. As a legal matter.

Mr. MARANS. As a legal matter, there is a statute in a number of States for U.S. military personnel residing overseas they do not require an intent to return. For private U.S. citizens residing overseas, a specific domicile must be maintained by the U.S. citizen overseas. There is a presumption in the application of State law for the Government employee and his dependent residing overseas, there is a presumption in State law against a private U.S. citizen residing overseas.

Mr. BURTON. Let us take Virginia. What constitutes domicile?

Mr. BUTLER. Place of abode.

Mr. BURTON. If you are a serviceman out of Virginia, you used to be a renter and you did not keep a house up.

Mr. BUTLER. In Virginia we make exceptions for military personnel, as many States do.

Mr. BURTON. The point you are making is that these exceptions are made for military and governmental but not for free enterprise.

Mr. MARANS. For all private U.S. citizens.

Mr. DENT. Even for private citizens working for some branches of the Government's installations, they do not get to vote.

Mr. MARANS. In general, statutes—Government statutes are worded broad enough to allow Government employees to vote, the discrimination is mainly against private employees residing overseas who have no Government connection.

Mr. BURTON. Who are we really talking about? Who are we talking about who really does not have an intent to come back at some time, some place?

Mr. MARANS. It is the intent to come back, some place. Under our Federal system in order for a U.S. citizen to vote he must have an intent to come back to a particular place.

Mr. BURTON. Into the congressional thing again, conceivably somebody who moves, a missionary, to bring civilization to someplace in Africa or whatever, and with no thought at all of coming back to Marin County or San Francisco forever but for 10 years they could vote for the congressional representative of that area. Do you find any problem with that?

Mr. MARANS. No. That citizen has a right for representation in Congress. That citizen may not be interested in highways and dams—

Mr. BURTON. I follow that. It is just I am in favor of the bill but I can see a little distinction between the fact that somebody conceivably is voting for 10 years in a district which as far as he or she is concerned, they would not ever go back to.

You have to be an inhabitant of the State when you run for the Senate which means you have—with Congressmen you have to be inhabitants. At least you have to be in the State somewhere before you can run.

Mr. MARANS. That is correct but there is nothing in the Constitution which says a U.S. citizen has to be in the United States to vote.

Mr. WIGGINS. There is nothing to support that a Member of Congress is a national legislator either, he is a representative of a district and a State.

Mr. DENT. You do not have to be registered in a particular district to run for Congress.

Mr. BUTLER. I am concerned, if I may, not about the discrimination against those people but I am concerned as to the discrimination against the people who have decided to stay back home.

Mr. MARANS. As observed earlier; when nonproperty owners were given a right, that was a discrimination against property owners. It seems to me, as a matter of public policy, it does not mean that we should not expand franchise to various additional groups of American citizens.

Mr. BURTON. One more question as to diluting the vote. What would this do to one man, one vote? They are not counted in the census for the congressional district. Let us say 40,000 of them came from Maryland. It is kind of a goofy question to be asking you, coming from somebody supporting the bill but—

Mr. MARANS. That is the tail of the situation, not the body. If Congress decides it wants to do this, the census and other mechanisms necessary to adjust to the situation, we are confident, will follow in due course.

Mr. DENT. I notice in Costa Rica, 6,486 American residents. Just a few years back when I first started going down to that area there were not that many. They have set up a special law where if you show you have an income and can prove an income of \$300 a month you become a tax-exempt citizen. The great majority of these are retirees. If other countries around us get the ambition to put in the same kind of retirement savings, this figure might well grow to 600,000 in 10 countries, very easily. It is not the best of the countries but you can rest assured that this is a lot of money to pour in there and other countries may emulate this same deal and it may give us a problem some day.

Mr. MARANS. Under present law if a U.S. citizen moves to Costa Rica and he has extensive earnings from investments he will still be taxable unless he derives a tax haven or tax scheme. The Ways and Means Committee is already establishing some legislation on this.

Mr. WIGGINS. Their tax shelter is the monthly receipt of a social security check.

Mr. MARANS. Just because a retired person is finally on the receiving end instead of the paying end does not mean he should be denied the vote.

Mr. DENT. No, but you, I think understand, this is a part of law down there. It is an inducement and it must have been a good one to have that many people down there. I was astonished at the number of retirees down there. They are not in the wealthy class but in that group that is important.

Mr. MARANS. My view would be for those people who want to move to Costa Rica, they are entitled to vote. You have said they still have an interest in social security and the U.S. dollar and how much it will buy, they have an interest in U.S. defense, particularly in South America, and U.S. policy.

Mr. DENT. I am serving as the devil's advocate on the wrong side of the bush but they would have an interest in raising social security payments. If there was a Congressman in one area who voted against that measure he could get a rash of votes against him. When you get

people of the same age, you are going to get a block vote. We do not appeal to one old man.

Mr. MARANS. It would be easier for you to identify those voters and communicate with them.

Mr. DENT. When we start advertising in Canada where there are 225,000 of them, we will be spending our campaign funds in Canada.

Mr. Wiggins.

Mr. WIGGINS. I would like to ask counsel whether the voting of U.S. citizens abroad is a constitutional right or whether it is a discretionary right which might be accorded by Congress to do so?

Mr. MARANS. There are recent court decisions on this issue that it is probably discretionary with Congress. The U.S. district court in a recent case *Hardy v. Lomenzo*, reaches that conclusion.

Mr. WIGGINS. Would you think it would be wise to review the statement of findings which seem to peg this to a constitutional right? I am sure you have read the bill.

Mr. MARANS. Yes. I think these findings are designed to provide the Supreme Court or any court the constitutional basis for holding congressional discretion and in adopting this bill.

Mr. WIGGINS. I think you would agree if we are not careful and assert positively that it is a constitutional right—

Mr. MARANS. There are two observations. These findings are not so dissimilar from the voting rights of 1970.

Mr. WIGGINS. In *Oregon v. Mitchell*, they did no more than make a footnote. In *Katzenbach v. Morgan* that case is the case which would find the discretionary.

Mr. MARANS. I am concerned with that. It seems to me the reason for these findings the way they are drafted as broadly as they are, is to allow the Supreme Court to select from among the different reasons. There were eight different opinions in that *Oregon v. Mitchell* case.

Mr. WIGGINS. One wonders whether that is even the law.

Mr. MARANS. My opinion is that it would be supported by the Justices of the Court the equal protection is but one of the possible bases open which this bill can be upheld. As I indicated earlier, we think the most important basis is the right to travel outside of the country and back to the country. That is the one which gained the most favor among the Justices in upholding the ruling.

Mr. WIGGINS. If we were to take it on equal protection, would it bother you that we would be creating new discrimination between classes of voters by enactment of this legislation?

Mr. MARANS. If one had to strike a balance, I would say, Mr. Wiggins, that we are reducing discrimination much more than we are creating. First, I mentioned earlier we would be reducing discrimination against private U.S. citizens residing overseas.

Second, the discrimination we are talking about may not be as serious as we believe. There is slight discrimination. A U.S. citizen going to California should have no trouble in voting, at least in the next congressional election in California. But the U.S. citizen who goes to Paris will not be able to vote in the next congressional election at the time of the next election.

Mr. WIGGINS. It seems to me we would be discriminating against a vast number of citizens living in the United States and who move about the country annually at the expense of losing their right to vote.

Mr. MARANS. I do not know what is the total number of U.S. citizens who might be expected to be moving in an election year, I do not know whether it would be greater or less than 750,000.

Mr. WIGGINS. What about the time and manner of choosing?

Mr. MARANS. As you know, Mr. Wiggins, the Court has been remarkably reluctant to rely on that provision as to right of interstate migration.

Mr. BURTON. When has the Court ever struck down as being unconstitutional a Federal statute dealing with regulations or to Federal elections?

Mr. MARANS. I am not that much of a constitutional scholar to go back that far in time, I cannot think of any time in recent memory.

Mr. BURTON. That is the point I make on the findings. Clearly, you have said it may not be a constitutional right, that it is something the Congress can grant. But Congress, by extending the franchise, would pass the muster of the Court back in 1927, even, as far as the Congress regulating Federal elections or stand disenfranchised therein.

Justice Stewart devoted several pages to the issue. That can be found 400 U.S. 291, 292. He goes on to say the power the Congress has exercised in enacting this provision is not itself confined against a particular problem clearly within the purview of congressional authority.

Mr. WIGGINS. My problem in adopting these findings is almost as great with the basic legislation, may be even greater. If it is a fact a constitutional right exists to travel, and the right to vote is pegged to that right, then we are opening the door to congressional legislation which would prohibit States from opposition.

Mr. MARANS. There is also the *Dunn v. Blumstein* opinion which provides that citizens moving from Virginia 30 days before a congressional election would be able to vote in California.

I think the Supreme Court has recognized and continues to recognize that U.S. citizens should not be denied their right to vote in Federal elections. I think if one reads the *Oregon v. Mitchell* opinion carefully, some of the Justices thought there was an even stronger case. The bipartisan committee, as I have said, takes the view that Congress occupies an extraordinary role in our system and that U.S. citizens residing overseas should have some voice in Congress even if it requires the States to make an accommodation along that line.

Mr. WIGGINS. I think it would be important during markup that if the chairman finds a set of findings are in order that we couch this very carefully in that the failure of a U.S. citizen to vote by reason of the domicile in the United States affects his right to vote rather than deny. If it is a denial, all we need is a lawsuit which will declare whether he has a constitutional right or not.

Mr. MARANS. I think that problem arises more from a drafting problem than anything else. The bipartisan committee is very pleased to support any legislation which the Supreme Court can uphold.

There is reference to State and local laws applied to do this or that. And then in section 2(b) to which you referred, Mr. Wiggins, it is that application which in effect does not bear reasonable relationship to any compelling State. That was the point to be made. The bipartisan committee recognizes your concern.

Mr. DENT. Supposing they are applying the law as the law really is, then you are in the position Mr. Wiggins talks about.

Mr. MARANS. The law as it really is at the present time discriminates against citizens overseas.

Mr. DENT. That is why we have to be very careful as Mr. Wiggins says, as to the language used.

Mr. BURTON. I would like to follow what Mr. Wiggins said. Independent of what you get when you fool around with the whereas clause. I think inherently we have the right to do it and whether we say a lot of things or not, if the Court is looking for something, they can find it. But I think we have the right to regulate Federal elections. I think during markup session or prior to that, have your people get together with Mr. Wiggins or whoever on the other side and at least see which parts of the findings everybody likes.

Mr. DENT. I intend to do that.

Mr. MARANS. May I pose a question to Mr. Wiggins?

Is it my understanding, Mr. Wiggins, your concern is primarily that the findings do not constitute a broader statement of congressional policy than is necessary to assure that the legislation will be upheld if challenged in court on constitutional grounds?

Mr. WIGGINS. I am reluctant to have the Congress of the United States go on record that the Constitution mandates a right to vote because the duration requirement interferes with the right to travel. If so, we have this coequal branch objecting to almost all durational problems.

Mr. MARANS. I agree. The sole purpose of these findings is to provide a basis for congressional action and not to provide a congressional opinion.

Mr. DENT. We will be glad to accept your cooperation. I assure you we will work together.

Mr. WIGGINS. You lived overseas for how long, sir?

Mr. MARANS. Two and a half years.

Mr. WIGGINS. Where were you formerly a resident?

Mr. MARANS. Formerly a resident in New York City.

Mr. WIGGINS. Which congressional district?

Mr. MARANS. The congressional district which at that time had as its Congressman, Mr. Koch.

Mr. WIGGINS. As a practical matter, how much did you learn when you were overseas about the primary race between Mr. Koch and some other person?

Mr. MARANS. It is difficult for me to remember that many years back for each of the years I was there. When I was overseas I continued a subscription of the New York Times which arrived a good deal later than I would have liked, also the International Herald Tribune, which is a pretty good paper.

Finally, there was broad circulation of Time, Newsweek. If I am any example, a U.S. citizen does keep in touch with the folks back home by letter, his friends come visit and I think one would be pleasantly surprised of the awareness of U.S. citizens overseas as to what is happening at home.

Mr. WIGGINS. I was just wondering if the degree of awareness might be very low during primaries.

Mr. MARANS. I would say awareness often depends in part on attention. In my experience U.S. citizens residing overseas want to be aware and feel they have a stake in the Government and I am con-

fidant they would use this right to vote and would be grateful to all of you.

Mr. DENT. I thank you. I am sorry we did not have more questions but if questions might come to mind of other members I am sure you would be glad to respond or come back to the committee.

Mr. MARANS. I might be able to come back tomorrow and answer some of the queries raised today, especially on fraud.

Mr. DENT. We are in a reform movement and we are having a lot more roll calls than ever and passing less bills. We might not be able to take anything additional tomorrow. We have three more witnesses.

Mr. BUTLER. Could he not bring us a written statement?

Mr. DENT. Why don't you do that? I would rather not put you before these other witnesses. You send us your statement of what you think ought to be a logical answer to any questions that were not answered to your satisfaction and then if we read them and some of the members ask for you to return, we will ask that you return.

[Whereupon, at 5:20 p.m., the hearing was adjourned, to reconvene at 2:30 p.m., Wednesday, February 26, 1975.]

Statement on House Administration and Rick Olesowski, Clerk, Subcommittee on Elections.

Mr. DENT. Our first witnesses today will be William C. Whyte and Robert T. Squire of the Chamber of Commerce of the United States.

Mr. DENT. You may proceed.

STATEMENTS OF WILLIAM C. WHYTE AND ROBERT T. SQUIRE OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. Whyte. Mr. Chairman, it is a great pleasure to be here.

William C. Whyte, vice president—Washington, United States City, but I am appearing before this subcommittee today as a member of the board of directors of the Chamber of Commerce of the United States, and chairman of its public affairs committee.

With me is Robert T. Squire, political/legislative research associate with the national chamber's public affairs department.

I would like to present a summary of my formal statement, Mr. Chairman, if that meets with your approval, and to request that my statement, as filed, be entered in the hearing record.

Mr. DENT. All right. Without objection, so ordered.

[The material referred to appears at the end of testimony on p. 110.]

Mr. Whyte. We fully support the efforts being made by Representatives Dent and Hays in H.R. 3311, with the support of other Members of Congress, to guarantee the right of American citizens outside the United States to vote in all Federal elections in the State of their domicile; provided, they are 18 and over and in all other respects qualified to vote, except for continuing domicile within that State.

We further support your legislative provision that would preclude any State or local jurisdiction from imposing a tax on such a citizen by reason of granting him the right to vote.

In urging enactment of H.R. 3311, we join with the Bipartisan Committee on Absentee Voting and fully endorse the testimony presented yesterday by its spokesman, J. Eugene Marans.

WEDNESDAY, FEBRUARY 26, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to recess, at 2:30 p.m., in room H-328, the Capitol Building, the Hon. John H. Dent (chairman of the subcommittee) presiding.

Present: Representatives Dent (presiding), Gaydos, Boggs, Burton, Wiggins, Butler, and Moore.

Also present: E. Douglas Frost, staff director; Paul Wohl, chief counsel; John McGarry, legal counsel; Louis Ingram, minority counsel; Committee on House Administration, and Rick Oleszewski, clerk, Subcommittee on Elections.

Mr. DENT. Our first witnesses today will be William C. Whyte and Mr. Robert T. Snure of the Chamber of Commerce of the United States.

Gentlemen, you may proceed.

STATEMENTS OF WILLIAM C. WHYTE AND ROBERT T. SNURE OF
THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. WHYTE. Mr. Chairman, it is a great pleasure to be here.

I am William G. Whyte, vice president—Washington, United States Steel Corp., but I am appearing before this subcommittee today as a member of the board of directors of the Chamber of Commerce of the United States, and chairman of its public affairs committee.

With me is Robert T. Snure, political/legislative research associate of the national chamber's public affairs department.

I would like to present a summary of my formal statement, Mr. Chairman, if that meets with your approval, and to request that my full statement, as filed, be entered in the hearing record.

Mr. DENT. All right. Without objection, so ordered.

[The material referred to appears at the end of testimony on p. 110.]

Mr. WHYTE. We fully support the efforts being made by Representatives Dent and Hays in H.R. 3211, with the support of other Members of Congress, to guarantee the right of American citizens outside the United States to vote in all Federal elections in the State of their last domicile; provided, they are 18 and over and in all other respects are qualified to vote, except for continuing domicile within that State.

We further support your legislative provision that would preclude any State or local jurisdiction from imposing a tax on such a citizen solely by reason of granting him the right to vote.

In urging enactment of H.R. 3211, we join with the Bipartisan Committee on Absentee Voting and fully endorse the testimony presented yesterday by its spokesman, J. Eugene Marans.

The full text of my testimony details the efforts of the national chamber in (1) alerting and educating American citizens, especially American businessmen and women, as to their absentee voting rights, and (2) alerting and informing State and local election officials nationally on the Federal Voting Rights Act Amendments of 1970, and the congressional and Justice Department explanations of its provisions.

These efforts included the publication and distribution of our "Guide to Absentee Voting in Presidential Elections in the United States and Overseas," a copy of which is submitted for the record.

[The publication referred to appears on p. 119.]

I would like to tell you just a little bit about that, because much of my testimony is based on our experience of issuing that particular document.

This publication contains a detailed explanation of the 1970 act, particularly sections 202 and 205, the text of Senator Goldwater's comments on the Senate floor on March 11, 1970, in explaining the statutory language, and the Department of Justice May 1971 interpretation of the act, instructions as to procedure, forms to be filed, and other pertinent information.

As a public service, a copy of our guide was sent to the Governor, the secretary of state, and the attorney general of each State, and to the chief election official of each county in the Nation. At least 4,000 copies were distributed to State and county officials alone.

Many additional thousands of copies were sent to all American chambers of commerce abroad, to all U.S.-based corporations and organizations with representatives overseas, and to countless citizens here and abroad. Copies were likewise distributed through the U.S. State Department to embassies and consulates around the world, the Commerce Department, and its offices here and abroad, and to the Department of Defense in cooperation with the latter's Federal voting assistance program.

While this effort was designed mainly to alert Americans in 1971-72 to their new legal rights to register and vote by absentee process in the Presidential election, it was also designed to inform State and county election officials of the new Federal law governing voting rights.

To my knowledge, very few affected by the Federal Voting Rights Act Amendments of 1970 were left uninformed.

However, the results of the combined efforts of the Congress and the national chamber were disappointing.

My testimony reviews the action of election officials in frustrating attempts by Americans overseas to register and vote by absentee process in compliance with the act.

It is my understanding that about half of the States complied with the new Federal law in the Presidential election of November 1972. The balance of the States refused to comply for varying reasons.

Samples of letters between Americans abroad and local election officials, that came to our attention, are being furnished to the subcommittee for its information.

[These sample letters referred to appear on p. 160.]

My testimony also cites what we regard as discriminatory practices

by State, local, and Federal officials in denying Americans overseas their voting rights or in failing to recognize their existence.

As copies of letters will indicate, local election officials in New York State, for example, grant absentee registration and voting rights to an overseas American only if—

He has a residence in New York State, or

Is an employee of the U.S. Government, or

Is in the military service, or is a dependent of these.

Despite the wording and intent of the Federal Voting Rights Act, the New York county officials relied on section 151 of the New York election law. A reading of that State statute appears to grant absentee voting privileges to any of the above specified persons, as well as to those residing in a welfare institution or an asylum or a public prison, yet denies such voting rights to upstanding American citizens overseas who meet the requirements of the Federal statute.

Illustrative of the interpretation of election officials in New York of the words "domicile" and "place of residence" is another letter in which a local election commissioner denied an overseas New Yorker the right to vote.

The reason given was that, unless the applicant could return to the exact same house he had occupied previously, he could not possibly intend to, nor could he return to the place of domicile in which he once lived, namely, Scarsdale, N.Y.

This interpretation was contrary to the intent of Public Law 91-285 as well as discriminatory between private civilians and Federal civilian employees.

This particular case, Mr. Chairman, though humorous, was most unfair, because this individual maintained a listing in the Scarsdale telephone book all the time he was overseas, this being his legal residence and that of his mother; and yet he was denied the right to vote.

Hopefully, these examples will aid the subcommittee in enacting corrective legislation. They also serve to underscore two major faults in our electoral process which the enactment of H.R. 3211 can correct.

One, the need for uniform standards of voter qualifications in Federal elections so that American citizens at home and abroad may participate equally, and, two, assurance that the Attorney General of the United States will institute court action whenever he has reason to believe that any State or election official undertakes improperly to deny anyone the right to register and vote in Federal elections.

Your attention is also called to the discrimination practiced by the Census Bureau in including apportionment tabulations, used to determine each State's representation in the House of Representatives, Federal civilian employees and members of the armed services, and their dependents overseas, to the exclusion of other Americans overseas, known to the State Department. This is in my formal testimony.

It is our position that either all American citizens 18 or over, formerly domiciled in the States but now residing overseas and otherwise qualified, should be allowed to vote in Federal elections within the States, or none should.

It is also our position that all known Americans overseas should be included in the population and appointment tabulations of the individual States, or none should.



It is also our position that there should be no discrimination in postal charges as between Federal employees and private citizens in transmitting absentee ballots back to the States.

It is particularly important for all of us, whether in Government or private industry, to encourage more citizens to participate actively in the electoral process. The apathy of the American voter is at an all-time high. Yet overseas, there are at least 750,000 private citizens anxious to be given the right to vote in Federal elections and to participate in the electoral process equally with other American citizens overseas who are now granted this right by Federal and State statutes.

By granting and guaranteeing all qualified Americans overseas the right to register and vote absentee in all Federal elections, backed by enforcement powers of Attorney General, the Congress can take a giant step forward to encourage and foster greater election participation by all Americans here and abroad.

A recent poll of the national chamber's members in the States, shows that 72 percent of those responding favor the granting of absentee voting rights to Americans overseas in all Federal elections.

We urge the prompt enactment of this legislation. And we thank you, Mr. Chairman, for this opportunity to testify on this important subject.

Mr. DENT. Thank you, Bill. It is always good to be in your company, and we especially enjoy having you when you testify before us, because you always give us a wealth of information, and the material you leave with us to study later, and also the presentation of your testimony before us.

First of all, of course, I believe that most of the Members of Congress have the same feelings that you do in the chamber, and the rest of those here before us to find some way that we can allow our overseas citizens to vote in the national elections.

The question is, that whatever we do, we do not open it up to fraud or in any way allow a miscarriage of the purpose that we are trying to obtain here, rather the aims we are trying to obtain.

In some of the former testimony, and in discussion amongst members of the committee, often it has been the fear that persons can influence others to send for a ballot, knowing that they do not want to vote. In some of our larger American settlements, for instance, we have a settlement in Rome, roughly in all of Italy it will be about 65,000, but your Rome settlement is pretty much two-thirds of that, and I am not talking about military personnel, I am talking about the Rome-American community.

In Haiti, for instance, only a small country, the American colony sits up on the right-hand side, and when I was just a boy out there, they had at least at that time, maybe 1,800, and now I understand it is closer to 4,000.

We are having these so-called retirement havens being built up in many of the Caribbean countries, in one form or another, which induces Americans to move in sort of an age group, a unit group.

Now, I think that primarily what we would like to have done, we were first talking about the legislation at last year's hearings, and the year before, we were talking about American businessmen, because of the nature of their work, that they had to be domiciled overseas, and

we did not think it was right to deny them a right to vote, and, of course, we do not deny the military people, et cetera.

But that has a new twist to it now. If I am right, there is at least, as I understand it, about 8,000 in Costa Rica, who are probably 85 to 90 percent retirees. Under the new legislation they put in a few years back, if you have a proof of \$300 a month income, you could live there without any kind of taxes being assessed by the Costa Rican Government on your property or anything else. So these things may be changing the picture around a little bit, and we might end up, instead of 750,000, in that neighborhood, that would be eligible to vote in the absentee balloting, but the score that I have been looking at, is closer to 1,210,000.

I don't know what is right, but that is one difference in the figures that have been fed to us.

We want to do it. I am very frank about it. I really think the members of this committee want to find a way. What we have got to do is to safeguard that right for the citizens that was intended to be used. We must also make sure they do not pick up and agitate only on one issue, and maybe vote very heavily in one campaign and the other is a kind of campaign they do not have a personal interest in, and they will have personal treatment as you well know in the manner of tax treatment, and how we are going to handle their own welfare by legislative enactments in Congress, whether or not that kind of an issue would be in a congressional district, for instance, enough to be a margin of victory, or a margin of defeat, no one knows, because we have no way of knowing what concentration there is from any congressional district.

As far as Presidential is concerned, it may be strange, but it is my humble opinion that you will not find the demarcation between party line philosophies in these groups living overseas, or even a philosophical demarcation of their voting habits pattern.

You will find that they will vote pretty much as an overseas citizen, as such, and that the interests will be pretty much together.

This is not new, because, as you well know, I have probably traveled as many miles as most of the Members of Congress over my lifetime, and I have met with all of these people.

I have had close contacts with our teaching fraternity and the faculties of all our overseas schools, and I know how they feel, they would vote as a block.

You might discuss their so-called philosophies at homes—it would be a lot different than it would be when they get there, because it is just like anything else—and these retirees are going to vote, in my humble opinion, as a block, and whether or not that should be the reason for denying them the right to vote, of course, is a matter of opinion.

I do not believe, personally, it is a reason but we have got to look to see what kind of impact that nearly 1 million votes coming from outside the country would have on a specific election, if the absentee ballots were used.

Now, it is not news to anybody, I hope, that there are many elections that have been won or lost by the absentee ballot. We had a commissioner lose by 30 votes. He did not go out and pay attention to the absentee ballot, and the other fellow made it practically his campaign.

When they started coming in, it looked like the biggest precinct in the county coming in, and he won the election.

Some persons will have a means of concentrating their effort on these groups overseas, and others may not have the contact, and we are trying to make it so that each one running for office, at least has a square shot at this vote, if he can, without creating any kind of condition that would bring any kind of fraud into the election process, so I think our aims are the same, and we ask your help to see that we try to get legislation that will not have any pitfalls that we have not at least explored.

I know the chamber is interested.

Mr. WHYTE. Mr. Chairman, our interest of course concerns especially the business people overseas.

Part of the U.S. Chamber of Commerce is what we call our American chambers of commerce in all major countries around the world, so we feel we have a close relationship with all of the businessmen overseas, so I am speaking principally for them, but on behalf of all citizens overseas as well.

Mr. DENT. In fact, at the beginning, all we had was business people overseas.

Who was it yesterday that called them drifters?

Mr. WIGGINS. Mr. Butler.

Mr. DENT. He has a designation, a group he calls drifters. I have got to sit down with him some day and analyze it. I think it is what we used to call a hobo.

Mrs. BOGGS. International hobos.

Mr. DENT. Mrs. Boggs, would you be kind enough to take the chair? I will be back as soon as I can.

Mrs. BOGGS. Thank you, Mr. Chairman.

Mr. WIGGINS, any questions?

Mr. WIGGINS. Thank you, Mrs. Boggs.

Mr. Whyte, I would like your opinion concerning the public interest in granting U.S. citizens who may reside overseas, either permanently or temporarily, a greater right to vote in congressional elections, than may be accorded to U.S. citizens who reside at home.

Mr. WHYTE. Are you referring, Mr. Wiggins, to those that move, and, therefore, cannot vote at home?

Mr. WIGGINS. Yes.

Mr. WHYTE. I think this is a good question. I have not addressed myself to that question, and possibly the Congress should.

I do not think a businessman who has transferred to Paris would, say, have any more right to vote than another businessman who has transferred to Chicago, and if it is inevitable, then maybe we should be looking at the laws that take the voting right away from the man who has transferred within this country, as versus the man who has transferred overseas.

Mr. WIGGINS. Now, if we followed that advice, it seems to me we are inevitably going to supersede all State durational requirements.

Mr. WHYTE. Time requirements?

Mr. WIGGINS. Yes.

Do you think that serves the public to do so?

Mr. WHYTE. I do not have any strong feelings on that, but I feel it should be the citizen within the State, and the citizen going out of the

State should be treated equally, so that if there is a time requirement of 30 days residency, let's say, to register and vote if you transfer to California, or Illinois, or whatever the State law is, maybe there should be some time requirement overseas.

These residency requirements, as I understand, vary by State.

Mr. WIGGINS. Yes; they do.

Mr. WHYTE. So there is no Federal standard.

Mr. WIGGINS. The notion of treating citizens at home and abroad equally has an obvious appeal, but the legislation does not achieve that, and I frankly am at a loss to know how to do it, unless the United States should preempt all State election laws, and establish uniform voting requirements throughout the United States, and as a part of that general legislation, it deals with the problem of the person who moves within a certain period prior to an election.

Now, given to that possibility, do you think that the public interest would be served with that kind of a Federal preemption?

Mr. WHYTE. I think there would be greater equity in that in dealing with Federal elections, the Presidency, and the House and the Senate.

If the State wanted to have different rules for the State election, that would be up to the State.

Mr. WIGGINS. Well, I have some reservations with that observation, so long as we paint this to some constitutional right, since the Constitution of the United States reaches States, and State elections, as well as Federal elections.

What public interest is served by giving to a person who abandons a domicile in California, has no intent to return to California, has no connection with that State whatsoever, other than the fact that he left California, what public interest is served by permitting that person to participate along with those who do remain in the localities of their representatives?

Mr. WHYTE. Now, if that right is granted, let us say someone in the military, or to Federal or civilian employees, then I think it should be granted let's say to a businessman.

Mr. WIGGINS. Well, the difference is that at least the laws establish almost an irrebuttable presumption that these servicemen and those in Government service retain their domicile, that the hypothetical Californian who has abandoned his domicile does not have that right.

Mr. WHYTE. I am speaking today, as I mentioned, as a representative of the U.S. Chamber of Commerce. I am speaking shall we say for the membership of this group, they are mostly businessmen, but I do not think they quite fit that position.

They are not drifters. If the man in United States Steel is transferred out of Pittsburgh to an operation in Spain, he is probably going to come back to Pittsburgh some day.

Mr. WIGGINS. I suspect if he might be able to prove he retained a domicile in Pittsburgh but he is immediately confronted about the possibility of paying taxes to the State of Pennsylvania, and at that point, the person overseas has mixed emotions about what he wants to do.

In this legislation, you say that he can be a voting citizen, and we will use Pittsburgh, but he will not have any of the obligations of the other citizens of Pittsburgh to pay taxes to that entity.

Now, tell me what public interest is served by granting him that special exemption?

Mr. **WHYTE**. Well, he is still a U.S. citizen, and as such, it would seem to me, and to the chamber, that he should be permitted to vote in Federal elections, under some circumstances, and it would seem most logical that he, therefore, should vote, in his last place of domicile.

I do not think it serves any public interest to take the vote away from him.

Mr. **WIGGINS**. Well, I do not have a right to vote in Pittsburgh, and the reason I do not, is that I do not live there.

I live in the 39th Congressional District of California, and I vote there, and my domicile is there, but I also pay California taxes as one of the prices for having that right.

I even condition it as a quid pro quo for voting, but it is one of the burdens that goes with citizenship within the State, but that is not a burden that you wish to heap upon the executives who may voluntarily abandon that domicile, for the express purpose of avoiding payment of taxes.

Mr. **WHYTE**. Let me say this, again, speaking for the membership of the organization I am representing, most businessmen that are transferred overseas do not voluntarily leave Pittsburgh. In the case of the person from Pittsburgh, the company says we need you in Spain, for example, it is not a volunteering of leaving Pittsburgh. This is a part of your life, but there are still American citizens who will probably come back to Pittsburgh, or some other United States Steel location.

I think as a U.S. citizen, they should be permitted to vote in Federal elections.

Mr. **WIGGINS**. I think that has merit, but at least the domicile question, which has been mastered somewhat by individual State interpretation, the essence of common law is the matter of the subject of domiciliary.

Now, a person can be held to have by statute, to have that intent, but what does that have to do with paying taxes?

For example, we could insure his right to vote by simply precluding a State from contesting his assertion of domicile status in the State of Pennsylvania, but what does that have to do with the payment of taxes?

Mr. **WHYTE**. Well, I am sure you are a lawyer, Mr. **Wiggins**, I am not, and when you get into the legal definition of domiciled, and so forth, I am afraid that I am over my head, so I will just have to—

Mr. **WIGGINS**. Well, I get the impression, Bill, that you kind of would like your overseas executives to have the cake and eat it, too.

They want to vote, and I can understand that, and I want them to vote, particularly in the Presidential elections, but I do not wish them to escape reasonable and normal burdens of citizenship at the same time, which might involve payment of taxes in that place they select as domiciliary.

They might select the State of Florida, or Nevada, to have minimum taxes, but I am not offended by that, so long as they vote one place and adopt that as their domicile.

Mr. **WHYTE**. But they are paying Federal taxes, even if they are overseas.

They are not paying property taxes, because they probably sold their home.

Mr. **WIGGINS**. And in many States, they disclaim a duty to pay State income taxes, since they are not domiciliaries of that State.

Mr. **WHYTE**. This is probably the main reason most of them do not vote overseas; they are afraid that will happen.

Mr. **WIGGINS**. We will grapple with that. I am intrigued by something you may have talked to, and I will pick your brains a little bit here, if I might.

This legislation creates a mechanism for free postage, so that the overseas citizen is not burdened with the postage of sending the material back.

I gathered that most of that mail is going to be posted in a foreign post office.

Now, just what makes us think that the foreign postmaster is going to pay attention to our assertion that that mail is free?

Mr. **WHYTE**. I have exactly the same thought.

Mr. **WIGGINS**. Tell me how you resolve it.

Mr. **WHYTE**. Well, I think that we should all be required to put postage on it so it will get here.

Mr. **WIGGINS**. And the free mail is picked up as soon as it gets to the United States?

Mr. **WHYTE**. I think that would make good sense from the practical point of view.

I agree it would hit a post office in India, and they would say there is no postage, and it would never get to the United States.

Second, what is granted to Federal employees overseas and the military should be granted to other citizens overseas. There should not be a double standard.

Mrs. **BOGGS**. The staff has a comment on this.

Mr. **OLESZEWSKI**. The material is sent from this country abroad free, but the citizen overseas must provide postage to send the material back to the United States.

That was the form of the bill in the last Congress; initially, there was free postage both ways, but that is no longer the case.

Mr. **WIGGINS**. I will take your word for it. I was looking over these sections, and I got the impression on page 7, line 41, that the registrar would send an absentee ballot, instructions, and an airmail envelope, which is interesting.

It does not say whether it would have any postage on it, but let us assume it would include a stamp, and I am wondering just what country's stamps the local registrar voter would select to put on it.

Particularly if it is going to Pakistan, I am not sure if in the registrar's office they have a supply of airmail stamps, but in any event, maybe this is a little detail we can work out.

Thank you, Madam Chairman.

Mrs. **BOGGS**. Mr. **Gaydos**.

Mr. **GAYDOS**. I have no specific questions, and I apologize for coming in late.

You do not consider, I don't think, the serviceman's position as being on a par basis with, say, an employee making \$3,000 a month, and a good job over there.

The serviceman's right should not be mixed up with the civilians, should they?

Mr. **WHYTE**. Well, we were talking about this matter of postage. We try to equate the civilian employee of the Government overseas with the civilian employee of, let's say, United States Steel.

It seems to me they are on a par, and that they should be treated equally.

The military is a separate problem. Often they are in remote places, where they probably deserve to be treated differently, and my feelings are not strong on that.

I do think that this postage matter that Mr. Wiggins raised is a kind of practical thing. I think that the bill is a little impractical the way it is right now, because I think we would have a lot of ballots lost that would never get back to the States if there was no postage on them, and who is going to put that postage on becomes a mighty complicated thing, if they expect an election commissioner in Des Moines, Iowa, shall we say, put an Indian stamp on it.

Mr. **GAYDOS**. I have no questions. I refer to the remarks I made yesterday; we were talking about taxes, where a person pays his taxes, and the reason he does not vote is because of the tax issue. I am concerned about that new breed of cat that we have, the international no-tax-payer worker, a fellow who is an international employee of the World Bank; he does not pay taxes to anybody. So I am not too favorable to him whether he votes or not, because he may have an ulterior motive.

Let me conclude by asking you, Mr. Whyte, are you supporting this legislation?

Mr. **WHYTE**. Yes; the chamber is supporting the legislation in principle; yes.

Mr. **GAYDOS**. I have no further questions.

Mr. **WHYTE**. We did last year, before the Senate, support similar legislation, and we are supporting this legislation.

Mr. **GAYDOS**. Thank you.

Mrs. **BOGGS**. I would like to make a comment about the postage. I have a section down on that part of your testimony to ask questions about.

I think we are getting into terrible complications if we try to equate the postage for civilians vis-a-vis the military and Federal civilian employees.

We are getting into the whole APO complex matter, and that type of thing, and I certainly feel that the persons overseas motivated sufficiently to register and vote, would not mind paying whatever type postage was necessary for them to pay.

Mr. **WHYTE**. I would agree with that.

Mrs. **BOGGS**. Mr. Moore.

Mr. **MOORE**. I would like to ask you a question or two, Mr. Whyte.

One is that some political scientists believe there is a community of interest for various positions of public office, for instance, the President of the United States, the community interest, the electorate is nationwide, with the neighbors, with that town, and so on.

Now, I have been overseas, in the military admittedly, but I did come into contact with many civilians who lived and worked overseas, and I am familiar with many who do.

There are many stockbrokers overseas who sell stock, mutual funds, to servicemen.

Do you believe these people have a community interest with a Senate seat, or with a House seat?

I admit they do with the President and Vice President of the United States, but do you think they have that with a more local situation, such as for a House or a Senate seat?

Mr. **WHYTE**. Well, I would agree with you, certainly the greater interest is with the two Federal officials, President and Vice President, but Congressmen and Senators are considered Federal officials, are they not? I believe they are.

Mr. **MOORE**. Yes; they are, and they have a duty to the country, but at the same time, they are not elected by the country.

They have a local constituency that puts them in office, and we are hoping that we have people participating in the election who are doing so intelligently, and have an interest in what is going on.

They may not have an interest in what is going on in the 4th District of California—if they moved from there 20 years before—and they have no real interest in going back to that district.

Mr. **WHYTE**. Madam Chairman, may I say off the record—

Mrs. **BOGGS**. Off the record.

[Whereupon, discussion was had off the record.]

Mrs. **BOGGS**. On the record.

Mr. **MOORE**. My comment, Madam Chairman: I do know some people overseas have no intention of going back, but you ask them truthfully where they came from, they say some day they hope to return to the United States, but where may depend on where they are transferred, or some spot of their choice, and they really do not have that interest in the area where they were last in, but yet many of them do.

Mr. **WHYTE**. I admit a case can be made on this point, and the position of the body I represent is favoring those overseas who would vote for both President and Vice President, and the House and Senate, because they are national bodies, they are Federal officials, and you could argue either side, but the position of the chamber of commerce is that of favoring the entire package.

Mr. **MOORE**. I favor the passage of the bill, allowing people to vote for President and Vice President. Now, do you go along with limiting it to the House and the Senate?

Mr. **WHYTE**. Mr. Snure, could you answer that?

Mr. **SNURE**. We already have that, as a matter of law. It is in the Federal voting rights amendments of 1970, and I believe, as Mr. Whyte pointed out, it is that law that only 27 of the States recognized, the remaining did not recognize it, and we still have citizens overseas that were not permitted to vote, even for President and Vice President.

Mr. **MOORE**. I think we are trying to correct that, as well as possibly add in the House and Senate.

I am wondering, could you possibly see your way to sever the two?

Mr. **SNURE**. It is also our position that every American citizen is entitled to representation in the Congress of the United States, and should be entitled to vote for the Senator, and Congressmen from his last State of domicile.

Mr. **WIGGINS**. Why select that one?

Mr. **SNURE**. The last State of domicile?

Mr. **WIGGINS**. Yes.

Mr. SNURE. That is the last State in which he was a resident. What other could you select?

Mr. WIGGINS. I beg your pardon, Madam Chairman.

You seem to establish some mystique value to the last State of residence.

Mr. SNURE. That is the same State on which you grant Federal civilian employees to vote.

Mr. WIGGINS. I differ with you as a matter of law.

Mr. SNURE. If they retain their domicile, sir, then the private citizen overseas retains his domicile.

Mr. WIGGINS. I have no quarrel with that.

Mr. SNURE. If he maintains a place of residence, he must pay taxes.

Mr. WIGGINS. But he does not pay other State and municipal taxes.

Mr. SNURE. Do Federal employees pay State and municipal taxes?

Mr. WIGGINS. Indeed, they are vulnerable.

Mr. SNURE. We have those living in Montgomery County, Md., who are in Paris, they do not pay State and local taxes.

They pay Federal taxes, but they do not pay local taxes, because they do not have property in that area.

Mr. WIGGINS. You can thank Montgomery County and the State of Maryland for that benefit, if they are in fact domiciliary of the State of Maryland.

Mr. SNURE. I guess it depends on State law.

Mr. MOORE. That was my question, it appears to me that you are going to the State of Louisiana, if you go there, Madam Chairman, it is one of those States that will exact a State income tax on someone living overseas, you will pay that if you claim Louisiana as your residence or domicile, which is what we say you are going to do by virtue of this law.

I take that position, if they are going to take that, they ought to support the State of Louisiana, if they are going to vote there for Congressmen or for Senators, is that objectionable to the chamber, that State law govern?

Mr. WHYTE. I think our position is, No. 1, employees of American companies overseas should be treated equally.

The fact that someone works for the Government, or works for Good Year Tire and Rubber Co., on a tour of duty overseas, it seems to me they should be treated equally.

The question you asked, Mr. Moore, would we support a bill that favors just the President and Vice President, and did not get into the State, the Congressmen or Senators, certainly we would rather have that than nothing, but our position is favoring all at the present time.

Mr. MOORE. Now, part of the bill goes on to say by virtue of having this right to vote for Congress and the Senate, this will not become subject to the tax laws of a State, although it would be considered for purposes of this bill as a domiciliary of that State, and I am saying it does create a hiatus, or a gray area in the law from the State I come from.

If you are a domiciliary of that State, or living out of that State, you will pay Louisiana income tax, and I do object to that portion of the bill, and I am wondering, would the chamber object to our changing that portion of the bill, saying you are going to consider yourself

a domiciliary of the State, and collect income taxes from those people outside their borders, that they are liable to that tax?

Mr. SNURE. We would object to that; yes.

Mr. MOORE. May I ask counsel a question: What is the law on the income tax now?

I am under the impression there are some Americans not paying Federal taxes living abroad.

Mr. OLESZEWSKI. I understand from Mr. Gaydos that there are.

Mr. MOORE. My feeling is if they vote, they ought to pay taxes.

The responsibility of being a citizen is not only voting, but supporting Government as well, but I would like to have that information from counsel before we mark up the bill.

Mrs. BOGGS. We also, yesterday, asked for information that would break down, as far as the Census Bureau, or who ever has any statistics, of how many people from, say, a given area, are living abroad, where they could possibly influence a State election or a congressional election.

Mr. SNURE. In that regard, I believe you will find the State Department has very excellent statistics, and that is also a part of Mr. Whyte's testimony. The record of the Census Bureau is entirely different from the record of the State Department.

Mrs. BOGGS. Thank you very much, Mr. Moore.

Mr. Butler?

Mr. BUTLER. Well, I have no questions, but I do want to be sure that we are clear in respect to counsel, with reference to the whole relationship of foreign residence, and voting privileges, as related to the tax situation.

Mr. OLESZEWSKI. You mean the Federal tax situation?

Mr. BUTLER. I want to know while you are at it, can a State require as a condition of voting overseas that they pay State income tax.

Mr. OLESZEWSKI. At this moment, I do not know.

Mr. BUTLER. And then of course, the question that Mr. Moore asked, while you are at it, I want the whole picture, if you could.

I have no questions, and I apologize for not being here, but I am familiar with your position, and I find no surprises.

Mrs. BOGGS. That was one point I would like to make about the non-payment of taxes, as a requisite for voting, and that is that it was brought out in Mr. Whyte's testimony, that welfare recipients and people confined in various other places are allowed to vote, and of course they are nontaxpayers, and also we did repeal the poll tax, where it existed, as a requisite for voting, so there is that validity to granting voting privileges to nontaxpaying citizens.

Mr. WHYTE. Mrs. Boggs, in the exhibit that we put in the record, the guide to absentee voting, there is a section that was prepared by the Library of Congress in 1971.

I mentioned the date, because there may have been some changes since then in State law, which gives the various State laws that apply in the 50 States.

I call it to your attention. It might be a starting point. It could be updated by the Library of Congress.

Mr. BUTLER. Thank you.

Mrs. BOGGS. Have we asked that this guide be made a part of the official record?

Mr. WHYTE. I did ask.

Mrs. BOGGS. And it has been granted.

Mr. Moore, I see that you were correct about Louisiana.

Any further comments or questions?

Mr. GAYDOS. I would just like to thank Mr. Whyte for being here, he is an old friend of ours, and I am glad to see him here, and I did miss most of his testimony, but I can presume he did an excellent job as he always has done on any assignment he has had.

Mrs. BOGGS. Thank you very much for being with us also. We are very happy to have you, Mr. Whyte.

Mr. WHYTE. Thank you.

[The prepared statement of Mr. Whyte follows:]

STATEMENT ON ABSENTEE REGISTRATION AND VOTING PRIVILEGES FOR AMERICANS OVERSEAS, FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES, BY WILLIAM G. WHYTE

Mr. Chairman, I am William G. Whyte, Vice President, Washington—United States Steel Corporation.

I am appearing before your Subcommittee as a member of the Board of Directors of the Chamber of Commerce of the United States, and Chairman of its Public Affairs Committee.

Appearing with me is Robert T. Snure of the National Chamber's Public Affairs Department.

We support H.R. 3211 which would grant to qualified Americans overseas the right to register and vote in Federal elections in their last state of residence or domicile without obligating them to pay state or local taxes. We supported similar legislation in 1974 before the Senate Subcommittee on Privileges and Elections which the Senate enacted last year.

The National Chamber federation consists of some 2,550 local, state and regional chambers of commerce in this country and American Chambers of Commerce abroad; about 1,000 trade and professional associations; and more than 46,000 business firms and individuals. Underlying membership of the National Chamber amounts to over 5,000,000.

The National Chamber has long held that maintenance of individual freedom and our political institutions necessitates *broad-scale participation* by citizens, including business and professional people, in the selection, nomination, and election of public officeholders.

Thus, we support legislation to clarify and strengthen the purposes of the Federal Voting Rights Act, particularly to assure the right of absentee registration and voting in Federal elections in his state of last domicile to any American citizen overseas, provided he is otherwise qualified, under such Act, to register and vote in such elections. The right to exercise such absentee registration and voting privileges should not, in our opinion, be impaired by any state-imposed restrictions.

The National Chamber Federation has for several years been in the forefront of this effort to enable Americans the world over to participate in the electoral process. Our operations and experience in 1971-1972 under the current law will underscore the need for the legislation now before your Subcommittee so as to guarantee, beyond doubt, the enforcement of the will and intent of Congress to enfranchise qualified American citizens at home and abroad.

With the enactment of the Federal Voting Rights Act Amendments of 1970, the National Chamber sought to inform and educate Americans worldwide on their new voting rights.

Sections 202 through 205 authorized Americans of voting age overseas to register and vote absentee in the Presidential election of 1972 in their last state of residence prior to going abroad. Each state was directed to grant the right to register and vote in such election to any such citizen whose application to register and/or vote absentee conveyed his intent some day to return to that state for resumed residency. Further, the law authorized the Justice Department to

take appropriate action to require each state, if necessary, to comply with its provisions.

As part of its informational and educational program, the National Chamber published a 40-page "Guide to Absentee Voting in Presidential Elections: in the United States and Overseas," a copy of which I submit for the record. This publication contained a detailed explanation of the 1970 Act, particularly Sec. 202-205; the text of Senator Goldwater's comments on the Senate floor on March 11, 1970, in explaining the statutory language; the Department of Justice May 1971 interpretation of the Act; instructions as to procedure; forms to be filed, and other pertinent information.

As a public service, a copy of our Guide was sent to the Governor, the Secretary of State, and the Attorney General of each state, and to the chief election official of each county in the nation. At least 4,000 copies were distributed to state and county officials, alone.

Many additional thousands of copies were sent to all American Chambers of Commerce abroad, to all U.S.-based corporations and organizations with representatives overseas, and to countless citizens here and abroad. Copies were likewise distributed through the U.S. State Department to embassies and consulates the world over, the Commerce Department and its offices here and abroad and to the Department of Defense in cooperation with the latter's Federal Voting Assistance program.

While this effort was designed mainly to alert American citizens to their new legal right to register and vote by absentee process in the Presidential election, it was also designed to inform state and county election officials of the new Federal law governing voting rights. To my knowledge, very few affected by the Federal Voting Rights Act Amendments of 1970 were left uninformed.

The results of the combined efforts of the Congress and the National Chamber were disappointing.

American citizens the world over responded enthusiastically. Many thousands of applications, properly filled out and certified by affidavit, were sent to the appropriate county or state election office. It is my understanding that half of the states fully complied with the Act—some automatically, some by direction of their attorneys general, some by confirming action of state legislatures. Overseas residents previously residing in these states were able, for the first time since going abroad, to vote in a Presidential election.

But, for one reason or another, the remaining states refused to comply. Unfortunately, their non-compliance was not challenged by the Department of Justice, and contrary to Congressional mandate possibly as many as 750,000 voting age Americans overseas were denied the right to vote for President/Vice President in 1972.

In failing to enforce compliance with the Act, the Justice Department, I understand, relied on a March 1972 interpretation rather than on the Department's original interpretation of May 1971.

Naturally, we at the National Chamber received letters from would-be voters and from business and professional people protesting such state action or inaction. Many people wrote directly to Senator Goldwater and to their own Senators and Representatives to seek correction of state sources of non-compliance. Few were successful in convincing state and county officials of the authority of Congress under the Federal Voting Rights Act.

I shall not attempt to cover each of the states where these applications were rejected. Some were reviewed by representatives of the Bipartisan Committee on Absentee Voting who testified yesterday.

Of the states refusing to comply with the Act, New York State stands out as particularly adamant both in refusing to honor applications from residents overseas and in refusing to adhere to federally established absentee registration and voting requirements. This is reflected in letters received by applicants from election officials of Monroe, Nassau, and Westchester Counties and the City of New York, copies of which came to us. A set of these we will furnish to the Subcommittee.

Here is one dated September 28, 1972, addressed to an employee of Eastman Kodak Company in Oslo, Norway, who formerly resided in Monroe County:

"Under New York State laws, you are not eligible to register inasmuch as you do not have a bonafide address in Monroe County and only those who are employed by the Federal Government directly or are in the military service are permitted to vote from a previous address in this state." (signed by Kenneth T.

Power and Robert W. Northrup, Commissioners, Board of Elections, Monroe County, N.Y.)

Another one from the same Board of Elections, dated August 22, 1972 was sent to a Kodak employee in Singapore. This applicant had resided 19 years in Monroe County, the last 12 of which were at an identified address in Rochester where he had been registered to vote and where he intended to return on completion of his overseas assignment.

"Your application for an absentee ballot must be denied unless you fall in one of the following three categories:

1. You have a residence in Monroe County
2. You are an employee of the United States Government, or
3. You are in the military service of the United States.

"If you fall into one of these categories, please let us know immediately, and we will forward to you an application for an absentee ballot. If we do not hear from you, we will assume that you do not fall into one of these three categories; therefore you would not be eligible to receive an absentee ballot."

Well, this particular applicant did reply to the Election Commissioners in Rochester and quoted from the Voting Rights Act Amendment of 1970 as the basis for his renewed application.

Here is a portion of the reply received September 7, 1972, from Kenneth T. Power, Commissioner:

"I agree with your thoughts that the situation is unbelievable, but, of course, you undoubtedly realize that we do not operate under rules and regulations set up by the Board of Elections of Monroe County, but operate under the law set up by the New York State Legislature * * *

"Unfortunately, you relied on the 'Guide to Absentee Voting * * *' published by the Chamber of Commerce of the United States. This dissemination of information by the Chamber of Commerce is inaccurate in several respects—one of which is your particular situation * * * (my previous letter) is what we are mandated by Albany to follow as a result of New York law and the various Congressional Acts, plus the interpretation placed upon the State by the State and Federal Courts * * *. I am not able to comply with your request * * *"

Proper applications for absentee ballots for the 1972 Presidential election, notarized by an American Consul and filed in August, 1972 by a man and his wife, both employees of International Paper Company in Switzerland, who earlier had resided at 23 West 75th Street, were rejected by The Commissioners of Elections of New York City on September 14 on the grounds that—

"* * * we have been informed by the Secretary of State of New York that no provision is seen in the Federal Voting Rights Act's amendments of 1970 which would extend the right of an absentee ballot to civilians residing outside the United States or those, who in fact have given up all claim to residence within the State of New York.

"The only persons living outside of the State * * * who retain their residence in the State of New York for voting purposes are those coming within the purview of Section 151 of the Election Law * * *"

I believe a reading of Section 151 of the New York State Election law, as amended in 1971, will leave little doubt as to the discrimination that was and can be exercised thereunder in denying an absentee ballot to an American working overseas and yet granting an absentee ballot to a resident of a state asylum or prison. Let me quote from this section, titled "Gaining or Losing a Residence."

"(a) For the purpose of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. Any person applying for registration who claims to belong to any class of persons mentioned in this section shall file with the board taking his registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong. . . .

"(b) As used in this article, the word 'residence' shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return.

"(c) In determining a voter's qualification to vote in a particular election dis-

trict, the board to which such application is made shall consider, in addition to the applicant's expressed intent, his *conduct* and *all attendant surrounding circumstances relating thereto*. The board taking such registration may consider the applicant's *financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse and children, if any, leaseholds, situs of personal and real property owned by the applicant, motor vehicle and other personal property registration and such other factors that it may reasonably deem necessary to determine the qualification of an applicant to vote* in an election district within its jurisdiction. The decision of a board to which such application is made shall be deemed presumptive evidence of a person's residence for voting purposes." (Emphasis supplied)

One final example, that I trust is not typical of election commissioners, illustrates a misunderstanding of the federal law's intent as well as the true meaning of the words "home", "domicile" and "residence".

The application of Jack G. Hardy of Rio de Janeiro was first rejected by one of the election commissioners of Westchester County, in White Plains, New York on February 9, 1972. Despite an explanatory letter from the National Chamber, combined with a communication from Senator Goldwater advising that the Federal law, as upheld by the Supreme Court, allowed a citizen abroad to vote for President in his state of former residency "so long as he retained an intent of being domiciled in the place which he had left upon moving overseas." We received the following reply dated March 24, 1972, from not one but two election commissioners in White Plains:

"Mr. Hardy advised us that during December, 1964, he moved from 200 Old Army Road, Scarsdale, New York to Brazil. 200 Old Army Road is a private home which Mr. Hardy sold to one Richard L. Goldman in February, 1965 and is presently occupied by the Goldman family. It is obvious that Mr. Hardy does not intend or could not return to his 'home' or 'domicile'."

The commissioners rejected Mr. Hardy's application even though he had certified his full intention to return to and live within Westchester County. As further proof, Mr. Hardy called the commissioners' attention to his personal listing in the telephone books of Westchester County and Scarsdale each year since 1964, the location being his mother's residence at 21 Montrose Road. Despite this, his application was not granted.

In enacting legislation proposed by Representatives Dent and Hays, I suggest that the Congress use these examples to prevent such violations or misunderstandings of the federal law in the future.

Contrast this action by the State of New York with that of the State of Maryland, for example. Its chief election official, Willard A. Morris, directed that all overseas applications for registration and voting be honored—if proof were available in Annapolis or the counties that the applicant had lived in Maryland in prior years.

Consider the Attorney General of Massachusetts, who held that the Federal law prevailed and that overseas applications to Massachusetts should be likewise honored.

The Attorney General of Illinois issued a similar ruling, followed by confirming action of the Illinois legislature.

Other states, which earlier had changed their laws to permit members of the Armed Forces and federal civilian employees and their families to vote absentee in all elections within their states in keeping with the Defense Department's request under the Federal Voting Assistance Act, extended these rights to other American civilians overseas.

However, some states set, as a condition to voting in the Presidential election, the payment of state income taxes. Naturally, prospective voters were hesitant to file applications in such states, while others did not wish to base their right to vote on an intent to return to a particular state when they might not be able to fulfill that pledge.

We support the effort being made by Mr. Dent and Mr. Hays and others in the House via H.R. 3211 (and by Senator Mathias and others in the Senate via S. 95) to guarantee the right of American citizens outside the United States to vote in all federal elections in the state of their last domicile, provided they are in all respect qualified to vote except for continuing domicile within that state. We further support the provision that would preclude any state or local jurisdiction from imposing a tax on such a citizen solely by reason of granting him the right to vote.

These examples from New York State serve to underscore at least two major faults in our electoral process that the enactment of H.R. 3211 would correct:

(1) Outright refusal by state authorities to comply with Federal election standards, combined with the failure of the Department of Justice to enforce compliance.

(2) Granting federal civilian employees and their dependents overseas the right to register and vote absentee, while denying that same right to other Americans overseas.

The latter, we believe, is outright discrimination. In fact, it smacks of favoritism to political appointees and civil service employees and their dependents.

Furthermore, it is our understanding that the 1970 Census, for the first time in history, included Americans overseas in the national population total and in the Census figures for each state. The resulting state totals, including former state residents abroad, were used to apportion among the states the number of Representatives in the House. A different total, comprising only people actually residing or maintaining residences within its borders, was used to set the boundaries of each state's congressional districts. In many cases, only actual residents were allowed to vote.

If true, this also is discriminatory. Any American 18 and over included in the apportionment tabulation should likewise be included among those authorized to register and vote within each state.

If, on the other hand, American civilians overseas were excluded from the Census figures, it was improper to include federal civilian employees and members of the Armed Forces, and their dependents, in such apportionment tabulations. Either all American citizens overseas should be tabulated and included in such population totals or none should.

In support of these assertions, I call your attention to the attached State Department tabulation, derived from U.S. consular figures, showing the number of U.S. Citizens residing in foreign countries in Fiscal Year 1971. Broken down as between government employees (37,418) and their dependents (365,814), or a total of 403,232, plus 1,048,925 other American residents, this shows a grand total of 1,452,147 Americans overseas, *excluding* those in the Armed Forces, but including their dependents.

In contrast is the enclosed Commerce Department's 1970 Census which shows Americans overseas as totalling 1,580,998 *including* Members of the Armed Forces, federal civilian employees, and their spouses, children and other relatives living abroad who are citizens of the United States or who have a home state. Excluded, evidently, were other Americans overseas outside these categories. Yet, it was this figure of 1,580,998 which, when added to the resident population in the states, determined the 1972 apportionment of the House of Representatives.

The difference between the 1,048,925 overseas Americans and the number of Armed Service dependents abroad would represent those Americans overseas who were excluded from the apportionment population.

This could affect individual state representation in the House. It is also another example of "forgotten" Americans overseas.

The contrast in these figures would appear to warrant further inquiry by the Congress, particularly the Members of the House whose state and individual districts could be affected seriously.

I note that both H.R. 3211 and S. 95—inadvertently I am sure—tend to further discriminate between private citizens overseas and federal civilian employees abroad. Such discrimination exists in the transmittal of absentee ballots back to the states. Under the Federal Voting Rights Act, absentee registration and ballot materials are transmitted to or from federal employees and their dependents free of postage, via U.S. mail, including Air Mail. In your proposed bill, this material is dispatched free of postage from the states to the overseas applicant, but the right to free postage *back to the states* is excluded. To the extent this discrimination between federal civilian employees and private citizens exists or is furthered by H.R. 3211 and S. 95, we would oppose such practice.

Despite such discrimination, I doubt, however, that any American overseas will object to paying postage on his return ballot if by his purchase and affixing of a stamp he is able, at last, to vote in all federal elections.

However, except for members of the Armed Forces, I would suggest that either all voters from overseas pay return postage or that none pay.

But this is a minor point. What is most important, Mr. Chairman, is the enactment of legislation such as you have proposed in H.R. 3211 granting overseas Americans the right to register and vote in all federal elections.

It is particularly important, we believe, for all of us—whether in government or private industry—to encourage more citizens to participate actively in the electoral process. In November, 1972, some 48 million Americans of voting age stayed away from their polling places—a number *exceeding* the votes cast for any candidate. This was a record low in a presidential election. In November, 1974, a national average of only 38% of voting age Americans voted—another all-time low.

The apathy of the American voter is at an all-time high. Yet, overseas there are at least 750,000 private citizens anxious to be given the right to vote and to participate in federal elections.

By granting them that right, and guaranteeing it by the enforcement powers of the Attorney General and the courts, the Congress can take a giant step forward to encourage and foster greater election participation.

You will be interested in the results of our nationwide membership poll taken in July 1973 in which 72% of the respondents favor the granting of absentee voting rights to Americans overseas.

Mr. Chairman, on behalf of the Chamber of Commerce of the United States and its worldwide membership, I urge your Subcommittee to report this legislation favorably and to strive for its enactment by the 94th Congress. We seek this action particularly for hundreds of thousands of qualified citizens belonging to Americans Chambers of Commerce abroad in 40 nations and territories of the world, together with other business and professional men and women working overseas, all of whom are anxious and deserve to be part of the voting constituency of the United States.

We are pleased to join with the Bipartisan Committee on Absentee Voting on an issue so important to the voting public and to the furtherance of our election processes. We endorse fully the testimony of J. Eugene Marans, Secretary and Counsel of that Committee, who appeared before this Subcommittee yesterday.

TABLE 2.—DEPARTMENT OF STATE, U.S. CITIZENS RESIDING IN FOREIGN COUNTRIES—FISCAL YEAR 1971

Countries and dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
Afghanistan.....	222	399	324	945
Algeria.....	21	26	630	677
Angola.....	5	11	349	365
Argentina.....	127	289	5,200	5,616
Australia.....	108	753	25,275	26,136
Austria.....	92	199	7,022	7,313
Bahamas ²	24	250	5,226	5,500
Bahrain.....	1	173	748	922
Barbados.....	21	161	1,784	1,966
Belgium.....	474	3,148	15,800	19,422
Bermuda.....	248	1,383	7,600	9,231
Bolivia.....	111	304	500	915
Botswana.....	5	6	135	146
Brazil.....	620	1,024	19,958	21,602
British Honduras.....	6	4	378	388
Bulgaria.....	18	28	63	109
Burma.....	47	95	26	168
Burundi.....	11	23	117	151
Cambodia.....	55	22	10	87
Cameroon.....	59	38	356	453
Canada.....	386	4,678	240,500	245,564
Central Africa Republic.....	10	16	162	188
Ceylon.....	37	51	215	303
Chad.....	58	24	60	142
Chile.....	187	343	2,800	3,330
Colombia.....	370	585	13,337	14,292
Congo, Democratic Republic of.....	164	246	2,886	3,296
Costa Rica.....	76	179	6,093	6,348
Cyprus.....	80	438	756	1,274
Czechoslovakia.....	23	58	600	681
Dahomey.....	61	23	100	184
Denmark.....	48	142	3,483	3,673
Dominican Republic.....	196	342	7,260	7,798
Ecuador.....	287	547	3,700	4,534
El Salvador.....	129	175	1,915	2,219
Equatorial Guinea.....	2	5	2	9
Ethiopia.....	407	1,423	1,574	3,404
Fiji Islands.....	10	6	1,271	1,287
Finland.....	36	86	810	932

TABLE 2.—DEPARTMENT OF STATE, U.S. CITIZENS RESIDING IN FOREIGN COUNTRIES—FISCAL YEAR 1971—Continued

Countries dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
France.....	412	840	20,365	21,617
French West Indies.....	3	6	180	189
Gabon.....	8	10	79	88
Gambia.....	2	5	27	34
Ghana.....	97	115	1,000	1,212
Germany.....	6,853	140,416	64,416	211,685
Greece.....	289	3,558	29,650	33,497
Guatemala.....	124	294	9,718	10,136
Guinea.....	27	38	59	124
Guyana.....	27	56	410	493
Haiti.....	39	61	3,204	3,304
Honduras.....	63	137	4,142	4,342
Hong Kong.....	119	320	5,558	5,997
Hungary.....	25	40	450	515
Iceland.....	82	2,311	175	2,568
India.....	443	756	4,921	6,120
Indonesia.....	168	314	3,290	3,772
Iran.....	347	973	7,615	8,935
Ireland.....	13	376	9,000	9,389
Israel.....	64	133	40,000	40,197
Italy.....	621	13,585	73,926	88,132
Ivory Coast.....	128	93	391	612
Jamaica.....	35	76	6,000	6,111
Japan.....	2,778	39,415	23,755	65,948
Ryukyu Islands.....	3,476	29,191	327	32,674
Jordan.....	31	37	327	395
Kenya.....	561	387	3,005	3,953
Korea.....	1,395	4,957	2,500	8,852
Kuwait.....	36	79	825	940
Laos.....	800	1,186	150	2,136
Lebanon.....	104	243	5,500	5,847
Lesotho.....	5	10	75	90
Liberia.....	197	463	3,758	4,418
Libya.....	36	49	3,266	3,351
Luxembourg.....	30	77	550	657
Madagascar.....	10	11	522	543
Malawi.....	63	52	466	581
Malaysia.....	62	205	1,808	2,075
Mali.....	28	26	110	164
Malta.....	10	132	850	992
Mauritania.....	4	4	10	18
Mauritius.....	9	17	27	53
Mexico.....	299	597	98,381	99,277
Morocco.....	197	1,947	985	3,129
Mozambique.....	5	8	133	146
Nepal.....	130	158	353	641
Netherlands.....	147	3,056	8,800	12,003
Netherlands Antilles.....	6	22	1,400	1,428
New Zealand.....	34	421	3,723	4,178
Nicaragua.....	61	150	2,900	3,111
Niger.....	97	28	123	248
Nigeria.....	278	516	3,490	4,284
Norway.....	47	654	7,500	8,201
Pakistan.....	203	343	1,341	1,887
Panama.....	309	2,745	4,469	7,523
Paraguay.....	72	187	795	1,054
Peru.....	153	349	8,186	8,688
Philippines.....	1,191	24,808	22,337	48,336
Poland.....	57	100	5,273	5,430
Portugal.....	179	2,908	4,489	7,576
Azores.....	156	456	10,650	11,262
Romania.....	22	63	80	165
Rwanda.....	5	6	63	74
Saudi Arabia.....	113	308	5,876	6,297
Senegal.....	39	58	268	365
Sierra Leone.....	229	62	287	578
Singapore.....	51	115	7,500	7,666
Somali Republic.....	26	44	76	146
South Africa, Rep. of.....	56	104	6,832	6,992
Soviet Union.....	70	132	157	359
Spain.....	587	14,691	24,000	39,278
Sudan.....	12	19	23	54
Surinam.....	5	7	175	187
Swaziland.....	11	31	225	267
Sweden.....	45	104	3,800	3,949
Switzerland.....	122	193	19,300	19,615
Taiwan.....	387	6,137	3,420	9,944

See footnotes at end of table.

Countries dependent areas	U.S. Government agencies		American residents ¹	Total
	Employees	Dependents		
Tanzania.....	90	202	1,100	1,392
Thailand.....	1,023	6,059	9,398	16,480
Togo.....	96	21	88	205
Togo.....	19	39	1,100	1,158
Trinidad and Tobago.....	83	144	475	702
Tunisia.....	394	6,920	2,134	9,448
Turkey.....	42	58	791	891
Uganda.....	24	47	1,196	1,267
United Arab Republic.....	933	30,861	44,111	75,905
United Kingdom.....	12	11	144	167
Upper Volta.....	91	185	890	1,166
Uruguay.....	164	323	13,191	13,678
Venezuela.....	4,430	277	2,000	6,707
Vietnam.....	6	6	20	30
Yemen.....	67	130	2,900	3,097
Yugoslavia.....	18	39	881	938
Zambia.....				
Other:		142		142
Leeward Islands.....	58	35		93
Marshall Islands.....				4
Canary Islands.....			4	4
Cape Verde Islands.....	3	23		26
Undistributed.....				
Grand total.....	37,418	365,814	1,048,925	1,452,157

¹ Peace Corps volunteers are shown under American Residents.² This estimate for American residents is based on the latest Bahamian census.³ 1970 figures used because the 1971 figures were not available.

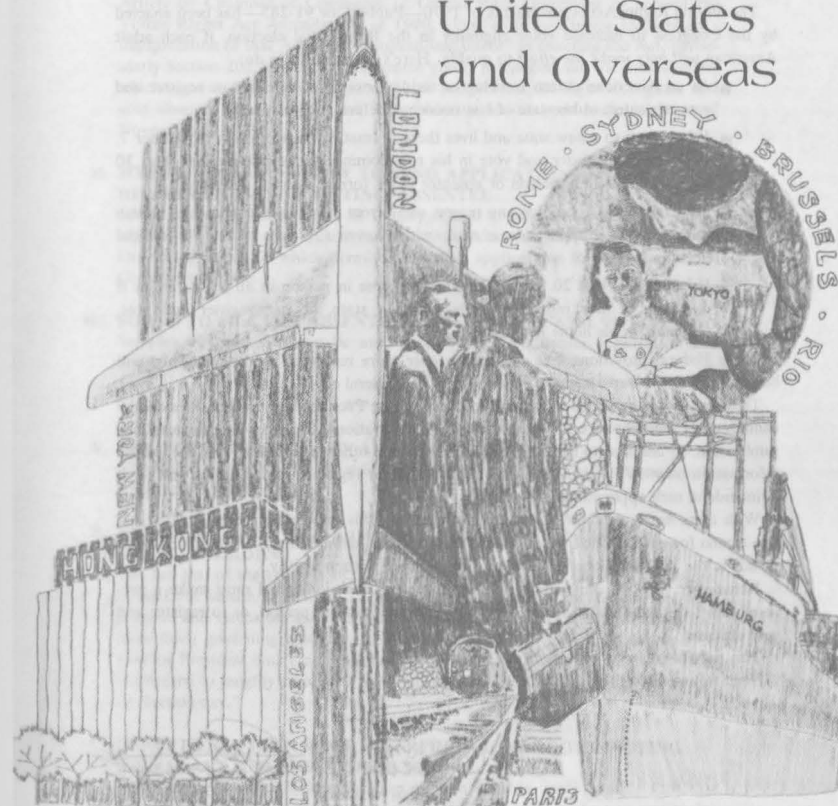
U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS
TABLE 3.—1970 POPULATION AND NUMBER OF REPRESENTATIVES, BY STATE

State	Resident population (1)	Population abroad ¹ (2)	Population used as basis for apportionment on 1970 census (3)=(1)+(2)	Number of Representatives based on 1970 census (4)	Change from 1960 apportionment (5)
United States.....	203,184,772	1,580,998	204,002,799	435	-----
Alabama.....	3,444,165	31,720	3,475,885	7	-1
Alaska.....	302,173	1,894	304,067	1	+1
Arizona.....	1,772,482	15,138	1,787,620	4	-----
Arkansas.....	1,923,295	19,008	1,942,303	4	-----
California.....	19,953,134	145,729	20,098,863	43	+5
Colorado.....	2,207,259	19,512	2,226,771	5	+1
Connecticut.....	3,032,217	18,476	3,050,693	6	-----
Delaware.....	548,104	3,824	551,928	1	-----
District of Columbia.....	756,510	6,461	-----	-----	-----
Florida.....	6,789,443	66,259	6,855,702	15	+3
Georgia.....	4,589,575	37,731	4,627,306	10	-----
Hawaii.....	769,913	14,988	784,901	2	-----
Idaho.....	713,008	6,913	719,921	2	-----
Illinois.....	11,113,976	70,344	11,184,320	24	-----
Indiana.....	5,193,669	34,487	5,228,156	11	-----
Iowa.....	2,825,041	21,879	2,846,920	6	-1
Kansas.....	2,249,071	16,775	2,265,846	5	-----
Kentucky.....	3,219,311	27,710	3,246,481	7	-----
Louisiana.....	3,643,180	28,828	3,672,008	8	-----
Maine.....	993,663	12,657	1,006,320	2	-----
Maryland.....	3,922,399	31,299	3,953,698	8	-----
Massachusetts.....	5,689,170	37,506	5,726,676	12	-----
Michigan.....	8,875,083	62,113	8,937,196	19	-----
Minnesota.....	3,805,069	28,104	3,833,173	8	-----
Mississippi.....	2,216,912	16,936	2,233,848	5	-----
Missouri.....	4,677,399	40,635	4,718,034	10	-----
Montana.....	694,409	7,164	701,573	2	-----
Nebraska.....	1,483,791	13,029	1,496,820	3	-----
Nevada.....	488,738	3,658	492,396	1	-----
New Hampshire.....	737,681	8,603	746,284	2	-----
New Jersey.....	7,168,164	39,871	7,208,035	15	-----
New Mexico.....	1,016,000	10,664	1,026,664	2	-2
New York.....	18,190,740	96,789	18,287,529	39	-----
North Carolina.....	5,082,059	43,171	5,125,230	11	-1
North Dakota.....	617,761	6,420	624,181	1	-1
Ohio.....	10,652,017	78,183	10,730,200	23	-----
Oklahoma.....	2,559,253	26,233	2,585,486	6	-----
Oregon.....	2,091,385	19,425	2,110,810	4	-2
Pennsylvania.....	11,793,909	90,405	11,884,314	25	-----
Rhode Island.....	949,723	8,075	957,798	2	-----
South Carolina.....	2,590,516	26,804	2,617,320	6	-----
South Dakota.....	666,257	6,990	673,247	2	-1
Tennessee.....	3,924,164	36,896	3,961,060	8	+1
Texas.....	11,196,730	102,057	11,298,787	24	-----
Utah.....	1,059,273	8,537	1,067,810	2	-----
Vermont.....	444,732	3,595	448,327	1	-----
Virginia.....	4,648,494	42,248	4,690,742	10	-----
Washington.....	3,409,169	34,318	3,443,487	7	-----
West Virginia.....	1,744,237	19,094	1,763,331	4	-1
Wisconsin.....	4,417,933	29,080	4,447,013	9	-----
Wyoming.....	332,416	330,316	335,719	1	-----

¹ Includes (a) members of the Armed Forces; (b) civilian employees of any Federal department or agency who are citizens of the United States or who have a home State; (c) spouses and children who are living abroad with persons classified in groups (a) and (b); (d) other relatives living abroad with persons in groups (a) and (b) who are citizens of the United States or have a home state.

² Excludes the District of Columbia. The total including the District of Columbia is 204,765,770.

Guide to Absentee Voting in Presidential Elections: in the United States and Overseas



Chamber of Commerce of the United States
1615 H Street, N.W. / Washington, D.C. 20006 U.S.A.

DAILY STATE INCOME TAX OBLIGATIONS

Shown by the Library of Congress showing those states that do not do not tax income earned outside their boundaries. Identifies the 12 states whose income earned is subject to taxation and may possibly affect voting status of absentee representatives elected.

FOREWORD

Too few people in the world today have the privilege of voting in free elections for candidates of their choice.

In marked contrast, this right belongs to 140 million Americans. In fact, on November 7, 1972, more Americans will be eligible to vote for President and Vice President of the United States than ever before in our 200-year history.

The Voting Rights Act Amendments of 1970—Public Law 91-285—has been enacted by the Congress to increase voter eligibility in the Presidential election, if each adult American *will only make the effort* to qualify. Here's all he needs to do:

- As an American citizen working or residing overseas, he can now register and vote, absentee, in his state of last residence before going abroad.
- If he moves to a new state and lives there at least 30 days prior to November 7, 1972, he can register and vote in his new community, or if there less than 30 days, he can vote in person or absentee in his former state of residence.
- As a registered voter, for any reason away from home on election day, he can vote absentee if application is made within seven (7) days of the Presidential election.
- If he is 18, 19 or 20, he can register and vote in person in all 50 states, or if overseas, or working or in college out of state, he can register and vote, absentee, in his home community.

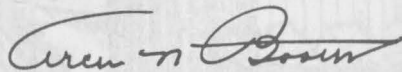
These Federal provisions take precedence over more restrictive state laws. They will be enforced by the Department of Justice—and the Federal courts.

To assist ALL Americans to register and vote for the Presidential and Vice Presidential candidates of their choice on November 7, 1972, the National Chamber has prepared this publication. In addition to the enabling legislation and other legal documents, it includes information on where to send absentee applications for registration and voting and what to include in such applications.

With these newly established voting privileges and this information, there can be one reason for any qualified American to fail to register and vote for the candidates of his choice in the 1972 Presidential election. That reason? Citizen apathy.

Remember: No one can register and vote for you. Each individual must make a personal effort to take the steps necessary to register and vote in person, or to register and vote absentee.

This publication will help pave your way.
Your follow through—in '72—is up to you!



ARCH N. BOOTH
Executive Vice President
Chamber of Commerce of the United States

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**B. ENHANCING THE RIGHT OF ALL AMERICANS TO CHOOSE
THEIR PRESIDENT** 19

The full text of the remarks of Senator Barry Goldwater (R-Ariz.) on the floor of the U. S. Senate, March 11, 1970, in which the Senator explains the language, purpose and intent of, and the legal basis for, his amendment to Section 202 (now law), governing absentee registration and voting "to secure the right to vote for President and Vice President for every citizen of the United States without regard to lengthy residence requirements or where he may be in the world on election day."

**C. DEPARTMENT OF JUSTICE INTERPRETATION OF THE VOTING
RIGHTS ACT AMENDMENTS OF 1970** 25

The Attorney General's memorandum opinion of May, 1971, setting forth his interpretation of the Act's application to absentee registration and voting by American citizens in Presidential elections, as well as other provisions of the Act, in light of the Supreme Court's decision in *Oregon vs. Mitchell*, and those sections which will be federally enforced.

D. LIKELY STATE INCOME TAX OBLIGATIONS 29

Study by the Library of Congress showing those states that do and do not tax income earned outside their boundaries. Identifies the 12 states where income earned abroad is subject to income tax and may possibly affect voting status of business representatives abroad.

ALL AMERICANS OVERSEAS CAN REGISTER AND VOTE FOR PRESIDENT, SAYS JUSTICE DEPARTMENT



ALL AMERICANS OVERSEAS CAN REGISTER AND VOTE FOR PRESIDENT, SAYS JUSTICE DEPARTMENT¹

American citizens working or visiting overseas are entitled to register absentee in their states of last residence and to vote absentee in Presidential elections, according to the Department of Justice. No longer is this right confined to members of the Armed Forces and Federal civilian employees, and their dependents, overseas.

This determination is based on the Attorney General's clarification of the Voting Rights Act Amendments of 1970 (42 U.S.C.A. 1973aa), as upheld by the Supreme Court in *Oregon v. Mitchell* 400 U.S. 112. It is also based on the "Congressional intent" expressed by Senator Barry Goldwater (R-Ariz.) on the Senate floor when he proposed the absentee voting provisions of the new law, "to secure the right to vote for President and Vice President for every citizen of the United States without regard to lengthy residence requirements or where he may be in the world on election day."

STATES MUST GRANT ABSENTEE VOTING PRIVILEGES

The effect is to enfranchise hundreds of thousands of citizens, many for the first time. Persons living abroad will be able to vote absentee in the Presidential election of November 7, 1972 without the prior necessity of maintaining a stateside abode. Likewise entitled to vote in that Presidential election will be all persons attending college outside their home state, as well as other persons who expect to be away from home on election day. Under the Justice Department's directive, and regardless of local election laws to the contrary, a state must grant absentee ballot privileges to any citizen who otherwise qualifies to vote. For a citizen overseas, his absentee registration and voting privilege must come from his state of last residence prior to his going abroad.

MORE RESTRICTIVE STATE LAWS UNENFORCEABLE

According to the Justice Department, under section 202 of the Act, "each state must provide that any otherwise qualified person who expects to be away from his election district on election day (and who complies with the applicable time requirements) may vote by absentee ballot. Accordingly, state laws which restrict availability of absentee ballots to certain classes of citizens or persons absent for particular reasons may not be enforced with respect to voting for President and Vice President."

¹From "Public Affairs News-Views-Ideas," Third Quarter 1971, published by Public Affairs Department, Chamber of Commerce of the United States, Washington, D.C.

Also, "anyone otherwise qualified to vote by absentee ballot for President and Vice President must be given the opportunity, if necessary, to register absentee," the Department of Justice says.

CIVILIANS GRANTED SAME PRIVILEGES AS SERVICEMEN

By his amendment, which became part of section 202, Senator Goldwater disclosed on the Senate floor his intention "that civilians should be granted the very same privileges of absentee registration and voting that are extended to members of our military service." He took formal notice of the general rule applicable to servicemen which holds a person "does not lose or abandon the domicile he had when he entered the service, nor does he acquire one at the place he serves, irrespective of the duration of his actual residence at such place. His residence or domicile is a question of intent." (American Jurisprudence 2nd, Elections, Section 75)

By quoting this statement from American jurisprudence, Senator Goldwater intended to guarantee that the new law would be interpreted to benefit Americans living away from their homes for any lengthy periods whether their absence ran into months or into years, we are told. He specifically focused his sights on citizens away from home who are "visiting relatives or friends abroad, attending college outside their own state, working for a United States firm overseas, or serving as Federal employees away from their normal home."

"HOME" OR "DOMICILE" DEPENDS ON INTENT TO RETURN

As Senator Goldwater views it, "A person's 'home' or 'domicile' should depend on his true intent to return to that home." Accordingly, based on his construction, a citizen residing abroad should be entitled to apply for a presidential ballot in the State of his last residence so long as the citizen states his intention to maintain a present voting residence or domicile in that State and to return and be domiciled there some time in the future.

30-DAYS RESIDENCY MAXIMUM REQUIRED. LONGER PERIOD UNENFORCEABLE

In general, in order to vote in a state or political subdivision in a presidential election, a person must be a bona fide resident or domiciliary of that state or political subdivision. "The only exception to this rule," the Justice Department says, "is that in certain limited circumstances, former residents of a state or a political

subdivision are to be permitted to vote for President." Here the Justice Department is referring to established residents of one state who have moved to a new state shortly before an election and who are precluded by state law from voting there. In this connection, durational residency requirements such as one year in the state, six months in the county, "are rendered unenforceable with respect to presidential elections. . . . Applications must be accepted up to the 30th day before" such elections, says the Justice Department. Should a person, by moving, be unable to meet the 30-day residency requirement, he may vote in the Presidential general election at his former location in person or by absentee ballot.

The Justice Department's clarification of the Voting Rights Act has been sent to the Governor of each state at Senator Goldwater's request. While any state may elect to continue or institute less restrictive standards, the failure of any state to comply with the Act's requirements will result in appropriate enforcement action by the Attorney General.

In addition to absentee registration and voting requirements, this clarification concerns the Act's provisions on the suspension of literacy and other tests which may seek to bar persons from registering or voting; implementation and voting age.

EACH AMERICAN MUST TAKE INITIATIVE TO REGISTER AND VOTE

A word of caution is in order. Despite this action by the Justice Department and Senator Goldwater, absentee registration and voting privileges do *not* come automatically.

Instead, each American overseas must take the initiative in getting registered to vote. A personal letter or form application is necessary to the County Clerk or Registrar of Voters of the county where he formerly resided, in which the applicant should provide the full address (street, city, county and state) where he formerly resided and he should advise of his intention to return to that area at some time in the future. The applicant should also request to be mailed to his current address a form of absentee voter registration, in accordance with the provisions of the Voting Rights Act Amendments of 1970, to allow him to become eligible to vote in the 1972 presidential elections.

Should any American citizen overseas, applying for absentee registration and voting privileges, be denied

that right by the county or state of his former residence, or should he fail, within a reasonable time, to receive a reply to his request, he should advise the Attorney General's office, Department of Justice, Washington, D.C. 20530, with a copy sent to Senator Barry Goldwater, Senate Office Bldg., Washington, D.C. 20515.

BUSINESS/PROFESSIONAL COMMUNITY SHOULD ASSIST

All business and professional firms and organizations in the states should alert their executives abroad to the contents of this article and should energize programs in their branch offices overseas that will generate now-permitted absentee registration and voting in presidential elections.

Executives of American Chambers of Commerce overseas, with the cooperation of the diplomatic staffs, should likewise alert American citizens within their jurisdictions of their right to now register and vote absentee in presidential elections, and urge complete participation.

To assist in this effort, the Chamber of Commerce of the United States is combining into this one publication, for the convenience of ALL Americans affected by the Voting Rights Act Amendments of 1970, certain basic information to help them in promptly exercising their newly established right to register NOW in the States so as to be able to vote for candidates of their choice for the office of President and Vice President in the general election of November 7, 1972.

Section II tells where, how and when to apply for absentee registration privileges, how to address such applications, and the postal regulations applicable to the FPCA form and other related election materials to and from overseas.

Section III contains samples of forms that can be utilized, in lieu of a personal letter, in applying for absentee registration and voting privileges for the 1972 Presidential election, and where such forms may be obtained.

In the Appendix section of this publication are assorted documents setting forth the legislative and legal background governing the right of American citizens the world over to register and vote absentee for President and Vice President in the November, 1972, election, together with a Library of Congress study of the likely state income tax obligations of U.S. businessmen living abroad to their states of domicile.

WHERE, WHEN AND HOW TO SEND APPLICATIONS FOR REGISTRATION AND VOTING ABSENTEE



TO VOTE IN PRESIDENTIAL ELECTIONS OF NOVEMBER 7, 1972 WHERE TO APPLY FOR

STATE	ABSENTEE VOTER REGISTRATION	ABSENTEE BALLOTS
ALABAMA	County Board of Registrars	Register of the County Civil Circuit Court
ALASKA	Local Election Board	Lt. Governor—Pouch AA—Juneau 99801
ARIZONA	County Recorder	County Recorder
ARKANSAS*	County Clerk	County Clerk
CALIFORNIA**	County Clerk	County Clerk
COLORADO*	County Clerk (Denver—Election Commission)	County Clerk (Denver—Election Commission)
CONNECTICUT	Town Clerk or Registrar of Voters	Town Clerk
DELAWARE	County Department of Elections	County Department of Elections
FLORIDA	County Supervisor of Registration	County Supervisor of Elections
GEORGIA**	County Board of Registrars	County Board of Registrars
HAWAII*	County Clerk (Honolulu—City Clerk)	County Clerk (Honolulu—City Clerk)
IDAHO	County Clerk	County Clerk
ILLINOIS	County Clerk	County Clerk (Chicago Election District—Board of Election Commissioners)
INDIANA	County Clerk of Circuit Court	County Election Board or County Clerk, Circuit Court
IOWA*	City or Town Clerk or Commissioner of Registration	County Auditor or Commissioner of Registration
KANSAS*	City Clerk (in Johnson, Sedgwick, Shawnee and Wyandotte Counties with Election Commissioners)	City Clerk or County Election Commissioner
KENTUCKY	County Clerk (Louisville—Board of Registration Commissioners)	County Court Clerk
LOUISIANA	Registrar of Parish	Clerk of Parish Court (New Orleans—Civil Sheriff of Parish)
MAINE	Board of Selectmen in Towns; Board of Registration in Cities	Town or City Clerk
MARYLAND*	Board of Supervisors of Election—County	Board of Supervisors of Elections—County
MASSACHUSETTS*	Town or City Clerk	City or Town Clerk
MICHIGAN	City or Township Clerk	City or Township Clerk
MINNESOTA*	City Clerk or County Commissioner of Registration	City Clerk or County Commissioner of Registration
MISSISSIPPI	Circuit Clerk (County Registrar)	County or City Registrar
MISSOURI	County Clerk (Kansas City—St. Louis City and County Board of Election Commissioners)	County Clerk or Board of Election Commissioners
MONTANA*	County Clerk and Recorder	County Clerk and Recorder
NEBRASKA**	County Clerk (Douglas, Lancaster, and Sarpy Counties—Election Commissioner)	County Clerk (Douglas, Lancaster, and Sarpy Counties—Election Commissioner)
NEVADA	County Clerk	County Clerk
NEW HAMPSHIRE	Board of Supervisors of Check-List of Town or City	Town or City Clerk
NEW JERSEY	County Clerk	County Clerk
NEW MEXICO*	County Clerk	County Clerk or Secy. of State
NEW YORK	Board of Elections in County Seat County Chairman of Board of Elections or Local Registrar	Board of Elections of County or Borough Chairman of County Board of Elections
NORTH CAROLINA	Local Registrar	Chairman of County Board of Elections
NORTH DAKOTA*	(Registration Unnecessary)	County Auditor
OHIO	County Election Board	County Election Board
OKLAHOMA	County Election Board or Deputy Registrar	County Election Board
OREGON*	County Clerk (Portland—Registrar of Elections)	County Clerk (Multnomah County—Department of Records and Elections)
PENNSYLVANIA	County Board of Elections (Philadelphia—Registration Division)	County Board of Elections
RHODE ISLAND	Local Board of Canvassers and Registration	Local Board of Canvassers or Secy. of State
SOUTH CAROLINA	County Registration Board	County Board of Registration
SOUTH DAKOTA	County Auditor	County Auditor
TENNESSEE	County Election Commission	County Election Commission
TEXAS*	County Tax Assessor—Collector	County Clerk
UTAH	County Clerk	County Clerk
VERMONT	Town or City Clerk	Town or City Clerk or Secy. of State
VIRGINIA	General Registrar of County or City	County or City Electoral Board
WASHINGTON*	County Auditor or City Clerk	County Auditor
WEST VIRGINIA	County Clerk	Clerk of Circuit Court or County Clerk
WISCONSIN	City, Town or Village Clerk (Milwaukee—Board of Election Commissioners)	Town or City Clerk (Milwaukee—Board of Election Commissioners)
WYOMING	County Clerk	County Clerk
DIST. OF COL.*	Board of D.C. Elections	Board of D.C. Elections

Seventeen (17) states and the District of Columbia (identified by * and ** on page 6) allow all U.S. citizens residing outside the territorial limits of the United States, and their spouses and dependents when residing with them, to register and vote by absentee process, using the Federal Post Card Application (Standard Form No. 76, issued under 5 USCA 2184), a sample copy of which is shown in Section III of this publication.

In addition, those states marked with a double asterisk (**) require a special state form for registration, which may be included with an absentee ballot from the state.

The following states have broad absentee registration provisions which allow all absent citizens to register by absentee process: Alaska, Arizona, Idaho, Indiana, Michigan, New Hampshire, New York, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin and Wyoming. Persons making application to register in these and other states may do so by letter, incorporating the information requested in the FPCA form (Federal Post Card Application) shown in Section III.

For the convenience of affiliates unable to utilize the FPCA form, Form B, also shown in Section III, is offered by the Chamber of Commerce of the United States of America.

HOW TO ADDRESS APPLICATION

In whatever form an application for absentee registration is made, it must be addressed to the County or local official or body shown in the Section II table; and to the County seat (city or town), County and State where the applicant last resided before going overseas. For example:

Board of Supervisors of Election
of Montgomery County, Maryland
Rockville, Maryland 20850
U.S.A.

If in doubt as to whom or where a letter or application for absentee registration should be addressed, send your request to the Secretary of State in the capital city of your state of last residence.

HOW TO DETERMINE COUNTY SEAT AND ZIP CODE

In the *World Almanac*, a copy of which should be available for examination in a library or in the offices of the American Chamber of Commerce or American embassy or legation in your community overseas, lists are shown of counties by states and the county seat of each with its principal zip code. Use of this information will assure prompt delivery and handling. To identify a town or

city with its county location, consult a *Road Atlas* of the United States and its index of cities, towns and counties.

POSTAGE

In the exchange of election materials between the States and persons overseas, free postage is authorized under the Federal Voting Assistance Act of 1955, as amended. The following is quoted from an August 5, 1971, memorandum for Members of the Federal Voting Assistance Task Force:

"1. The Free Postage Provision as it applies to the States:

"a. To whom may the States mail official election material free of postage? State election officials may send official election material to: (1) Members of the Armed Forces, and their spouses and dependents wherever they may be; (2) members of the Merchant Marine, and their spouses and dependents wherever they may be; (3) U.S. citizens temporarily residing overseas, and their spouses and dependents when residing with or accompanying them.

"b. What material falls within the meaning of official election material? The following items, ballots, voting instructions, special State forms for requesting applications for registration and/or absentee ballots, and the applications themselves, and all other necessary and proper material essential to the election process are included within the meaning of official election material.

"c. What envelope design must be used to take advantage of the Free Postage Provision? The envelope design should meet the design features outlined in recommendation number 7 (section 1452 (7)). Upon compliance with this Provision the envelope will look substantially like the Federal Post Card Application.

"2. The Free Postage Provision as it applies to the categories of persons covered in the Act (section 1451, also see subparagraph 1 (a) above).

"a. Where should the categories of persons mentioned above mail their FPCA or other election material so as to take advantage of the Free Postage Provision? The FPCA and official election material should be deposited in a U.S. Postal Service depository (U.S. mail box). While this is no problem for those persons in the U.S. or its territories, those persons overseas should mail their FPCA or official election material at an Armed Forces Postal Facility (APO or FPO) or at a U.S. Embassy. If not mailed at such designated places the material

may not be allowed to be sent free of postage. A foreign government may not mail the material, or it may exact a fee from the addressee.

"b. What material may the above mentioned persons (see subparagraph 1 (a)) send to State election officials? The same material outlined in subparagraph 1 (b) above can be sent to election officials."

In mailing letters or other requests for absentee registration or voting applications, other than FPCA forms, the applicant should adhere to the postal requirements covering the exchange of mail between his country of location and the United States.

WHEN TO SEND ABSENTEE REGISTRATION AND VOTING APPLICATIONS?

Everyone entitled to register and vote absentee is urged to file the necessary application promptly. **Allow plenty of time for any delay that may be encountered.**

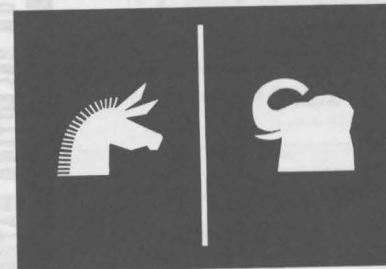
Those who can register in person should do so as soon as possible in their respective communities.

While the law directs the States to honor registration applications received not later than 30 days prior to the presidential election, and to likewise honor absentee ballot applications received not later than 7 days prior to such election, **care should be taken to avoid such delays. Utilize these legal limitations only in cases of extreme emergency.**

Be prompt. Register now so that you will be prepared to vote on November 7, 1972.

SECTION III

FORMS TO FILE FOR ABSENTEE REGISTRATION AND VOTING



FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT

State or Commonwealth of _____ (Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:
(GENERAL) (PRIMARY)* (SPECIAL) ELECTION.
(Strike out inapplicable words)

(2) *If a ballot is requested for a primary election, print your political party affiliation or preference in this box:
(If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, eligible to vote in above State, and am:

a. A member of the Armed Forces of the United States

b. A member of the merchant marine of the United States

c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia

d. A spouse or dependent of a person listed in (a), or (b) above

A spouse or dependent residing with or accompanying a person described in (c) above

(4) I was born on _____ (Day) _____ (Month) _____ (Year)

(5) For _____ years preceding the above election my home (not military) residence in the above State has been _____
(Street and number or rural route, etc.)
in the county or parish of _____
The voting precinct or election district for this residence is _____
(Enter if known)

(6) Remarks: _____

(7) Mail my ballot to the following official address:
For those assigned in the U.S.:

(Unit (Co., Sq., Tpn., Bn., etc.), Governmental Agency, or Office)
(Military Base, Station, Camp, Fort, Ship, Airfield, etc.)
For those assigned elsewhere:

(APO, or FPO number)

(8) I am NOT requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

(9) _____
(Signature of person requesting ballot)

(10) _____
(Full name, typed or printed, with rank or grade, and service number)

(11) Subscribed and sworn to before me on _____ (Day, month, and year)

(Signature of official administering oath) (Typed or printed name of official administering oath)

(Title or rank, service number, and organization of administering official)

INSTRUCTIONS

A. Before filling out this form see your voting officer in regard to the voting laws of your State and absentee registration and voting procedure.

B. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.

C. Address card to proper State official. Your voting officer or commanding officer will furnish you his title and address.

D. Mail card as soon as your State will accept your application.

E. NO postage is required for the card.

★ U.S. GOVERNMENT PRINTING OFFICE: 1968-O-340-457 #32-J

Standard Form 76
Revised 1968
Issued October 1968
GSA GEN. REG. NO. 27
5010-108 C. A. 2104

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

FILE OUT BOTH SIDES OF THE CARD

OFFICIAL ADDRESS

To: _____
(TITLE OF ELECTION OFFICIAL)

(COUNTY OR TOWNSHIP)

(CITY OR TOWN, STATE, ZIP CODE)

FREE OF U. S. POSTAGE
INCLUDING AIR MAIL

NOTE:
The address to be entered at Item 5 of the FPCA form should be the applicant's last home address in the United States, even though he may not still maintain a home or other abode at that address.

(Type or print information requested, except signature.)

(FORM B)

APPLICATION

for

AN ABSENTEE REGISTRATION FORM AND AN ABSENTEE ELECTION BALLOT
to enable applicant to vote on November 7, 1972, for the candidates and party of choice for President and Vice President of the United States, pursuant to the Voting Rights Act Amendments of 1970 (Public Law 91-285).

TO: _____
(title of County Official(s)) (fill in city or town, county and state of last residency)

Sir: I am a citizen of the United States and hereby request the following material to enable me to participate in the Presidential election of November 7, 1972 in the state of _____; pursuant to the Voting Rights Act Amendments of 1970. (Public Law 91-285).

An absentee registration form
 An absentee voter's ballot

1. My date of birth: _____ month _____ date _____ year _____ Place of birth: _____ (city - state)
2. I am , I am not presently registered to vote in the State of _____
3. For _____ years preceding 19____, my home residence or domicile in the United States has been _____
(street address)

(city-town) (county) (State) (Zip Code)
4. I intend to maintain my voting residence or domicile in the State of _____ and return and be domiciled there in the future.
5. I have been absent for _____ (number) years, and at present, I am:
- an employee of _____ (name of firm, organization, or agency)
- the spouse of an employee of the above.
- a retiree. a visitor. other _____ (specify)
- a student at _____
6. I am presently located and should receive mail at: _____
7. If I am authorized to vote by absentee process in the State of _____, I shall NOT request or exercise voting privileges in any other state or the District of Columbia.
8. _____
(Signature of person requesting information/material)
9. _____
(Type or print full name to match signature above)
- Subscribed and sworn to before me this _____ day of _____, 197____

(NOTARY SEAL)

(NOTARY PUBLIC)

This unofficial form prepared by Chamber of Commerce of the United States of America for convenience of affiliates.

WHERE TO OBTAIN COPIES OF FORMS?

The unofficial form on the reverse side has been prepared by the Chamber of Commerce of the United States for the convenience of its affiliates in applying for information or materials on registration and voting by absentee process under Public Law 91-285 (42 USCA 1973aa) from those states which have not authorized for such purpose the use of Federal Post Card Applications (Standard Form No. 76, 5 USCA 2184).

Copies of this form are available from the Chamber of Commerce of the United States, 1615 H Street, N.W., Washington, D.C. 20006, U.S.A., in quantity lots of \$2.00 per 100 copies; less in bulk orders. Also available through American Chambers of Commerce overseas and other affiliates of the Chamber of Commerce of the United States both overseas and within the states.

NOTE:

The address to be entered at Item 3 of this form should be the applicant's last home address in the United States, even though he may not still maintain a home or other abode at that address.

The FPCA form is available to persons overseas through American embassies or consulates or from the commanding officer of any U.S. Armed Service facility. It is likewise available for purchase at the U.S. Government Printing Office, Washington, D.C. 20401, U.S.A.

With regard to the **FPCA form**, the following states have authorized its use by overseas Americans applying for registration and voting privileges by absentee process, as of December 1, 1971:

Arkansas	Massachusetts
California	Minnesota
Colorado	Montana
District of Columbia	Nebraska
Georgia	New Mexico
Hawaii	North Dakota
Iowa	Oregon
Kansas	Texas
Maryland	Washington

NOTE:

The address to be entered at Item 5 of the FPCA form should be the applicant's last home address in the United States, even though he may not still maintain a home or other abode at that address.

APPENDIX A

THE VOTING RIGHTS ACT AMENDMENTS OF 1970





Public Law 91-285
91st Congress, H. R. 4249
June 22, 1970

An Act

To extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests, and for other purposes.

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 "Voting Rights Act Amendments of 1970".

Sec. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by inserting therein, immediately after the first section thereof, the following title caption:

"TITLE I—VOTING RIGHTS".

Sec. 3. Section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by striking out the words "five years" wherever they appear in the first and third paragraphs thereof, and inserting in lieu thereof the words "ten years".

Sec. 4. Section 4(b) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by adding at the end of the first paragraph thereof the following new sentence: "On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968."

Sec. 5. Section 5 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973c) is amended by (1) inserting after "section 4(a)" the following: "based upon determinations made under the first sentence of section 4(b)", and (2) inserting after "1964," the following: "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968."

Sec. 6. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by adding at the end thereof the following new titles:

"TITLE II—SUPPLEMENTAL PROVISIONS

"APPLICATION OF PROHIBITION TO OTHER STATES

"Sec. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

"(b) As used in this section, the term 'test or device' means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or

Pub. Law 91-285

- 2 -

June 22, 1970

interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

84 STAT. 315
84 STAT. 316

"RESIDENCE REQUIREMENTS FOR VOTING

"Sec. 202. (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, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

"(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

"(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

"(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

"(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

"(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

"(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

"(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

"(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

"(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents

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Act Amendments
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84 STAT. 314
84 STAT. 315

Use of tests or
devices, prohibi-
tion.

USC prec.
title 1.

Durational
residency
requirement,
abolishment.

Absentee
registration
and balloting
standards,
establishment.

Registration.

Supra.

"Test or de-
vice."

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of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and 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 election.

"(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

"(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

"(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

"(h) The term 'State' as used in this section includes each of the several States and the District of Columbia.

"(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

"JUDICIAL RELIEF

"Sec. 203. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, 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. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

"PENALTY

"Sec. 204. Whoever shall deprive or attempt to deprive any person of any right secured by section 201 or 202 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

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"SEPARABILITY

"SEC. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

"TITLE III—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

"DECLARATION AND FINDINGS

"SEC. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

"(3) does not bear a reasonable relationship to any compelling State interest.

"(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

"PROHIBITION

"SEC. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

"ENFORCEMENT

"SEC. 303. (a) (1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this title.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

"(b) Whoever shall deny or attempt to deny any person of any right secured by this title shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

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"DEFINITION

"Sec. 304. As used in this title the term 'State' includes the District of Columbia. "State."

"EFFECTIVE DATE

"Sec. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971."

Approved June 22, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-397 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 115 (1969): Dec. 10, 11, considered and passed House.

Vol. 115 (1969): Mar. 2-6, 9-13, considered and passed Senate, amended.

Apr. 8, considered in House.

June 17, House agreed to Senate amendments.

APPENDIX B

ENHANCING THE RIGHT OF ALL AMERICANS TO CHOOSE THEIR PRESIDENT





United States
of America

Congressional Record

ENHANCING THE RIGHT OF ALL AMERICANS TO CHOOSE THEIR PRESIDENT

Mr. GOLDWATER. Mr. President, the substitute amendment that is pending before us has been modified to include the amendment on presidential voting that I have offered for myself and 29 other Senators. This was a very gracious move on the part of the 10 Senators who have sponsored the substitute measure. It was a particularly happy moment for me because it signifies that there is a broad range of support for my amendment among Senators of all persuasions. Frankly, this is the way I had hoped it would be. When I first presented my suggestion, I thought they should cut across party lines and political labels. Everyone, it seemed to me, would be in favor of letting people vote.

And this—in a nutshell—is exactly what my amendment is designed to do. With one fell swoop it will clear away a barrier of outmoded legal technicalities that now deprive nearly 10 million American citizens of the basic rights to vote for the leaders who will guide their country.

PURPOSES

Mr. President, I would like to explain today, in a layman's terms, just what the purposes of our amendment are and how our proposal differs from the House-passed language.

In short, my amendment will secure the right to vote for President and Vice President for every citizen of the United States without regard to lengthy residence requirements or where he may be in the world on election day.

In order to do this, my amendment will provide for the following reforms to be made in the Nation's election machinery.

First, it will completely abolish the durational residence requirement as a precondition to voting for President and Vice President. The provision will benefit both new residents and longtime residents of a State.

Second, it will permit new residents of a State who move after the voting rolls are closed to vote for such officers by absentee ballot or in person in their former State.

Third, it spells out the right of all citizens, both new residents and longtime residents of a State, to register absentee and to vote by absentee ballot for President and Vice President. One important facet of this provision is the fact that once the voting age is reduced to 18, the

benefits of my amendment will be immediately available to all our young Americans who are attending college away from their homes.

Fourth, it will allow longtime residents of a State to register as voters for presidential elections at least up to 30 days before the election, whether or not they have moved their homes.

Fifth, it will expressly preserve the power of the States to adopt voting practices which are even more generous than those provided by the new law.

Sixth, it will authorize the Attorney General to institute court actions to insure compliance with the law.

Seventh, it will specifically prohibit double voting and false registration.

Eighth, it clearly sets out a congressional finding of the powers that Congress is exercising under the Constitution.

Ninth, it plainly is applicable to voting for the offices of President and Vice President alone.

HOUSE VERSION

Out of the nine features which I have listed, only the second one and half of the first one were contained in the House-passed bill.

The earlier version, as it was explained by its sponsors, would solely have benefited new residents of a State who moved across State lines.

Put in more tangible terms, the House provision would have helped approximately 5.5 million citizens gain the right to ballot for their President. My amendment will almost double that number of citizens.

Mr. President, I do not in any way mean to cast criticism on the approach used in the House version. It would be a major step forward in extending the right to vote. However, the suggestions which I had proposed in Senate Joint Resolution 59—which was introduced months before the House bill—would build upon the features set out in the House measure so that the broadest possible meaning could be given to the right to vote in presidential elections.

My present amendment, which is a refinement of our first proposal, goes even further in nailing down the objectives which I and 32 other Senators had in mind when we offered Senate Joint Resolution 59.

Mr. President, this is an appropriate place to express my deep appreciation to the many Senators who have joined with me in this effort, first in connection with the joint resolution and now in regard to the amendment. Without their assistance and endorsement, the idea would not have gotten as far as it has.

So, I want to say, in truth, that whatever credit is due for the contribution which the proposal might eventually

make, should be shared by all of my colleagues who have kindly supported the election reforms I have suggested.

It is easy to explain my own great interest in improving the machinery by which the Chief Executive is selected. Having been my party's nominee for President in 1964, I perhaps have had more reason than most persons to examine the workings of that machinery.

REFORMS NEEDED

Mr. President, the more I have studied our national election system the more I have been convinced that it is in need of a major overhauling. To put it bluntly, the election system of the world's greatest republic and democracy is not geared to insuring that the maximum number of citizens will be eligible to vote. In many ways it even discourages or makes it impossible for citizens to register or to obtain ballots or to cast those ballots. It is my belief that these restrictions are particularly arbitrary and injurious when they result in the denial of the fundamental right of an American citizen to choose the officers who will run the National Government.

Mr. President, I have outlined what the problems are when I described the primary features of my amendment. At this time I would like to develop the story at greater length so that there may be a solid legislative history of the problems which our amendment is designed to overcome.

STATE RESIDENCE REQUIREMENTS

The worst offender is the burden on voting imposed by lengthy residency requirements. Sixteen of our States require a full year's residence within their boundaries before they will allow a citizen to vote for President and Vice President. One of these States actually requires residence for as long as 2 years before a citizen can vote. Standing alone, the laws of these few States disqualify more than 620,000 Americans of voting age who move from State to State in an election year.

In addition, three States, to which over 150,000 adult citizens move each year, impose a 6-month waiting period as a precondition to voting for President.

Thirty-two other States require waiting periods for new residents ranging from 3 months down to zero. Even these shortened periods result in the disqualification of nearly half a million otherwise eligible voters.

Mr. President, the combined effect of the various State residence laws is the denial of the right to vote for President in the case of over 1,120,000 Americans. This total can be readily established on the basis of a table which I shall insert later in the Record.

LOCAL REQUIREMENTS

But this is only part of the story. Added to this obstruction to the free exercise of a citizen's franchise were numerous local rules that imposed a separate waiting period on persons who moved about inside a State. These laws affect both longtime residents of a State and newly arrived residents who may move after entering the State.

For example, if a citizen living in any one of 10 States changed his address to a different county or city in that same State as much as 6 months before the 1968 election, he would have lost his right to vote in that election. One might think that the cumulative effect of these strictly local rules would be small, but to the contrary they actually cause the disfranchisement of at least an additional 855,000 citizens.

CITIZENS DISQUALIFIED BY WAITING PERIODS

Mr. President, I have prepared a table which details the numbers of citizens who are disqualified from balloting in presidential elections and I request that it be inserted at the end of my remarks. It shows, State by State, a listing of the current residence periods applied by the several counties, cities, towns, precincts, and wards within each State, and identifies the number of citizens of voting age who moved to each State and within each State during the last election year.

Mr. President, it is clear from reading the table that no less than 2 million Americans are being denied a voice in the selection of their President solely because they have changed their residence. But let me emphasize that this figure is the bare bones minimum which can be proven.

Actually, the Gallup poll's in-depth analysis of the 1968 election claims that the true number of citizens who were disfranchised by restrictive residence laws exceeded 5 million persons. What is more, one estimate made by the Census Bureau indicates that 5.5 million Americans were caught by these restrictions.

Since there were more than 21 million citizens of voting age who in fact made a change of households during the year preceding the 1968 election, it is my feeling that 5 million is much closer to the truth.

ABSENTEE VOTING

But these are not all of the unfortunate citizens who find themselves without the vote because of out-of-date legal technicalities. Approximately 3 to 5 million more fully qualified American citizens were denied the right to vote for President because they were away from home on election day and were not allowed to obtain absentee ballots.

This gap in the law is often overlooked because most States do permit some form of absentee voting. But the catch is that some of these same States impose unrealistic cutoff dates on the time when persons can apply for absentee ballots. This results in the disqualification of great numbers of citizens who do not know early enough that they will be away at the time of voting. Another bur-

densome feature about these laws is the fact that in 10 States a person's absentee ballot will not be counted unless it is returned to the voting officials before election day.

But this is not all. For in three out of every five States civilians cannot register absentee. Only 20 States now allow civilians generally to register to vote if they are away from home.

This means that millions of Americans are denied a voice in choosing their President and Vice President merely because they are exercising their constitutional right to travel in interstate commerce.

This category of citizens not only includes those Americans who travel within the United States for various reasons at election time, but it also encompasses a great many Americans who are temporarily outside the United States.

They may be serving overseas as Foreign Service officers or other governmental civil servants. They might be students who are attending foreign colleges. They include Americans who are working abroad. Or they may be plain tourists who are visiting friends or seeing new places overseas.

In any event, they are all fully qualified American citizens who find themselves without the right to vote solely because of outmoded legal technicalities.

UNFAIR LEGAL TECHNICALITIES

Mr. President, I want to state as firmly as I can that this hodgepodge of restrictive devices is unfair, outmoded, and unnecessary when applied to presidential elections.

In my opinion, every qualified citizen of the several States should be entitled to participate in the choice of his President. A citizen should be able to exercise this right regardless of where he is in the world on election day and regardless of how long he has been a resident of any particular State.

As Chief Justice Taney put it over a century ago:

We are one people, with one common country. *Passenger Cases*, 7 Howard 293; 492 (1849).

Being members of the same political community, it is my view that all citizens possess the same inherent right to have a voice in the selection of the leaders who will guide their Government.

Mr. President, I wish to emphasize that my comments are not aimed at the election of State and municipal officers. My amendment is specifically worded so as to apply only to the choosing of the President. Here there is no need to insure that new residents have had time to learn about local issues. Here the issues are national and cut across all areas and regions of our country.

It is true that all States limit the right to cast presidential ballots to bona fide residents or recent former residents. It is also true that most States require voters to register to vote within a few days before an election.

When these requirements are applied

in a reasonable way, they can serve a valid purpose by protecting against fraudulent voting and allowing the election officials to carry out the paperwork and mechanics of holding an election.

But whatever the reasons for permitting a State to set a closeout date for registering to vote for President, there is no compelling reason for imposing a separate and additional requirement that voters also must have been residents of the State for a particular length of time. If a State can satisfy its logistical needs by keeping its voting lists open up to 30 days before an election—as 40 States now do—what is the justification for barring citizens from balloting for President unless they have been residents of that State for 6 months or 1 year?

So long as a citizen is a good-faith resident of a State and the State has adequate time to check on his qualifications, the duration of his residency should have no bearing on his right to participate in the election of the President.

REMEDIES PROVIDED

This is why my proposal provides for the complete abolishment of the durational residence requirement as a separate qualification for voting for President and Vice President. My amendment will, however, permit a State to require that its voters shall be bona fide residents who shall register or otherwise qualify for voting no later than 30 days preceding the election. Thereby the legitimate interests of the States will be protected at the same time that the fundamental right of citizens to vote will be given its broadest possible meaning.

This does not mean that most States will be left with rules which amount to the same thing as a 30-day waiting period. For example, 19 States now permit a new resident to apply for a presidential ballot as late as 2 weeks before the election. Fourteen States allow their new voters to register as late as 5 days before election day.

Now, under my amendment, new citizens who move into one of these States will be allowed to vote there with merely 2 weeks or 5 days of residence, as the case may be. But under the House-passed bill the same citizen will be denied the franchise in his new State unless he has more than 60 days' residence. So the terms of my proposal are really much more generous than a mere 30-day residency law would be.

Mr. President, the record should show that there is another important group of citizens who will benefit from the requirement that States shall keep their voting lists open until at least 30 days before a presidential election.

The point must be made absolutely clear that my amendment is intended to remove all the insidious effects which these archaic statutory limitations may have on a citizen's free exercise of his right to choose the President.

LONGTIME RESIDENTS

To this end, my proposal is expressly designed to help not only new residents

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of a State but also citizens who have lived for along time in a State.

Mr. President, one of the most bizarre features now included in some State election laws is the fact that citizens who have just moved into a State may register to vote as late as 30 days or even 5 days before a presidential election, but longtime residents of that same State are required to apply for registration as much as 9 months before the election.

What nonsense. Nine months prior to the election few people may be thinking about that event. But by 30 days before the polls open, political interest will have reached a fever pitch.

So, I want to make it very clear that my proposal is intended to mean that all citizens, both new residents and longtime residents, shall be permitted to register or otherwise qualify to vote for their President at least until 30 days before the election.

Mr. President, returning to the problems of the new residents for a moment, I want to add that my amendment will completely close the gap for those persons among this group who would still be unable to qualify as voters because they have moved into a State after the voting rolls have closed. To do this, the amendment provides that former residents of a State who fail for this reason to become electors in their new State must be allowed to vote for President in their former State.

My proposal draws on the excellent example set by the States themselves. Ten States—including Arizona—now permit former residents to vote in presidential elections.

ABSENTEE VOTING

Next, in order to provide the greatest possible encouragement and meaning to the right to vote, my amendment will permit all categories of citizens, both civilian and military, to register absentee and to vote by absentee ballot.

Specifically, the amendment provides that citizens may apply for absentee ballots for President and Vice President up to 7 days before the election and may return their marked ballots as late as the close of the polls on election day. Once again, the features of my measure are drawn from the proven practice of the States themselves. At present 37 States allow certain voters to make application for absentee ballots up to a week before the election and 40 States provide that the marked ballots need not be returned until election day itself.

ABSENTEE REGISTRATION

My amendment will also allow citizens who are away from their homes to register absentee. Forty-nine States now permit servicemen to register absentee or do not even require them to register at all, and I believe this privilege should be extended nationwide to all citizens, both civilians and servicemen.

Mr. President, allow me to describe the full scope of this provision. What I intend is that civilians should be granted the very same privileges of absentee registration and voting that are extended to members of our military services.

As I have indicated, absentee registration is nothing novel in the case of servicemen. The general rule is as follows:

The domicile of a person is not affected or changed by the mere fact that he has entered the military or naval service of his country. He does not thereby lose or abandon the domicile he had when he entered the service, nor does he acquire one at the place where he serves, irrespective of the duration of his actual residence at such place. His residence or domicile is a question of fact. (American Jurisprudence 2nd, Elections, section 75)

Thus, it seems entirely appropriate to ask that the same rule shall be applied on behalf of civilian citizens who are temporarily living away from their regular homes, whether they are visiting relatives or friends abroad, attending college outside their own State, working for a U.S. firm overseas, or serving as Federal employees away from their normal homes.

Thus, it is my purpose that the same standards that are applied to servicemen shall be applied to civilians. A person's "home" or "domicile" should depend upon his true intent to return to that home.

Mr. President, I should note in connection with this feature that, if Congress should eventually lower the voting age to 18, my amendment would be available to assist all of these young Americans who may be attending college away from their home States.

SPECIAL BALLOTS

Mr. President, I would also like to mention that the basic practice that a State will have to establish once my amendment takes effect is one which most States already have put into operation. To date, 31 of our States have created a special method for voting in presidential elections in the case of new residents who cannot meet the usual residence requirements. These citizens are allowed to vote for presidential electors, but not for other offices.

This proves beyond any doubt that the States can set up the separate system for voting that is required under my amendment.

In short, every standard set forth in the amendment has been modeled States themselves and are proven to be workable. Therefore, I can safely say with me a special respect and concern State and local governments that their interests were fully taken into account in the preparation of this measure. Mr. President, I ask that tables identifying the States whose practices I have followed be inserted at the end of my statement.

OTHER FEATURES

Mr. President, there are two remaining features of my amendment that should be discussed. One is the provision which authorizes the Attorney General to institute court actions to enforce compliance with the law. There is no general authority that permits the

United States to seek injunctive relief and I wanted to see this power written into the bill. Otherwise, the only way the section could be enforced would be through individual, private law suits. This point is handled in section 5 of the substitute amendment.

Finally, it is my belief that we should not leave any doubt as to whether there are sanctions in the case of double voting and false registration. Therefore, I have expressly provided that such conduct will be a Federal offense. What I have done is to utilize the existing provisions of section 11(c) of the existing voting rights law.

Mr. President, up to here I have sought to identify the problem and describe the ways in which I believe we can solve it. Now it is my purpose to state the grounds on which I believe Congress can act in this field.

CONSTITUTIONAL AMENDMENT

In doing so, I wish to note that I have also considered the route of a constitutional amendment. Early last year I introduced a joint resolution, on behalf of myself and 32 other Senators, proposing an amendment to the Constitution which would have carried out the same purposes as my present measure. But even though our resolution was joined in by a third of the Senate's membership, we were unable to get any action on it.

Now we are a year closer to the next presidential election. In view of the fact that the time left before that election is fast running out, I have decided to pursue the alternative path of seeking a Federal statute.

By passing a law before the end of this year, we can give the States a full 3-year period during which they can bring their local laws into conformity with the national standards. This opportunity is very important to many States because their legislative chambers meet only in alternate years.

LEGAL ARGUMENTS

Mr. President, once the policy decision is made to cure the problem by means of a statute, rather than an amendment to the Constitution, I have no difficulty in finding that it is well within the authority of Congress to pass such a statute.

There are at least four distinct grounds for the exercise of congressional authority in this field, and I shall discuss each of them in turn. First, there is the power of Congress to secure the rights guaranteed by the 14th amendment.

FOURTEENTH AMENDMENT

The question here is parallel to the one before the Supreme Court in the recent case of *Katsenbach v. Morgan*, 384 U.S. 641 (1966). There the Court was faced with deciding whether Congress could prohibit the enforcement of New York's English language literacy test as applied to Puerto Rican residents of that State. The Court was also faced with its decision in *Lassiter v. Northampton Election Board*, 360 U.S. 45 (1959), in which it had rejected a challenge to the English literacy test of North Carolina.

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Nevertheless the Court held that Congress could override the New York law. In writing the Court's opinion, Justice Brennan said that the true question was: "without regard to whether the judiciary would find that the equal protection clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the State law by legislating under section 5 of the 14th amendment?"—384 U.S. 649.

Justice Brennan proceeded by saying: "In answering this question, our task is limited to determining whether such legislation is, as required by section 5, appropriate legislation to enforce the Equal Protection Clause. (384 U.S. 649-650.)"

The basic test of what constitutes "appropriate legislation," according to the Morgan decision, is the same as the one formulated by Chief Justice Marshall in *McCulloch v. Maryland*, 4 Wheaton 316, 420 (1819), when he defined the powers of Congress under the necessary and proper clause.

In applying this test to legislation passed under section 5, the Court held that three questions must be asked: First, is the statute designed to enforce the 14th amendment? Second, is it "plainly adapted" to that end? and third, is it consistent with "the letter and spirit of the Constitution?"—384 U.S. 651.

In deciding the answers to these questions the Court said "it is enough that we are able to perceive a basis upon which the Congress might predicate a judgment" for acting as it did—384 U.S. 653.

Thus the Court upheld the power of Congress to preclude the enforcement of the New York literacy requirement. And so, I believe it would uphold the power of Congress to preclude the enforcement of State voting requirements which fall short of the standards created in my proposal.

It may be argued that the States have broad powers to determine the conditions under which the right of suffrage may be exercised. *Carrington v. Rash*, 380 U.S. 89, 91 (1965).

It may also be noted that the Supreme Court has affirmed, without opinion, a district court decision which upheld a 1-year residence requirement Maryland had imposed for voting in presidential elections. *Drueding v. Devlin*, 380 U.S. 125 (1965).

But, is this not the same situation that the facts presented in the Morgan case? There, too, the issue involved the power of Congress to preclude the enforcement of a State voting requirement. There, too, the Court was faced with an earlier decision that the requirement was permissible.

In Morgan, one crucial factor was present that changed the whole issue before the Court. That same factor is present here. According to the rule of Morgan, where the case involves an enactment of Congress designed to enforce the guarantees of the 14th amendment, the question is not whether the judicial branch itself would decide that the State law is prohibited by that amendment. Rather the question is whether or not the con-

gressional measure is appropriate legislation under section 5 of the 14th amendment.

The thrust of the Morgan decision is that section 5 is a positive grant of legislative power authorizing Congress to use its discretion in determining what laws are needed to secure the guarantees of the 14th amendment. Under this doctrine, I have no difficulty in believing that the enactment of a uniform residence law is constitutional.

APPLYING TEST

First, there can be no doubt that the measure is intended to enforce the guarantees of the 14th amendment. It is designed to protect the right to vote for citizens who travel or move their households prior to a presidential election. The legislation clearly is meant to secure for this group of citizens freedom from a discriminatory classification in the imposition of voting qualifications. Thus Congress has found to be unnecessary and unfair.

Second, the proposal is "plainly adapted" to furthering the purposes of the 14th amendment. By passing this law, Congress will effectively enhance the opportunities of millions of Americans to vote for President.

Third, the measure is not "prohibited by but is consistent with" the Constitution.

ELECTORAL VOTE

It may be argued that because the Constitution creates the electoral vote system of choosing the President, the Federal Government may not prevent a vote for its electors shall be citizens of that State. This is true, in general, and my amendment will allow a State to provide that its voters be bona fide residents.

But this reasoning does not mean that a State can deprive citizens of their right to vote for electors merely because they are so newly arrived in the State that they might have a different outlook than excluding a part of the population from the electorate because of the way they may vote is precisely the kind of thing the Supreme Court said was unconstitutional in *Carrington v. Rash*, 380 U.S. 89, 94 (1965).

STATE AUTHORITY NOT ABSOLUTE

It might also be argued that since the States possess authority to impose reasonable voting practices, a Federal statute that interferes with these local regulations is not consistent with "the letter and spirit of the Constitution." However, I believe that the rule of *United States v. State of Texas*, 252 Federal Supplement 234 (1966), settles the question.

In this case, a three-judge District Court, convened under section 10 of the Voting Rights Act of 1965, sustained the power of Congress to prohibit the use of the poll tax as a prerequisite to voting in State elections.

While the Court recognized that the poll tax system in Texas had the function of serving "as a substitute for a registration system," it held that payment of the tax as a precondition to vot-

ing must fall because it restricted "one of the fundamental rights included within the concept of liberty"—252 Federal Supplement 250.

In reaching its decision, the Court said it was following the rule announced by the Supreme Court:

Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. *Bates v. City of Little Rock*, 361 U.S. 516, 524 (1959).

Also, the lower Court cited the principle of *McLaughlin v. State of Florida*, 379 U.S. 184, 196 (1964), that such a State law "will be upheld only if it is necessary, and not merely rationally related, to the accomplishment of a permissible State policy."

Since the judgment of the District Court was affirmed by the Supreme Court, 384 U.S. 155 (1966), I believe it offers the controlling principle which the courts will apply to other cases involving a conflict between the assertion of an individual's constitutional right and a State law that touches on that right but serves a permissible State objective.

Another recent case that follows the same rule is *Shapiro* against Thompson, April 21, 1969. This case holds particular interest because it concerns the validity of waiting periods imposed by the States to deny welfare assistance to new residents of the States.

The Court specifically rejected the argument that a mere showing of a rational relationship between the waiting period and a permissible State purpose is enough to justify the denial of welfare benefits to otherwise eligible applicants.

The Court held that "in moving from State to State or to the District of Columbia appellants were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a compelling governmental interest, is unconstitutional"—394 U.S. 634.

Since the State regulations involved here also touch on the fundamental right to vote, and other rights which I shall discuss in a moment, it is my belief that the same rule will be applied. Congress may clearly limit the use of such requirements, in order to protect these rights, unless the State laws are shown to promote a "compelling" State interest.

Under this standard, I must conclude that Congress may, consistent with the Constitution, establish the uniform practices that I have suggested. There simply is no compelling reason why a State should condition the right to vote for President on the duration of a citizen's residence or his actual presence on election day. The mere fact that 40 States have been able to satisfy their administrative needs by providing for only a 15- to 30-day period between the close of their voting rolls and election day demonstrates that the legitimate interests of the States can be met by other means.

In similar fashion, the fact that 37 States permit some voters to apply for absentee ballots 7 days before an election and that 40 States allow the marked

March 11, 1970

CONGRESSIONAL RECORD—SENATE

ballots to be returned as late as election day indicates that more restrictive rules are not necessary.

Mr. President, this completes my analysis of the authority conferred on Congress by section 5 of the 14th amendment. But if by no means exhausts the grounds upon which Congress may act. For the interesting thing about this field is that Congress is not limited to action under the 14th amendment.

RIGHTS OF NATIONAL CITIZENSHIP

This leads to my discussion of the second ground upon which Congress can act—its power to secure the rights inherent in national citizenship.

Mr. President, one of the most firmly embedded concepts of constitutional law is the premise that there are certain fundamental rights of citizenship which arise out of the very nature and existence of the Federal Government. Without these basic rights there would be no National Government and no meaning to U.S. citizenship.

Thus, in the case of *Ward v. Maryland*, 12 Wallace 418 (1870), the rights of national citizenship were held to embrace "nearly every civil right for the establishment and protection of which organized government is instituted."

The Supreme Court has consistently interpreted these rights as belonging to U.S. citizenship, as distinguished from citizenship of a State. In *Paul v. Virginia*, 8 Wallace 168, 180 (1868), Justice Field declared that the inherent rights secured to citizens of the several States are those which are common to the citizens "by virtue of their being citizens."

And in the *Slaughter-House Cases*, 18 Wallace 36, 79 (1872), the Court remarked that these fundamental rights "are dependent upon citizenship of the United States, and not citizenship of a State."

Perhaps the best exposition of the scope of National citizenship is found in the opinion written by Justice Frankfurter in *United States v. Williams*, 341 U.S. 70 (1951). At pages 79 and 80, the learned Justice presents a history of the broad recognition accorded to what he calls the "rights which arise from the relationship of the individual with the Federal Government."

Consequently, the existence of a separate category of implied rights that are based upon the nature and character of the National Government has been confirmed in case after case throughout the history of the Nation.

INHERENT RIGHT TO VOTE

Furthermore, it is well settled that these rights include the right to vote in Federal elections. *Ex parte Yarbrough*, 110 U.S. 651, 663 (1884), is one of many decisions by the Court in which the right to vote for Federal officers has been held to be a right granted or secured by the Constitution and not one that is dependent upon State law.

The rule has been expanded recently in the case of *Texas v. United States*, 384 U.S. 155 (1966), in which the

Supreme Court affirmed the holding of a three-judge district court that the right to vote in all elections, State or Federal, "clearly constitutes one of the most basic elements of our freedom—the 'core of our constitutional system.'"

It is clear that Congress may act to protect a national right under the necessary and proper clause. As it was said by Chief Justice Waite in *United States v. Reese*, 92 U.S. 214, 217 (1875):

Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress in the legitimate exercise of its legislative discretion shall provide.

The doctrine was also defined in *Strauder v. West Virginia*, 100 U.S. 303, 310 (1879), where the Court held that:

A right or an immunity, whether created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress.

RIGHT TO TRAVEL IN INTERSTATE COMMERCE

Mr. President, the third ground upon which I believe Congress may act is its power to protect the freedom of movement by citizens across State lines.

The right dates back to *Crandall v. Nevada*, 6 Wallace 35, 47 (1867), where the Court first held that "the right of passing through a State by a citizen of the United States is one guaranteed to him by the Constitution."

All decisions of the Supreme Court which are on point agree that the right exists. In delivering the opinion of the Court in *United States v. Guest*, 383 U.S. 745, 757 (1966), Justice Stewart wrote that the freedom to travel throughout the United States "occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized."

And in *Shapiro against Thompson*, cited above, the Court declared that it "long ago recognized that the nature of our Federal union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement"—394 U.S. 629.

The connection between the enjoyment of this right and the enactment of a uniform law on voting in presidential elections is immediately apparent when one looks at the date available for the 1968 election. According to the Census Bureau almost 4 million citizens of voting age moved from one State to another in 1968. An additional 3 to 4 million citizens were engaged in visits and travel across State borders at the time of the 1968 election.

It seems entirely legitimate for Congress to decide upon these facts that the lack of uniformity among residence requirements and absentee balloting imposes a substantial burden on the free

movement in interstate commerce of millions of Americans who will be disqualified from voting in presidential elections solely because they move or travel during a year when such elections are held. Congress might well conclude that by framing uniform voting practices, it can effectively protect the right of these citizens to travel interstate without sacrificing the right to vote for their President.

RIGHT TO ENJOY PRIVILEGES AND IMMUNITIES

Mr. President, the fourth basis of the power of Congress to adopt legislation in this field is its authority to enforce the privileges and immunities guaranteed to citizens of all the States.

Here I refer to the basic concept underlying the entire privileges and immunities clause which, in the words of the Supreme Court, is "to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned." *Paul v. Virginia*, 8 Wallace 168, 180 (1868).

The doctrine was also followed by the Court in *Ward v. Maryland*, 12 Wallace 418, 431 (1870), where it was said that the supreme law of the land "requires equality of burden."

Applying this principle to the facts at hand, I believe it is reasonable for Congress to determine that the hodgepodge of State and local requirements applicable to presidential elections creates exactly that kind of unequal treatment among citizens that the privileges and immunities clause was designed to prevent. I further believe that, in order to enable the citizens of one State to better have the same opportunity to choose the President that is enjoyed by citizens of most States, Congress may properly act under the necessary and proper clause to set uniform voting standards for presidential elections.

Mr. President, this completes my analysis of the constitutional issues involved.

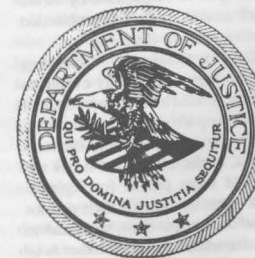
SUMMARY

In summary, I can only say that the entire thrust of my proposal is to provide for the widest possible participation by our citizens in the election of their President. All our talk and labors about reforming the method of selecting the President will be for naught if the American citizens themselves cannot participate in such elections.

For this reason, I invite all my colleagues to join with me in this effort to advance the freedom of many millions of Americans by giving them a voice in the selection of the officers who will govern their country.

Mr. President, I ask unanimous consent that the tables which I have prepared be printed at this point in the Record, which is the end of my statement.

(Emphasis supplied)

DEPARTMENT OF JUSTICE
INTERPRETATION
OF THE VOTING
RIGHTS ACT
AMENDMENTS
OF 1970

NOTE:

Since the Justice Department's writing of "Sec. C—Voting Age" of this memorandum, the 26th Amendment to the U.S. Constitution has been ratified by the required three-fourths of the States (at least 38), thereby establishing 18 as the minimum voting age in all federal, state and local elections throughout the 50 States. Also, all provisions of this memorandum, as well as the Voting Rights Act Amendments of 1970, would apply to citizens 18 and over.

Department of Justice
Washington, D.C.
May 1971

The Voting Rights Act Amendments of 1970 amended the Voting Rights Act of 1965 in a number of respects. Suits involving the constitutionality of certain of the new provisions—that is, section 201 which suspended the use of literacy and similar tests in all states or counties not subject to suspension under the 1965 Act; section 202 which dealt with residency, absentee registration and absentee voting in presidential elections; and section 302 which prescribed minimum voting age—were brought in the Supreme Court and were decided by the Court in December 1970. *Oregon v. Mitchell*, 400 U.S. 112.

This memorandum discusses the above statutory provisions, with primary emphasis on sections 202 and 302, in light of the Court's decision.

A. NATIONWIDE SUSPENSION OF LITERACY AND OTHER TESTS

The Supreme Court was unanimous in upholding section 201 (42 U.S.C.A. 1973aa) which suspends until August 6, 1975, the use of literacy or similar tests in any state or county not subject to suspension by virtue of section 4(a) of the Act as amended. The prohibition applies to all federal, state and local elections.

It should be noted that, in addition to suspending any "test or device" as such, section 201 may extend to other provisions and practices which have the effect of preventing illiterates from voting although the effect may be indirect (e.g., failure to permit assistance to illiterate voters or registrants). Thus, to the extent that it has not already been done, it would seem proper for registration and election officials even in states which do not maintain a "test or device" to review their laws and to cease applying any provision whose practical effect is to prevent registration or voting by persons unable to read and write.

B. DURATIONAL RESIDENCY REQUIREMENTS AND ABSENTEE VOTING IN PRESIDENTIAL ELECTIONS

The Supreme Court also upheld the constitutionality of section 202 (42 U.S.C.A. 1973aa-1) which eliminates durational residency requirements as a precondition for voting for presidential electors and prescribes standards for absentee registration and absentee voting in such presidential elections.

The provisions of section 202 are intended to broaden the opportunity of otherwise qualified residents of a state to vote for President and Vice President (that is, presidential electors). The terms of the statute and its legislative history indicate that it does not apply to presidential primaries or to such processes as selection of

national convention delegates. Nor does it apply to election of members of Congress.

Since any otherwise qualified resident of a state, who is at least 18 years of age, is eligible to vote in any federal election, such persons are entitled to the benefits of section 202 insofar as voting for President and Vice President is concerned.

The provisions of section 202, as explained below, pertain not only to (1) persons who move from one state to another but also to (2) persons who move within a state and (3) residents of long standing who have not complied with the state's general requirements for voter registration.

In general, in order to vote in a state or political subdivision in a presidential election, a person must be a bona fide resident of that state or political subdivision; the only exception to this rule is that in certain limited circumstances, former residents of a state or a political subdivision are to be permitted to vote for President and Vice President.

ELIMINATION OF DURATIONAL RESIDENCY REQUIREMENTS

The statute in effect distinguishes between durational residency requirements (e.g., one year in the state, 6 months in the county) and provisions concerning the time that registration books are open. Requirements of the former type are rendered unenforceable with respect to presidential elections. See § 202(c), 42 U.S.C.A. 1973aa-1(c). In regard to the period when registration (or other means of qualification) is to be permitted, the statute provides that applications must be accepted up to the 30th day before the presidential election. See § 202(d), 42 U.S.C.A. 1973aa-1(d).

Thus, any otherwise qualified person who establishes residence in a new state at least 30 days before a presidential election and who applies for registration by that time is eligible to vote there for presidential electors. Similarly, any otherwise qualified resident of a state who moves to a different city, county or precinct (or other political subdivision) within the state at least 30 days before such an election is eligible to vote at his new location for presidential electors. Finally, any resident of a state who meets the qualifications for voting except that he has not complied with a general registration deadline (which falls more than 30 days before a presidential election) must be permitted to register to vote for presidential electors up until the 30th day before the election.

A different provision deals with persons who change their residence after the 30th day before a presidential election. See § 202(e), 42 U.S.C.A. 1973aa-1(e). *When an individual moves to a new state or politi-*

cal subdivision within 30 days of such an election, the place where he will be eligible to vote depends upon the registration deadline applicable to voting for President and Vice President in the new location. If that deadline permits registration within the 30-day period and the individual is able to meet the deadline, he must vote at the new location.

However, if he is unable to register in his new residence because of the time of his move, the place in which he formerly resided (whether his move was to a new state or within the same state) must permit him to vote for presidential electors, as long as he had satisfied the qualifications to vote in his former location as of the time of his move. He may return to vote in person at the polling place where he would have voted if he had not changed his residence or, if he meets the absentee voting requirements of that place (other than requirements regarding current residency and the reason for absence) he may vote by absentee ballot in the election unit of his former residence.

ABSENTEE BALLOTING AND ABSENTEE REGISTRATION IN REGARD TO PRESIDENTIAL ELECTIONS

Under section 202, each state must provide that any otherwise qualified person who expects to be away from his election district on election day (and who complies with the applicable time requirements) may vote by absentee ballot. See § 202(d), 42 U.S.C.A. 1973aa-1(d). Accordingly, state laws which restrict availability of absentee ballots to certain classes of citizens or persons absent for particular reasons may not be enforced with respect to voting for President and Vice President.

Section 202 requires that each state provide that an application for an absentee ballot in a presidential election may be made as late as the 7th day before the election and that such a ballot may be returned up to the time the polls are closed. Any state law which is less restrictive than the standards required by section 202 may be implemented, but no law which is more restrictive may be enforced with regard to presidential elections.

Anyone otherwise qualified to vote by absentee ballot for President and Vice President must be given the opportunity, if necessary, to register absentee. See § 202(f), 42 U.S.C.A. 1973aa-1(f). The absentee voting and absentee registration provisions, as well as provisions setting a maximum of 30 days before an election for registration deadlines, apply to all voters, whether they have moved to a new state, moved within a state or simply remain at the same address and

wish to take advantage of the special procedures for presidential elections.

IMPLEMENTATION

Implementation of the new law may create a need for special procedures to prevent fraud or other improper voting practices. For example, a system of cross-checking with other registration units within the state and in other states could provide a means of guarding against double registration. In general, the mechanics of implementing the federal law will be a matter for each state to determine in the light of its elections system as a whole.

As noted previously, section 202 relates only to election for President and Vice President and its provisions set forth minimum standards concerning registration and voting procedures. Any state may elect to continue or institute less restrictive standards.

C. VOTING AGE

With regard to the constitutionality of the provision reducing voting age to 18 (section 302, 42 U.S.C.A. 1973bb-1), the members of the Supreme Court differed. The result of the several opinions was to uphold the statute with respect to "federal elections," but to hold it invalid with respect to state and local elections.

It seems clear from the pertinent opinion that otherwise qualified persons, 18 years of age or older, must be permitted to vote for presidential electors and for members of Congress. Also, it would appear that such persons are eligible to vote in primaries which select candidates for the Senate or House of Representatives. (It should be noted that, as adopted by Congress, section 302 applied to voting "in any primary or in any election.")

Somewhat different issues are presented by presidential primaries and nomination of presidential candidates, matters not dealt with expressly by the Court. In view of such factors as the great variation from state to state regarding presidential nomination and selection of national convention delegates, the Department of Justice will not attempt to issue any definitive guideline concerning participation by 18-year-olds. From the standpoint of the Department's law enforcement policy, a distinction will be made between presidential primaries in the traditional sense and other processes such as party conventions and caucuses. Regarding the primaries, it would appear that in general section 302 as sustained by the Court is applicable. As to the other processes, we believe that the matter can most appropriately be resolved at the state level.

Other questions have been raised concerning the procedural or mechanical aspects of voting by 18-year-olds in "federal" elections and primaries. These are questions which we feel can best be determined by state officials.

(Emphasis supplied)

APPENDIX D

LIKELY STATE INCOME
TAX OBLIGATIONS OF
U.S. BUSINESSMEN
LIVING ABROAD AND
OF SERVICEMEN
STATIONED ABROAD
TO THEIR STATES
OF DOMICILE

LIBRARY OF CONGRESS

Congressional Research Service
Washington, D.C. 20540

GEORGE J. LEIBOWITZ
Senior Specialist in Taxation and Fiscal Policy
September 8, 1971



BARRY GOLDWATER
ARIZONA

United States Senate

WASHINGTON, D.C. 20510

COMMITTEES:
AERONAUTICAL AND SPACE SCIENCES
ARMED SERVICES
PREPAREDNESS INVESTIGATING SUBCOMMITTEE
TACTICAL AIR POWER SUBCOMMITTEE
NATIONAL STOCKPILE AND NAVAL PETROLEUM
RESERVES SUBCOMMITTEE

August 7, 1970

Mr. Joseph J. Panelli, Manager
Public Affairs Department
Chamber of Commerce of the United States
1615 H Street, N.W.
Washington, D. C. 20006

Dear Mr. Panelli:

The State income tax issue is turning out to be much less of a problem than some people had feared.

After first discussing this question with you, I asked the Library of Congress to compile a summary of State tax laws and regulations which might affect United States businessmen living abroad who ballot for President and Vice President as provided under the 1970 Voting Rights Law. I am delighted to tell you that this landmark report is now in, and that the results clearly show that the majority of businessmen and other citizens residing overseas will not be subject to the payment of State income tax when they exercise their newly granted voting right.

For example, most of the large population States either do not have any State income tax at all or provide a specific statutory exemption for income earned by persons residing outside the State. This list includes California, Illinois, New York, Ohio, and Pennsylvania. In all, there are 13 States that do not impose any income tax, and there are 10 more States that do not tax citizens who vote in, but who do not reside in, those States.

Also, there are 14 States which exclude the first \$25,000 of income earned abroad, thereby fully exempting many additional citizens. This leaves only 14 States in which there is a broad tax challenge to businessmen living overseas. Even here, I am

Mr. Joseph J. Fanelli
August 7, 1970
Page Two

hopeful that most, if not all, of these States will agree not to tax Americans living overseas solely because those citizens exercise their Constitutional right of voting for President. Since there is no State office involved, I believe that the right to vote should not be burdened by the threat of taxation by a State.

The participation by the National Chamber in the voting rights effort deserves the highest commendation, and I shall be glad to continue working with you in assisting all our citizens to enjoy the full benefits of the new law.

Sincerely,

Barry Goldwater
Barry Goldwater

EDITOR'S NOTE: Since Sen. Goldwater's letter of August 7, the Library of Congress has revised its report on State Income Tax Obligations of U. S. Businessmen Living Abroad . . . as of Sept. 8, 1971. Based on this revision, the Library finds, as shown here on pages 39 and 40 that:

- 11 states have no broad based income tax;
- 12 states do not tax those with abode outside state or income earned abroad;
- 16 states exempt first \$25,000 earned abroad;
- In only 12 states is income earned abroad possibly subject to income tax.

LIKELY STATE INCOME TAX OBLIGATIONS OF UNITED STATES BUSINESSMEN LIVING ABROAD AND OF SERVICEMEN STATIONED ABROAD TO THEIR STATES OF DOMICILE

(To illustrate effect of absentee voting by a businessman living abroad under the Voting Rights Act Amendments of 1970)

STATE	BUSINESSMAN		SERVICEMAN	
	Applicable criterion for State Income Tax coverage	Relevant exclusion from State Income Tax base	Probable tax obligation	Exclusion for Serviceman domiciled in State
ALABAMA	Domicile	None	Subject to State income tax on all income	Exclusion of combat pay
ALASKA	Domicile	Exclusion of all income from sources outside the State, other than income from intangible personal property	Not subject to State income tax on any income earned abroad	Exclusion of all service pay and all income earned outside the State
ARIZONA	Domicile, unless outside the State for other than temporary or transient reasons	None	Not subject to state income tax on any income earned abroad	Exclusion of first \$1000 of active duty pay. Exclusion of mustering out pay or rental and subsistence allowance to same extent as Federal
ARKANSAS	Domicile	None	Subject to State income tax on all income	Exclusion of armed forces compensation up to \$6000
CALIFORNIA	Domicile unless outside the State for other than temporary or transient purposes	None	Not subject to state income tax on any income earned abroad	Exclusion of armed forces compensation up to \$1000. Exclusion of mustering out pay and rental and subsistence allowance to same extent as Federal
COLORADO	Domicile (a voting residence is prima facie evidence of domicile—Reg.)	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal

DELAWARE	Domicile unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	None	Not subject to State income tax on any income earned abroad	Exclusion of combat pay to same extent as Federal	Subject to State income tax on some service pay (but may be relieved if qualified under the 3 tests in col. 2)
DISTRICT OF COLUMBIA	Domicile	None	Subject to State income tax on all income	Exclusion of amounts received as allowance for injury in action to same extent as Federal	Subject to State income tax on some service pay
GEORGIA ^{2/}	Domicile	Exclusion for income earned abroad (as in Federal law).	Not subject to State income tax on income earned abroad to same extent as Federal law, generally \$25,000	Exclusion of combat pay (up to \$500 a month for commissioned officers). Exclusion of mustering out pay and subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay
HAWAII	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay and subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay
IDAHO	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, \$25,000 generally	Exclusion of all ^{3/} service pay	Not subject to State ^{3/} income tax on service pay
ILLINOIS	Domicile, unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on any income earned abroad	Exclusion of all ^{4/} service pay.	Not subject to State ^{4/} income tax on service pay

^{1/} Effective March 4, 1971. Former law excluded all service pay.

^{2/} Effective April 8, 1971. Former law provided no exclusion for income earned abroad and no exclusion for mustering out pay and rental and subsistence allowance for servicemen.

^{3/} Effective January 1, 1970. Former law provided exclusion of combat pay, mustering out pay, subsistence and rental allowance to same extent as Federal.

^{4/} Effective January 1, 1970. Former law provided exclusion of combat pay, mustering out pay, subsistence and rental allowance to same extent as Federal.

STATE	BUSINESSMAN			SERVICEMAN	
	Applicable criterion for State Income Tax coverage	Relevant exclusion from State Income Tax base	Probable tax obligation	Exclusion for Serviceman domiciled in State	Probable tax obligation
INDIANA	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as Federal law, \$25,000 generally	Exclusion of military pay or \$2000 whichever is less; mustering out pay, subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay
IOWA	Domicile (where resident removes and retains voting privilege in Iowa, he is held not to have abandoned Iowa domicile—Regulation)	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as Federal law, generally \$25,000	All military pay when ^{2/} on active duty for six continuous months; combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay
KANSAS	Domicile (Voting residence is prima facie evidence of domicile—Regulation)	None	Subject to State income tax on all income	Exclusion of \$1500 of military pay for servicemen in Viet Nam	Subject to State income tax on some service pay
KENTUCKY	Domicile (Place of voting is evidence of domicile—Att. Gen. Opinion)	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of all combat pay for enlisted men and \$200 per month for commissioned officers	Subject to State Income tax on some service pay
LOUISIANA	Domicile	None	Subject to State income tax on all income	Exclusion of all military pay outside U.S. and its possessions and territories	Not subject to State income tax on service pay
MAINE	Domicile unless (1) he maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on any income earned abroad	None (probably excludes combat pay, mustering out pay and rental and subsistence allowances to same extent as Federal new law)	Subject to State income tax on some service pay (but may be relieved if he qualifies under the 3 tests in column 2)

STATE	Applicable criterion for State Income Tax coverage	Relevant exclusion from State Income Tax base	Probable tax obligation	Exclusion for Serviceman domiciled in State	Probable tax obligation
MARYLAND	Domicile	None	Subject to State income tax on all income	Exclusion of combat pay to same extent as Federal	Subject to State income tax on some service pay
MASSACHUSETTS	Domicile	No tax on rents, royalties, capital gains	Subject to State income tax on all income earned abroad (except e.g. rents, royalties and capital gains)	Exclusion of combat pay to same extent as Federal	Subject to State income tax on some service pay
MICHIGAN	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of all military pay	Not subject to State income tax on service pay
MINNESOTA	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of first \$3000 of military pay plus additional \$2000 for compensation outside Minnesota, in addition to exclusion of combat pay to same extent as Federal	Subject to State income tax on some service pay
MISSISSIPPI	Domicile	None	Subject to State income tax on all income	None (pay for injury and disability excluded)	Subject to State income tax on some service pay
MISSOURI	Domicile	None	Subject to State income tax on all income	Exclusion of first \$3000 of active duty pay	Subject to State income tax on some service pay
MONTANA	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay
NEBRASKA	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay

^{5/} Effective March 20, 1970. Former law excluded all military pay when in armed forces for more than 6 months of the year.

STATE	BUSINESSMAN			SERVICEMAN	
	Applicable criterion for State Income Tax coverage	Relevant exclusion from State Income Tax base	Probable tax obligation	Exclusion for Serviceman domiciled in State	Probable tax obligation
NEW MEXICO	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay
NEW YORK	Domicile, unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on any income earned abroad	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay (but may be relieved if he qualifies under the 3 rests in col. 2)
NORTH CAROLINA	Domicile	None	Subject to State income tax on all income	Exclusion of hostile fire and combat pay; mustering out and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay
NORTH DAKOTA	Domicile (Maintenance of voting residence sufficient to make an individual liable for North Dakota income tax (Att. Gen. Opinion))	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	All active duty pay exempt	Not subject to State income tax on service pay
OKLAHOMA	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	First \$1500 of active duty pay exempt; subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay
OREGON	Domicile	None	Subject to State income tax on all income	First \$3000 of active duty pay exempt; subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay

^{5/} Effective January 1, 1970. Former law provided for exclusion for income earned abroad and no exclusion for mustering out pay, rental and subsistence allowance for servicemen.

PENNSYLVANIA^{6/}	Domicile unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State.	None	Not subject to State income tax on any income earned abroad.	None	Subject to income tax on service pay (but may be relieved if qualified under the three tests in col. 2)
RHODE ISLAND^{7/}	Domicile unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State.	Exclusion of all income not earned in Rhode Island	Not subject to State income tax on any income earned abroad	Exclusion of all income not earned in Rhode Island. Exclusion of combat pay, mustering out pay and rental and subsistence allowance to same extent as Federal	Not subject to State income tax on service pay, unless serving in Rhode Island
SOUTH CAROLINA	Domicile	None	Subject to State income tax on all income	Exclusion of combat pay, mustering out pay and subsistence and rental allowance to same extent as Federal	Subject to State income tax on some service pay
UTAH	Domicile (Resident employed in foreign country for 510 days in 18 consecutive months will be considered nonresident except for those years in which they are absent for less than 3 months)	None	Not subject to State income tax on any income earned abroad	Exclusion of combat pay, mustering out pay, rental and subsistence allowance to same extent as Federal	Subject to State income tax for some service pay (but may be relieved if qualifying under the tests of foreign residence in col. 2)
VERMONT	Domicile, unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on any income earned abroad	Exclusion of all military active duty pay	Not subject to State income tax on service pay

^{6/} Effective July 1, 1971. Tax on privilege of receiving income. Pennsylvania had previously enacted a state income tax which was declared unconstitutional by the State Supreme Court on May 20, 1971.

^{7/} Reinstatement on July 14, 1971 of temporary 6-month tax which had expired on June 30, 1971. Effective July 1, 1971.

STATE	BUSINESSMAN			SERVICEMAN	
	Applicable criterion for State Income Tax coverage	Relevant exclusion from State Income Tax base	Probable tax obligation	Exclusion for Serviceman domiciled in State	Probable tax obligation
VIRGINIA^{8/}	Domicile	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, rental and subsistence allowance to same extent as Federal.	Subject to State income tax on some service pay
WEST VIRGINIA	Domicile, unless he (1) maintains a permanent place of abode elsewhere, (2) maintains no permanent place of abode in the State, and (3) spends no more than 30 days in the State	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on any income earned abroad	Exclusion of combat pay, mustering out pay, and rental and subsistence allowance to same extent as Federal	Subject to State income tax on some service pay (but may be relieved if qualified under the 3 tests in col. 2)
WISCONSIN	Domicile, (The exercise of one's franchise to vote is presumptive evidence of residence—Tax Commission Decision)	Exclusion for income earned abroad (as in Federal law)	Not subject to State income tax on income earned abroad to same extent as in Federal law, generally \$25,000	Exclusion of combat pay, mustering out pay, rental and subsistence allowance to same extent as Federal; first \$1000 of compensation excluded	Subject to State income tax on some service pay

^{8/} Effective January 1, 1972. Former law provided no exclusion for income earned abroad and no exclusion for mustering out pay and rental and subsistence allowance for servicemen.

	STATE	SUMMARY	SERVICEMAN ABROAD
		Subject to State income tax on all income in: Alabama, Arkansas, D.C., Kansas, Louisiana, Maryland, Massachusetts (except rents, royalties, and capital gains), Mississippi, Missouri, North Carolina, Oregon, South Carolina (12 States).	Subject to State income tax on at least some service pay, in: Alabama, Arkansas, Colorado, D.C., Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Virginia, Wisconsin (24 States).
		Not subject to State income tax on income earned abroad to same extent as Federal law, generally \$25,000, in: Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Michigan, Minnesota, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, Virginia, Wisconsin (16 States).	Subject to State income tax on some service pay (but may be relieved as domiciliaries not required to file) in: Arizona, California, Delaware, Maine, New York, Pennsylvania, Utah, West Virginia (8 States).
39		Not subject to State income tax on any income earned abroad (because considered domiciliary not required to file) in: Alaska, Arizona, California, Delaware, Illinois, Maine, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia (12 States).	Not subject to State income tax on service pay in: Alaska, Idaho, Illinois, Louisiana, Michigan, North Dakota, Rhode Island, Vermont (8 States).

Appendix
States Without a Broad Based Income Tax as of September 8, 1971

Connecticut

State income tax effective July 1, 1971 was repealed August 23, 1971. Substitute tax legislation provided for tax on dividends and capital gains.

Florida

Constitutional prohibition against estate, inheritance and income taxes. No action at present to change constitution to allow for personal income tax, although an amendment has been proposed to allow a corporation income tax.

Nevada

No tax on income and none proposed.

New Hampshire

Tax on specified interest and dividends in excess of \$600, commuter tax, and business profits tax. Governor Peterson recommended a personal income tax as a substitute for these taxes; state legislature took no action but increased the business profits tax rate.

New Jersey

Tax on income and capital gains derived by New York residents in New Jersey. A similar commuter tax was planned for Pennsylvania residents but not put into effect after the first Pennsylvania income tax was found unconstitutional; such a tax was awaiting passage of a second Pennsylvania income tax.

Ohio

Proposed personal income tax passed one house of the legislature on July 14, 1971.

South Dakota

Governor recommended a personal income tax in February, 1971 but no action has been taken by the legislature.

Tennessee

Tax on income from stocks and bonds.

Texas

No tax on income and none proposed.

Washington

No tax on income and none proposed.

Wyoming

No tax on income and none proposed.

MARCH 20, 1972.

Mr. ALBERT T. HAYDUK,
Commissioner, Board of Elections of Westchester County, 214 Central Park
Avenue, White Plains, N.Y.

DEAR MR. HAYDUK: Our attention has been called by Mr. Jack G. Hardy of Rio Janeiro, Brazil, to your recent rejection of his application for absentee registration and voting privileges, pursuant to the Federal Voting Rights Act Amendments of 1970 (Public Law 91-285).

In the event you are unmindful of this Federal statute, particularly Section 202 thereof under which his application was filed, you will be interested in the enclosed copy of our "Guide to Absentee Voting in Presidential Elections: In the United States and Overseas." This contains a copy of the Act, as well as other legislative and legal background material, and procedures of implementation of its provisions.

Possibly your Board failed to receive copies during our distribution of this publication to all county and municipal election officials nationwide, as well as to Governor Rockefeller, and other state officials of New York, the governors and officials of other states and all U.S. Senators and Representatives. In addition, distribution was made to American embassies and consulates overseas, and to business, government and political representatives all over the world.

Therefore, you will undoubtedly be receiving applications for absentee registration and voting privileges from residents of your state now temporarily located in other states or overseas.

We hope you will find the enclosed Guide useful in your handling of these applications.

Sincerely,

ROBERT T. SNURE.

Enclosure.

BOARD OF ELECTIONS, Westchester County, N.Y.,
White Plains, N.Y., March 24, 1972.

Mr. ROBERT T. SNURE,
Chamber of Commerce of the United States, 1615 H Street, NW., Washington,
D.C.

DEAR MR. SNURE: We are in receipt of your letter of March 20, 1972, concerning Mr. Jack G. Hardy of Rio de Janeiro, Brazil, who had his application for absentee registration and absentee voting rejected by this Board.

We had taken this matter up with Mr. Thomas W. Wallace, Deputy Secretary of State and head of the Election and Law Bureau in the State of New York. It is the opinion of Mr. Wallace that the applicant does not qualify under Sec. 202. (d) of the Voting Rights Act which requires that each State shall provide for the registration of all *duly qualified residents* of such State.

Mr. Hardy advised us that during December, 1964, he moved from 200 Old Army Road, Scarsdale, New York to Brazil. 200 Old Army Road is a private home which Mr. Hardy sold to one Richard L. Goldman in February, 1965 and is presently occupied by the Goldman family. It is obvious that Mr. Hardy does not intend or could not return to this "home" or "domicile".

May we suggest that if you do not agree that Mr. Hardy is not a duly qualified resident, that you contact Mr. Wallace, 162 Washington Avenue, Albany, New York, 12225.

Very truly yours,

WILLIAM J. VAN WART.
ALBERT T. HAYDUK.
Commissioners.

MARCH 31, 1972.

Mr. JACK G. HARDY,
Estrada da Gaves, 21,
Rio de Janeiro, Gb, Brazil.

DEAR MR. HARDY: I am enclosing several copies of a letter just received from the Commissioners of the Board of Elections of Westchester County, New York, which provides their specific reasons for rejecting your application for absentee registration and voting privileges filed pursuant to the Federal Voting Rights Act Amendments of 1970. Their letter is in reply to one I had sent them on March 20, a copy of which Mr. Booth enclosed when he wrote you on that same date.

It appears from the Commissioners' rejection that you might have grounds for appealing their decision if, as the third paragraph of their letter indicates, it was based on a material interpretation rather than a geographic interpretation of "home" or "domicile" in determining whether you are a duly qualified resident of Westchester County pursuant to the Voting Rights Act. The indicated basis for their rejection appears to be contrary to the law's Congressional intent. It is my understanding (and this has been confirmed by reliable sources) that "home" or "domicile" is, by Congressional intent, meant to designate the geographical area (i.e. the state, county, city or election district) where the applicant resided when he lived in the United States prior to going overseas; that in furnishing his former address on Government Standard Form 76 or our Form B or in a letter, as part of his application under the Act, he is supplying such information to, or for verification by, election authorities indicative of the fact of his having formerly lived in that area and to which area he intends some day to return; that he is *not* identifying his former home address as the specific abode or domicile to which he *will* return. Furthermore, in my opinion, there is nothing in the Congressional intent to indicate or require the need for his continued ownership of a house in the "home" or "domicile" area. The lack of such ownership does not deny to overseas servicemen and federal civilian employees the right to register and vote absentee in their former areas of residency in the states.

Of course, this is my personal opinion and not a legal one, but I think your situation under these Commissioners' ruling merits further consideration. I have sent a copy of their letter to Senator Goldwater's attention. The extra copies enclosed are to permit you, if you desire, to contact your own Senators Javits or Buckley of New York and/or your own Congressman, Representative Ogden R. Reid whose district includes White Plains and Scarsdale, N.Y.; or to write directly, as the aggrieved party, to the Civil Rights Division of the Department of Justice, Washington, D.C. 20530, to the attention of David L. Norman, Assistant Attorney General. To each of these you will want to include copies of your previous correspondence with and application to the Westchester Commissioners. I hope you will find this information of assistance. Please keep us advised of further developments.

Sincerely,

ROBERT T. SNURE.

RIO DE JANEIRO,
April 14, 1972.

Mr. WILLIAM J. VAN WART,
Board of Elections, Westchester County, 214 Central Park Avenue, White Plains,
N.Y., U.S.A.

DEAR MR. VAN WART: I have received a copy of your letter dated March 24, 1972 addressed to Mr. Robert T. Snure of the Chamber of Commerce of the United States and concerning my application for absentee voting privilege as provided by the Federal Voting Rights Act Amendments of 1970.

Your letter states that "it is obvious that Mr. Hardy does not intend or could not return to this home or domicile". From this I understand that one measure being applied in this case is my *intent* to return to New York. Is this so?

If affirmative, I believe you will find proof of my *intent* within both the Westchester County and Scarsdale telephone books. My name has appeared each year since my departure in 1964. The location shown is 21 Montrose Road in Scarsdale, the residence of my mother. Our intent to return to New York and to Westchester County has been my reason for maintaining this listing.

I would appreciate your comments before appealing to higher State as well as Federal authority.

Very truly yours,

JACK G. HARDY.

KUSNACHT 8700, SWITZERLAND,
October 6, 1972.

HON. BARRY GOLDWATER,
Senator, U.S. Senate,
Washington, D.C., U.S.A.

DEAR SENATOR GOLDWATER: Pursuant to the Voting Rights Act Amendments of 1970 and to the advice given out by the United States Chamber of Commerce, my wife and I endeavoured to apply for an absentee ballot from the City and

State of New York for the forthcoming election for President and Vice-President of the United States.

We are currently residing in Switzerland, where we have been since April of 1969 working for a U.S. business enterprise. Our last U.S. domicile and voting place, where we were duly registered, was the Borough of Manhattan in the City of New York, State of New York.

Our applications were turned down by the Board of Elections of the City of New York as per attached letter citing that we do not conform to the residency requirements set forth by section 151 of the State of New York's election law. Attached is also an extract of said section 151 which I note has been amended in 1971 after the Federal Voting Rights Act Amendment.

I definitely feel that the New York State law and the Board of Elections' decision goes contrary to the federal amendment and I ask your advice or at least future help in clearing up this problem which I am sure affects a number of United States' citizens of similar status.

Respectfully yours,

Enclosure.

H. J. DE HEINRICH.

BOARD OF ELECTIONS,
THE CITY OF NEW YORK,
New York, N.Y., September 14, 1972.

Re Absentee ballot for 1972 President and Vice President.

SUSAN M. and HUBERT J. DE HEINRICH,
Glarnischstrasse 9,
Kusnacht 8700, Switzerland.

DEAR SIR OR MADAM: In response to your request for Absentee Ballot for the 1972 Election for President and Vice President, please be advised that we have been informed by the Secretary of State of New York that no provision is seen in the Federal Voting Rights Act's amendments of 1970 which would extend the right of an absentee ballot to *civilians residing outside the United States or those, who in fact have given up all claim to residence within the State of New York.*

The only person living outside of the State of New York who retain their residence in the State of New York for voting purposes are those coming within the purview of Section 151 of the Election Law.

Accordingly, this is to advise you that you are not entitled to an Absentee Ballot.

Very truly yours,

DAVID N. DLINKINS,
J. J. DUBERSTEIN,
GUMERSINDO MARTINEZ,
WILLIAM F. LARKIN,
Commissioners of Elections.

P.S. For your reference we enclose Section 151 of the Election Law. If prepaid by applicant, enclosed is refund for Air Mail postage in the amount of None.

Mailed by GB.

SEC. 151. Gaining or losing a residence. (a) For the purpose of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. Any person applying for registration who claims to belong to any class of persons mentioned in this section shall file with the board taking his registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong. Such statement shall be noted in the register opposite the name of the person so registered or, where permanent personal registration is in effect, the words "Statement of temporary absence filed" shall be entered in the "remarks" space on the face of his permanent registration records. The statement shall be attached to the register or, where permanent personal registration is in effect, the registration serial number of the voter shall be placed on such statement and such statement shall be returned with the registration records to the board of elections.

(b) As used in this article, the word "residence" shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return.

(c) In determining a voters qualifications to vote in a particular election district, the board to which such application is made shall consider, in addition to the applicant's expressed intent, his conduct and all attendant surrounding circumstances relating thereto. The board taking such registration may consider the applicant's financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse and children, if any, leaseholds, situs of personal and real property owned by the applicant, motor vehicle and other personal property registration and such other factors that it may reasonably deem necessary to determine the qualification of an applicant to vote in an election district within its jurisdiction. The decision of a board to which such application is made shall be deemed presumptive evidence of a person's residence for voting purposes.

[Amended by chap. 1096, Laws of 1971.]

APPLICATION

for

AN ABSENTEE REGISTRATION FORM AND AN ABSENTEE ELECTION BALLOT to enable applicant to vote on November 7, 1972, for the candidates and party of choice for President and Vice President of the United States, pursuant to the Voting Rights Act Amendments of 1970 (Public Law 91-285).

TO: BOARD OF ELECTIONS OF COUNTY OF NEW YORK, BOROUGH OF MANHATTAN
(Title of County Official(s)) (fill in city or town, county and state of last residency)

Sir: I am a citizen of the United States and hereby request the following material to enable me to participate in the Presidential election of November 7, 1972 in the state of NEW YORK; pursuant to the Voting Rights Act Amendments of 1970. (Public Law 91-285).

- An absentee registration form
 An absentee voter's ballot

1. My date of birth: November 13, 1934 Place of birth: Budapest, HUNGARY
month date year (city - state)
2. I am I am not presently registered to vote in the State of NEW YORK.
3. For 3 years preceding 1969, my home residence or domicile in the United States has been

23 West 75th Street
(street address)

NEW YORK
(city-town)

NEW YORK
(county)

NEW YORK
(State)

10028
(Zip Code)

4. I intend to maintain my voting residence or domicile in the State of NEW YORK and return and be domiciled there in the future.
5. I have been absent for 4 years, and at present, I am:
 an employee of International Paper Company
(name of firm, organization, or agency)
- the spouse of an employee of the above.
 a retiree. a visitor. other _____ (specify)
- a student at _____

6. I am presently located and should receive mail at: Glarnischstrasse 9
8700 Kusnacht, Switzerland

7. If I am authorized to vote by absentee process in the State of NEW YORK, I shall NOT request or exercise voting privileges in any other state or the District of Columbia.

8. Hubert Joseph de HEINRICH
(Signature of person requesting information/material)

9. Hubert Joseph de HEINRICH
(Type or print full name to match signature above)

Subscribed and sworn to before me this 9th day of August, 1972.

(NOTARY SEAL)

(NOTARY PUBLIC)

Michael D. Sternberg

American Consul

Duly Commissioned and Qualified

This unofficial form prepared by Chamber of Commerce of the United States of America for convenience of affiliates.

We have also sent the enclosed letter to the Westchester Board along with a copy of our Guide.

Undoubtedly there will be other cases such as yours where individual states will refuse to adhere to Federal statutory requirements unless court instructed and will insist that they alone have jurisdiction over the qualifications of all voters, irrespective of Federal laws.

In contrast, the Illinois Attorney General on March 13 directed county election officials to allow Illinois residents, living in a foreign country, to register and vote absentee in compliance with the Federal Voting Rights Act Amendments of 1970, holding that said Act supersedes and makes unenforceable contrary provisions of the state's election statutes.

Possibly, court action will be brought in various sections of the nation to attempt to force state compliance with Public Law 91-285. It is possible, too, that if enough correspondence reflecting rejections such as yours is received by Senator Goldwater and other Senators, some corrective action will be instigated by the Congress and/or the Justice Department.

In this regard, you may wish to send copies of all of your correspondence to your New York Senators—Senator Javits and Senator Buckley—for their information and advice, as you did to Senator Goldwater.

In any event, don't be discouraged. It will take time for Federal election changes to be recognized by the various states. Since your absentee voting privileges under the Act apply only to the Presidential election in November, you still have plenty of time to await developments or a change of heart at White Plains.

In another two months, you might again file an application on our Form B, being sure to follow all directions. When you again do this, please send us a copy of the form and information you file and any accompanying letter to the White Plains officials. This could then be the basis for possible further action should you be refused a third time.

We fully appreciate both your participation in this effort and your disappointment at not being immediately successful. However, keep in touch with us about all future developments and we in turn will keep you advised of any clarifying action here.

Cordially,

ARCH N. BOOTH.

COUNTY OF NASSAU,
OFFICE OF THE COUNTY ATTORNEY,
NASSAU COUNTY EXECUTIVE BUILDING,
Mineola, N.Y., July 12, 1972.

CHAMBER OF COMMERCE OF THE UNITED STATES,
1615 H Street NW.,
Washington, D.C.

GENTLEMEN: Several requests for an absentee Presidential ballot, using a form promulgated by your organization, have been received by the Nassau County Board of Elections which, in turn, have forwarded them to this office for a legal opinion.

The question presented to us is: "Whether United States citizens, who are not residents of any state because they are living overseas, have the right to vote in a Presidential election?"

Since this office has been involved in Federal Court litigation in which the 1970 voting rights amendments have figured prominently, we are quite familiar with all the applicable Federal statutes and case law. Our ruling on the above question therefore, is that such applications for Presidential absentee ballots do not comply with New York State's residential voting requirements.

This office has, however, attempted to contact a Mr. Clark of your organization in order to determine what was the legal basis for your application form. As of this date, no answer has been received to our telephone request. If you have any information which would lead us to rule otherwise, we would appreciate receiving the same.

Sincerely,

JOSEPH JASPAN,
County Attorney.
By J. KEMP HANNON.

CHAMBER OF COMMERCE OF THE UNITED STATES,
PUBLIC AFFAIRS DEPARTMENT,
Washington, D.C., July 17, 1972.

J. KEMP HANNON, Esquire,
Deputy County Attorney of Nassau County, Nassau County Executive Building,
Mineola, N.Y.

DEAR MR. HANNON: On July 12, you inquired about the "legal basis" for an application form issued by the Chamber of Commerce of the United States, copies of which the Nassau County Board of Elections, you indicated, had received from persons overseas seeking to register and vote absentee.

This unofficial form was prepared by the National Chamber for the convenience of affiliates, particularly those overseas, in applying for—as the form heading states—"an absentee registration form and an absentee election ballot to enable applicant to vote on November 7, 1972, for the candidates and party of choice for President and Vice President of the United States, pursuant to the Voting Rights Act Amendments of 1970 (Public Law 91-285)."

Ours was identified as "Form B" to distinguish it from Standard Form No. 76—the Federal Post Card Application (FPCA)—issued under the Federal Voting Assistance Act and previously recognized and accepted in all states and the District of Columbia for the absentee registration and voting purposes of all military personnel and Federal civilian employees overseas, and now recognized and accepted in 19 states and the District of Columbia for the absentee registration/voting purposes of other U.S. citizens temporarily residing abroad. Our Form B was designed for the use of citizens who, prior to going overseas, had last resided in one of the other 31 states, to enable them if qualified to vote pursuant to Public Law 91-285.

Beginning in January, 1972, National Chamber affiliates in the United States and overseas were sent copies of this form together with our "Guide to Absentee Voting in Presidential Elections: In the United States and Overseas." This publication includes the legislative and legal background of the Voting Rights Act Amendments of 1970; the Congressional intent expressed at the time of its enactment; a memorandum opinion of the Department of Justice; sample forms and information as to how, when and where to file an application, the sources of such application forms; and an official study by the Library of Congress of the states which may or may not require payment of income tax on overseas' earnings as a condition of voting eligibility.

In addition to distributing copies of this Guide to worldwide affiliates, the National Chamber—as a public service—sent multiple copies to the Governor of each state with the suggestion that they be distributed to proper state officials including the Secretary of State, the Attorney General, and the State Supervisor of Elections, or the equivalent officials within each state. In addition, and also as a public service, the Chamber sent this Guide to the Chief election official of each county in the United States, including Nassau and other counties of New York State. And the National Chamber also mailed copies to each United States Senator and Representative, to the Department of Justice, and to many other Federal officials at home and abroad, including American ambassadors and consulates the world over.

From many knowledgeable sources, including U.S. Senator Goldwater of Arizona, the author of Section 202 of the Voting Rights Act Amendments of 1970 (Public Law 91-285), the National Chamber has been commended for the accuracy of its Guide's contents in describing the purposes, intent and coverage of the Act.

I regret that your office did not receive our Guide prior to this time, but I am pleased to enclose two copies for your immediate use together with several copies of both Form B and Standard Form No. 76.

If you need additional information on this question, please address your inquiry to me or to the General Counsel of the U.S. Chamber, Mr. Milton A. Smith.

Sincerely,

ROBERT T. SNURE.

[From the New York Times, Sept. 10, 1972.]

AMERICANS OVERSEAS FACE DENIAL OF VOTE UNDER LAW

(By Richard Severo)

MEXICO CITY, Sept. 9—Thousands of Americans living abroad are apparently being denied the right to vote in the 1972 Presidential election, despite a new Federal law intended to provide for the first time absentee ballots for all citizens living or traveling overseas.

Although both political parties are actively organizing campaigns in foreign countries for the first time on any scale, their efforts are being frustrated at home by a combination of ignorance, complex legal questions and a bureaucratic vacuum.

In Mexico, where some 100,000 Americans are living on a permanent or semi-permanent basis, dozens of people have already been notified by local voting officials in the United States that they are not "qualified" to vote under the laws of their states.

Still others, making similar applications to different states and different election officials, have been welcomed as voters and told that their ballots would be approved.

The inconsistencies and confusion have so upset Senator Barry Goldwater, who was largely responsible for the Voting Rights Act Amendments of 1970, that he has sent one of his legislative aides, Terry Emerson, on a swing through France, Germany, Switzerland and Holland to catalogue voter problems. Mr. Emerson is scheduled to visit Mexico next Monday.

There are estimated to be 1.5 million Americans living outside the United States, and for years they have been unable to vote because they had no legal residence in the states.

It was Mr. Goldwater's intention to permit every holder of an American passport to vote, no matter where he was abroad. The law is by no means being completely ignored. Mr. Emerson, who was reached by telephone in Phoenix, Ariz., estimates that there is little or no trouble for voters who apply to about three-fifths of the states.

But the problem states—New York, California and Ohio, to name three—are the most populous.

The new voting law requires, for the first time, that states must register "duly qualified residents" up to 30 days before the Presidential election. It also prohibits states from denying the right to vote for President to residents who are outside the state on Election Day but who comply with absentee voting requirements.

Problems arise, according to Justice Department officials in Washington, because the states have 50 different definitions of what constitutes a "resident." These are based on statutes, court decisions and sometimes on the off-hand administrative judgment of a state or local official.

UNRESOLVED QUESTIONS

Although the new Federal statute apparently guarantees American citizens abroad the right to vote, no one who has been denied the right has yet brought a court action that might define more clearly the responsibilities of the state and local election boards—how far they have to go.

Completely unresolved, for example, is whether the new law is intended to cover American citizens who have lived abroad for years and who have no visible intention of returning to the United States.

And what about the Americans in Canada who are either servicemen absent without leave or draft evaders? In many states, felons are not permitted to vote, and it is up to election officials now to determine whether a man charged with desertion but never brought to trial should be classed as a felon.

In any event, Washington officials assume that many local boards of election, who must approve applications for absentee ballots, remain unaware of the 1970 law altogether or, at the least, uncertain as to how to interpret its broad mandate.

'ACT IS MEANINGLESS'

For example, Mrs. Helen Whittlesey, wife of a businessman here, received a form letter this week from George Mann, registrar of voters in Santa Clara County, Calif., who told her that unless she resided in Santa Clara County he could not permit her to vote there.

Mrs. Whittlesey was born in Santa Clara County, but left before she was 21 years old and has lived in Mexico for years. She has never been permitted to vote in a national election.

"I've never been interested in voting for sheriff or dog catcher," she snapped.

"But I do think we ought to be allowed to vote in national elections." Mrs. Whittlesey complained to the office of the United States Attorney General. In a response received from David L. Norman of the Civil Rights Division, she was informed that "the question of whether an individual presently residing abroad is a bona fide resident of a state for voting purposes is . . . to be determined by state officials according to state election laws and procedures."

"All of which means," said Mrs. Whittlesey, "that this voting rights act is meaningless."

But Mrs. Whittlesey's husband, Horace, had an entirely different experience when he applied to register in the town of his birth, Emporia, Kan.

One of Mr. Whittlesey's ancestors, Nelson Whittlesey, was the first Mayor of Emporia. It is impossible to determine what effect this may have had on officials in Emporia, but they responded to Mr. Whittlesey's application with a warm, personal note, welcoming him as an Emporia voter.

"Well, you know the bureaucratic mind," said Harry Wright 2d, secretary of the Mexico City Republican Club and one of the city's most prominent Republican boosters.

"A lot of them don't know about the law where they don't like the work involved in registering a foreign resident," he said of the local election officials.

M'GOVERNITES CONCERNED

For James Trowbridge and Alex Smith, cochairman of the local Democrats for George McGovern, the apparently capricious criteria for voter acceptance or rejection is quite serious.

"I think this may very well be a close election," Mr. Trowbridge said, "and I see no reason why George McGovern should lose even a single vote because some clerk is ignorant of Federal law."

New York is emerging as a particularly troublesome place for Americans living abroad.

Mr. and Mrs. Robert Lockwood and Miss Dorothy Gast have received letters from Albert T. Hayduck, commissioner of the Board of Elections of Westchester County, denying their applications for absentee ballots.

"From the information you present, the indication is that you are not a duly qualified resident of New York State," Mr. Hayduck wrote to Miss Gast, a guidance counselor in the schools here who was a teacher in Hawthorne about seven years ago.

Miss Gast is a native of Chicago and decided to claim an address in Hawthorne because that was her last address in the United States.

What angers the New Yorkers living in Mexico is that some upstate counties—such as Putnam—have honored requests and are apparently going to permit people to vote, but Westchester and some New York City election boards appear to be inflexible on the issue.

Mrs. Diana Anhalt, who was born in the Bronx but has lived in Mexico for many years, was told in a letter from Beatrice Berger, clerk of the Bronx Borough Office, that her application would be honored if an "appeal is upheld by the Supreme Court."

The letter did not specify the appeal, Mrs. Anhalt does not know what it is and not even in the office of Senator Goldwater did anyone know about a pending Supreme Court decision on the 1970 law.

In Mexico City, applications for absentee ballots were prepared by the United States Chamber of Commerce and thousands have been printed up at no cost to voters by the United States Embassy.

The embassy has also offered to notarize the applications for voters at no charge, although one embassy worker admitted there was a great deal of confusion over what each state would and would not accept.

Thus far, the embassy has processed more than 2,000 applications and they are coming in at a rate of about 40 a day.

George Munro, executive director of the American Society of Mexico, is receiving mounting complaints about the rejections, which he feels are coming from "clerks who haven't heard about the law."

In some countries, partisan blocks of American citizens are already organizing to combat resistance to their voting by hometown election officials. In Toronto, where some 40,000 Americans live, a group supporting Mr. McGovern met last week for some strategic instructions.

TOLD TO WRITE THEIR SENATORS

These expatriates were advised to write to their Senator if an application for an absentee ballot should be denied. In at least one instance they were told, a citizen living in Canada had written to Mr. Goldwater, who referred the problem to the home-state Senator, who then got the election board to reverse its position.

Estimates of the potential impact of the overseas vote vary widely. Richard McAdoo, special ballot director of the Committee to Re-elect the President, who is now on a European campaign tour, has estimated that there are 2.5 million Americans living abroad, which he contrasts with the 500,000-vote Nixon majority in 1968.

Traditionally, Congress has regarded voting as entirely within the states' legal jurisdiction, only approaching the question to set minimum age limits and prohibit discrimination based on race or sex. In 1955, Congress approved a law urging but not requiring states to provide absentee ballots for servicemen overseas.

Subsequently, some states extended the same privilege to civilian government employees stationed abroad and other specified groups. But it was not until 1970 that all citizens abroad were given the right to vote for President—if their state regarded them as residents.

A complication in the inconsistency among election clerks is that some states and the District of Columbia are threatening to collect taxes from Americans who attempt to establish a voting address in them.

Among the most troublesome in this respect are Alabama, Arkansas, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, North Carolina, Oregon and South Carolina. Some voters here have sent in applications only to receive state tax forms in the return mail.

At present, an American with a permanent address abroad working with private industry can be exempt from as much as \$25,000 a year in Federal taxes. Many Americans earn much more modest salaries than that, working in foreign countries as school teachers and interpreters. Frequently, they justify their lower income on the ground that it is tax-free and that the cost of living may be less than in most areas of the United States.

One American living here was warned by his accountant in New York City not to vote.

"Mark my words," the accountant said, "the state will come after you for taxes, and if that happens, can the Fed be far behind?"

EASTMAN KODAK Co.,
Rochester, N.Y., October 13, 1972.

Hon. SENATOR JACOB JAVITS,
U.S. Senate Chambers,
Washington, D.C.

DEAR SENATOR JAVITS: As you know, the Voting Rights Act Amendment of 1970—Public Law 91-285—was enacted by Congress to increase voter eligibility in Presidential elections. One of the provisions of this law is that American citizens working overseas are entitled to register absentee in their state of last residence and to vote absentee in Presidential elections.

The Eastman Kodak Company has approximately 90 U.S. citizens working overseas. We provided each of these citizens with information relative to their voting rights under the Voting Rights Act Amendment of 1970. Most of these citizens working abroad for the Eastman Kodak Company resided in New York State before their move overseas.

We have been informed by one of our overseas employees that in answer to his request for registration and an absentee ballot he received a form letter (copy attached) informing him that he was ineligible to register and vote. This certainly appears contrary to Federal voting provisions.

Since most of our U.S. employees working overseas last resided in New York we are assuming that they are also being prohibited from registering and voting in the 1972 Presidential Election.

Upon inquiry, the Chamber of Commerce of the United States has indicated that 26 States are complying with the Federal voting provisions; the other States, including New York State, are not. They further indicated these Federal provisions will be enforced by the Department of Justice and the Federal courts.

I have brought this matter to your attention in the hope that you would use your influence in bringing pressure to bear on New York State election officials. We would like to see New York State as one of the States complying with the Federal voting provisions and would appreciate your help.

Sincerely,

NANCY V. JONES,
Personnel Assistant—IPD.

Enclosure.

BOARD OF ELECTIONS, MONROE COUNTY, N.Y.,
Rochester, N.Y., September 28, 1972.

WALTER E. MALLORY III,
Kodak Norge A. S., Tollbugaten 35,
Oslo, Norway.

DEAR SIR, Under New York State Law you are not eligible to register inasmuch as you do not have a bonafide address in Monroe County and only those who are employed by the Federal Government directly or are in Military Service are permitted to vote from a previous address in this state.

Very truly yours,

KENNETH T. POWER,
Commissioner.
ROBERT W. NORTHRUP,
Commissioner.

AUGUST 3, 1972.

MONROE COUNTY BOARD OF ELECTIONS,
Rochester, N.Y.
U.S.A.

GENTLEMEN: I am a citizen of the United States and hereby request that an absentee registration form and an absentee voter's ballot be sent by airmail to me so that I may participate in the Presidential election of November 7, 1972 in the State of New York pursuant to the Voting Rights Act Amendments of 1970 (Public Law 91-285).

I was born on September 23, 1918 in Penrose, Colorado.

Having resided in Monroe County for the years 1940 to 1959, my last place of residence in which I was registered to vote was 100 Biltmore Drive (Irondequoit) where I resided for 12 years.

I intend to maintain my voting rights in the State of New York and intend to return to the State of New York when my overseas assignment is terminated.

I have been absent from the United States since 1959 and I am an employee of Kodak (Malaya) Pte. Limited at 305 Alexander Road, Singapore 3, Republic of Singapore. My residence and mailing address is 30 Cornwall Gardens, Singapore 10, Republic of Singapore.

If I am authorized to vote by absentee process in the State of New York, I shall not request or exercise voting privileges in any other State or the District of Columbia.

Yours very truly,

FRED B. POWERS,
Managing Director.

BOARD OF ELECTIONS, MONROE COUNTY, N.Y.,
Rochester, N.Y., August 22, 1972.

MR. FRED B. POWERS,
Managing Director, Kodak (Malaya) Pte. Limited, 30 Cornwall Gardens, Singapore 10, Republic of Singapore.

DEAR SIR: Your application for an absentee ballot must be denied unless you fall in one of the following three categories:

1. You have a residence in Monroe County.
2. You are an employee of the United States Government, or
3. You are in the military service of the United States.

If you fall into one of these categories, please let us know immediately, and we will forward to you an application for an absentee ballot. If we do not hear from you, we will assume that you do not fall into one of the three categories; therefore, you would not be eligible to receive an absentee ballot.

Very truly yours,

KENNETH T. POWER,
Commissioner.

30 CORNWALL GARDENS,
SINGAPORE, 10,
Republic of Singapore, August 31, 1972.

BOARD OF ELECTIONS, MONROE COUNTY, N.Y.
Rochester, N.Y., U.S.A.

Attention: Mr. Kenneth T. Power, Commissioner.

DEAR MR. POWER: Referring to my letter of August 3, I was literally shocked in reading your response dated August 22, in which you are denying me the right to an absentee ballot because I cannot fulfill the requirements of any one of the categories which you outlined. It is almost unbelievable that a person in your responsible position would not be aware that the first condition relative to residency which you mentioned for qualifying for an absentee ballot is no longer valid by law.

If you had taken the time to read my letter carefully, you would have noted that I had made reference to the Voting Rights Act Amendments of 1970, in which by a determination based on the Attorney General's clarification of this Act which was upheld by the Supreme Court it was made mandatory that states grant absentee voting privileges to U.S. Citizens without the prior necessity of maintaining a Stateside abode. According to the "Guide to Absentee Voting in Presidential Elections" published by the Chamber of Commerce of the United States, according to the Justice Department under Section 202 of the Act, each State must provide that any other qualified person who expects to be away from his election district on election day may vote by absentee ballot. Thus, state laws which restrict availability of absentee ballots to certain classes of citizens or persons absent for particular reasons may not be enforced with respect to voting for President and Vice-President.

I look forward to your prompt response by airmail by sending both to me and my wife whose separate request of August 3 you did not acknowledge, an absentee ballot for the purpose of our voting for the office of President and Vice-President in the election of November 7, 1972.

Yours very truly,

FRED B. POWERS,
Managing Director.

BOARD OF ELECTIONS, MONROE COUNTY, N.Y.,
Rochester, N.Y., September 7, 1972.

Mr. FRED B. POWERS,
Managing Director, Kodak (Malaya) Pte. Limited, 30 Cornwall Gardens,
Singapore 10, Republic of Singapore.

DEAR MR. POWERS: Referring to your letter of August 31st, I agree with your thoughts that the situation is unbelievable, but, of course, you undoubtedly realize that we do not operate under rules and regulations set up by the Board of Elections of Monroe County, but operate under the law set up by the New York State Legislature. Further, I can assure you that I read your letter very carefully.

Unfortunately, you relied on the "Guide to Absentee Voting Presidential Elections" published by the Chamber of Commerce of the United States of which I have a copy. This dissemination of information by the Chamber of Commerce is inaccurate in several respects—one of which is your particular situation. Once again I refer you to my letter of August 22nd, and assure you that this is what we are mandated by Albany to follow as a result of New York State law and the various Congressional Acts, plus the interpretation placed upon the State by the State and Federal Courts.

I am extremely distressed that I am not able to comply with your request. I trust the information provided in this letter will help clarify the situation.

Very truly yours,

KENNETH T. POWERS,
Commissioner.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., April 20, 1972.

Mr. JACK G. HARDY,
Estrada da Gavca, 21
Rio de Janeiro, Gb—Brazil

DEAR MR. HARDY: This is in response to your letter concerning the absentee registration and absentee balloting provisions of the Voting Rights Act Amendments of 1970. I apologize for the delay in responding.

I have enclosed a copy and a recent letter from this Department to Mr. J. Eugene Marans, counsel for the Bipartisan Committee on Absentee Voting, reviewing the absentee registration and absentee balloting provisions of the 1970 Amendments. As you will note, the 1970 Amendments do not, in our judgment, preclude a state from establishing bona fide residency as a requirement for registering absentee and obtaining an absentee ballot in that state. The question of whether an individual presently residing abroad is a bona fide resident of a state for voting purposes is, at least in the first instance, a question to be determined by state officials according to the election laws and procedures.

Sincerely,

DAVID L. NORMAN,
Assistant Attorney General, Civil Rights Division.
WALTER W. BARNETT,
Director, Planning, Legislation and Appeals.

EASTMAN KODAK Co.,
Rochester, N.Y., November 16, 1972.

Mr. R. T. SNURE,
Chamber of Commerce of the United States,
Washington, D.C.

DEAR MR. SNURE: Enclosed is yet another form letter from the Monroe County Board of Elections denying one of our overseas employees the right to register and vote absentee in the Presidential Election. Would you add this letter to the other form letters previously forwarded to you.

Sincerely,

NANCY V. JONES,
Personnel Assistant—IPD.

Enclosure.

BOARD OF ELECTIONS, MONROE COUNTY, N.Y.,
Rochester, N.Y.

DEAR MR. GAFNEY: Under New York State Law you are not eligible to register inasmuch as you do not have a bonafide address in Monroe County an only those who are employed by the Federal Government directly or are in Military Service are permitted to vote from a previous address in this state.

Very truly yours,

KENNETH T. POWER,
Commissioner.
ROBERT W. NORTHRUP,
Commissioner.

THE AMERICAN CHAMBER OF COMMERCE IN THAILAND,
Bangkok, Thailand, October 11, 1972.

Mr. ROBERT T. SNURE,
Chamber of Commerce of the U.S.,
Washington, D.C., U.S.A.

DEAR MR. SNURE: In our letter of June 5th we outlined the difficulties experienced by Tad Larrabee in his attempts to register and obtain voting privileges in New York State.

Notwithstanding the reply received from Senator Buckley, Mr. Larrabee again applied for an Absentee Ballot Application and received it.

Mr. Larrabee completed the Absentee Ballot Application and returned it to the New York Board of Elections with a special note attesting his intention to move back to New York when his overseas assignment is completed. We now enclose a copy of the reply received from the New York State Board of Elections.

You may wish to include this as further evidence of New York State's continued unfavorable interpretation of the Voting Rights Act Amendment of 1970.

Yours sincerely,

Enclosure.

MR. AND MRS. WILLIAM H. LARRABEE,

% The Chase Manhattan Bank, N.A., G.P.O. Box 525, Bangkok, Thailand.

DEAR MR. AND MRS. LARRABEE: We are in receipt of your Absentee Ballot Applications. However, we find that your voter registrations were cancelled as a result of a mail check. Apparently, these applications were mailed to you in error. Since you do not appear to qualify as residents of New York State, we regret that we are unable to approve your Applications for Absentee Ballot.

Very truly yours,

ALBERT T. HAYDUK,
Commissioner.

EASTMAN KODAK Co.,
Rochester, N.Y., December 6, 1972.

MR. R. T. SNURE,
Chamber of Commerce of the United States, Washington, D.C.

DEAR MR. SNURE: Enclosed is additional correspondence from the Monroe County Board of Elections denying one of our overseas employees the right to register and vote absentee in the Presidential Election. Would you add this correspondence to the letters previously forwarded to you.

Sincerely,

NANCY V. JONES,
Personnel Assistant—IPD.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 22, 1972.

Enclosure.

MR. FRED B. POWERS,
Managing Director, Nadak Pte, Limited, P.O. Box 687, 305 Alexandre Road
Singapore 3

DEAR MR. POWERS: Thank you for your recent letter concerning your desire to vote in the Presidential election notwithstanding your residence abroad.

As you know, the Voting Rights Act passed by Congress in 1970 grants this right to citizens living abroad who are "qualified residents" of the state and political subdivision in which they wish to vote. The problem in New York is that the State interprets this phrase to mean persons who have an actual residence in New York State to which they intend to return.

I'm sure you will be pleased to learn that the American Civil Liberties Union has filed suit in Federal Court challenging New York's interpretation of the statute and asking a declaratory judgment that citizens such as yourself be permitted to vote in the coming election. The case is scheduled for hearing during the week of September 25. I suggest you contact your local Board of Elections after that date in the event the decision is a favorable one, and ask for an absentee ballot. In any event, if the litigation has not been completed in time for this election, hopefully the full impact of the new Federal statute will be clarified by the higher courts before the next election.

Sincerely,

JACOB K. JAVITS.

SEPTEMBER 14, 1972.

HON. JACOB K. JAVITS,
U.S. Senate, Washington, D.C., U.S.A.

DEAR SIR: Enclosed are copies of correspondence which I have had with the Monroe County, N.Y. Board of Elections, in which you will see that my wife and I have been refused the right to cast an absentee ballot in the November elections for President and Vice-President.

It is most disappointing to have received this information from Mr. Power in view of the remarks of Senator Barry Goldwater on the floor of the U.S. Senate on March 11, 1970 in which he, in referring to the particular applicable amendment, stated that the Amendment should "secure the right to vote for President and Vice-President for every citizen of the United States without regard to lengthy residence requirements or where he may be in the world on Election Day." Furthermore, it is difficult to understand Mr. Power's reference as a basis for the rejection of our request for absentee ballot as "the interpretation placed upon the State by the State and Federal Courts". This appears contradictory to the information given by the U.S. Chamber of Commerce Bulletin, in which it is stated that the Attorney General gave an opinion in interpreting the Act's application favorable for absentee registration in voting as well as the Supreme Court's favorable decision in the Oregon vs Mitchell case.

Your investigation of this matter would be very much appreciated with, of course, the objective of obtaining an absentee ballot for Mrs. Powers and me. In responding, will you kindly make certain to post your letter by *airmail* in view of my overseas address.

Yours very truly,

Managing Director.

THE AMERICAN CHAMBER OF COMMERCE IN THAILAND,
Bangkok, Thailand, October 11, 1972.

MR. ROBERT T. SNURE,
Chamber of Commerce of the United States,
Washington, D.C., U.S.A.

DEAR MR. SNURE: In our letter of June 5th we outlined the difficulties experienced by Tad Larrabee in his attempts to register and obtain voting privileges in New York State.

Notwithstanding the reply received from Senator Buckley, Mr. Larrabee again applied for an Absentee Ballot Application and received it.

Mr. Larrabee completed the Absentee Ballot Application and returned it to the New York Board of Elections with a special note attesting his intention to move back to New York when his overseas assignment is completed. We now enclose a copy of the reply received from the New York State Board of Elections.

You may wish to include this as further evidence of New York States' continued unfavorable interpretation of the Voting Rights Act Amendment of 1970.

Yours sincerely,

JACK SCOTT,
Executive Director.

Enclosure.

BOARD OF ELECTIONS, WESTCHESTER COUNTY, N.Y.,
White Plains, N.Y., October 3, 1972.

MR. AND MRS. WILLIAM H. LARRABEE,
c/o The Chase Manhattan Bank, N.A.,
G.P.O. Box 525, Bangkok, Thailand.

DEAR MR. AND MRS. LARRABEE: We are in receipt of your Absentee Ballot Applications. However, we find that your voter registrations were cancelled as a result of a mail check. Apparently, these applications were mailed to you in error.

Since you do not appear to qualify as residents of New York State, we regret that we are unable to approve your Applications for Absentee Ballot.

Very truly yours,

ALBERT T. HAYDUK,
Commissioner.

Mrs. Boggs. Our next witness is Dr. Eugene L. Stockwell, associate general secretary for overseas ministries, National Council of Churches of Christ in the U.S.A.

Welcome, Doctor, it is so nice to have you with us.

STATEMENT OF DR. EUGENE L. STOCKWELL, ASSOCIATE GENERAL SECRETARY FOR OVERSEAS MINISTRIES, NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE U.S.A.

Dr. STOCKWELL. Madam Chairman and members of the Subcommittee on Elections, I am Eugene L. Stockwell, Associate General Secretary for Overseas Ministries of the National Council of the Churches of Christ in the U.S.A., with headquarters at 475 Riverside Drive, New York City.

The National Council of Churches brings together in cooperative relationships 31 constituent denominations, most of which are extensively involved throughout the world in denominational and ecumenical ministries of mission and service, involving the participation of thousands of U.S. citizens who as missionaries, agency representatives or volunteers work in many countries throughout Asia, the Middle East, Africa, Latin America, and Europe.

I testify today in hearty support of H.R. 3211 which is designed to guarantee the Constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens who are residing or domiciled outside the United States.

We are heartened that such legislation is before you to correct the inequities experienced by disenfranchised overseas American citizens, though we admit to some sense of frustration that it should be necessary to plead on behalf of missionaries and other U.S. citizens abroad for the elemental right to vote.

On June 3, 1965, the General Board of the National Council of Churches adopted a policy statement entitled "Equal Representation is a Right of Citizenship."

It affirms "our Christian conviction that one of the fundamental rights of citizenship is the right of every citizen to representation substantially equal to that of other citizens, regardless of where he lives or what may be his wealth or learning."

Recognizing that our national history has been in part a story of extending the franchise to all adult citizens the statement affirms "equal representation is every person's fundamental right and a necessary adjunct to full political personhood."

Though the general board of the National Council of Churches does not speak for all members of its member churches, it does express the considered judgment of the representatives of those churches officially sitting on that general board.

The member communions of the National Council of Churches have authorized the council "to speak and act on conditions and issues in the Nation and the world which involve moral, ethical, and spiritual principles inherent in the Christian Gospel." [NCC Constitution, Article II, 9.]

We believe that H.R. 3211 is a proper and necessary step in the direction of the provision of equal representation to a segment of our population that currently faces great difficulty and confusion in exercising the right to vote.

What problems do church representatives overseas experience in trying to register and vote, even though they continue to be subject to the obligations and responsibilities of American citizenship?

Surveys indicate that absentee ballots which were solicited were received too late or not at all, sometimes delayed by transmittal by sea rather than by air. Many have been unable to register because the overseas representative no longer has a permanent U.S. address or owns no property in the United States.

Regulations differ so widely from State to State that it is difficult to discover the exact regulations which apply to individuals within a community as mobile as that which missionaries and other church representatives represent.

A recent questionnaire issued by the United Methodist Board of Global Ministries' World Division indicated that about 50 percent of the respondents did vote in 1972 with little or no difficulty compared with only 24 percent who voted in 1968, and most of those who succeeded in thus voting were from States that complied with the Federal Voting Rights Act Amendments of 1970.

This indicates that the difficulties in accommodating overseas voters are not insurmountable and, as in the case of military and Government personnel, can be handled with dispatch.

The fact remains, however, that only approximately half our States have clear and simplified absentee registration and voting procedures while in the other half complicated procedures hamper thousands of citizens from exercising the franchise.

Are missionaries and other overseas church representatives interested in voting?

We believe there is no question on this point—they do wish to vote if at all possible.

Missionaries have repeatedly made known their difficulties in trying to vote. Much frustration is expressed.

One couple, Mr. and Mrs. William E. Roy, missionaries to Japan, sent 10 letters to their county registrar in their unsuccessful attempt to vote in 1972.

If I may use my own experience as illustrative, though I voted regularly in U.S. elections from 1944 to 1952, I was unable to vote at all from 1953 until mid-1962 while serving as a missionary in Uruguay.

I was unable to vote in any election for 10 years though I was consistently interested in my Nation's policies and subject to U.S. citizenship obligations.

One reason among many why missionaries are highly interested in voting is that they frequently experience firsthand the effects of U.S. foreign policy. They are affected drastically economically when the U.S. dollar is devalued. Issues of war and peace concern them deeply.

Decisions of our Government in relation to the countries where these missionaries serve are of special importance to them. Beyond that, they also continue to be concerned about domestic affairs, aware that domestic and foreign affairs are integrally related.

If I might insert here a word in commenting on something that Mr. Dent said, whatever else can be said about other citizens abroad, I am sure missionaries would not vote in a block. They do nothing in a block.

A related question is whether overseas church representatives are sufficiently informed to vote intelligently.

By far the majority of missionaries sent by denominations related to the National Council of Churches are college graduates, many with master's and doctorate degrees.

A recent United Methodist survey indicated that of 395 respondents 85 percent regularly read Time or Newsweek, plus a great variety of other journals of opinion. U.S. newspapers, and a widespread of other magazines full of comment about current political and community issues.

The point is that this large community of U.S. citizens, most of them professionally trained, is both interested in, and prepared to make, the kind of citizenship judgments which we are called to make in Federal elections.

In summary, Madam Chairman, we would urge that H.R. 3211 be strongly supported, and that this subcommittee urge your colleagues to enfranchise American citizens overseas.

Americans overseas are acutely aware of decisions made by their Government and want to be involved in that process.

We thank you for your efforts in this direction and for the opportunity we have been provided to bring before you the concerns of American missionaries and overseas church representatives.

Mrs. Boggs. Thank you, Dr. Stockwell. It is very interesting and informative testimony.

Mr. Wiggins?

Mr. WIGGINS. Well, Doctor, I would first like to have you describe your constituency.

Who is a typical missionary, and how long does he stay overseas, and where does he come from?

Dr. STOCKWELL. A number of U.S. missionaries, in term of numbers, first, we had estimated it is somewhere between 30-35,000.

They come from all parts of this country. They include according to one survey we made not too long ago, most of all teachers, and persons involved in education work, far more than priests or ministers. Many are involved in medical work, agricultural work, social work, some evangelistic work.

Mr. WIGGINS. How long do they stay at their stations, at their assigned stations?

Dr. STOCKWELL. That varies greatly, but the tendency we have in the last 10 years, is that the terms of missionary service overseas are shortening greatly.

Thirty or forty years ago, it was very common for persons to go out, expect them to spend the rest of their lives overseas.

Today that is not the case. In the Methodist board where I worked for a few years, we found that the average was about 9 years of service before they returned to this country.

That may not be typical of all churches, but it is one experience.

Mr. WIGGINS. Arriving at the average, I would assume some stay longer and others stay a shorter period?

Dr. STOCKWELL. Yes.

Mr. WIGGINS. Once they have concluded their tour of duty, are they customarily reassigned to a different overseas post?

Dr. STOCKWELL. In terms of that 9 year period, I was referring to, after that, they return to the United States, within that 9 year period

there may have been movement between overseas countries, but that is not very frequent.

Mr. WIGGINS. Is it common, or uncommon for missionaries in this group to retain personal connection with the State of last domicile, such as a home, perhaps, a basic church affiliation within a given Congressional District, what is the connection?

Dr. STOCKWELL. Well, I would be hesitant to say that they retain a domicile, but they retain many, many contacts, personal contacts. Very frequently it will be a church in their home town, which continues to support them, while they are overseas.

Contacts of that kind I think are many.

Mr. WIGGINS. Well, I would like to address the problem that I discussed with the others, where I sought the opinions of others, and that is the difference of treatment, between citizens overseas and citizens at home, if this legislation is enacted.

Dr. STOCKWELL. If the question is directed, Mr. Wiggins, to the difference in terms of that 30-day period, when citizens of the U.S. move from one State to another—

Mr. WIGGINS. No; that is with respect to Presidential and Vice-Presidential elections, and it is covered by the Voting Rights Act of 1970, as you know.

I am talking about those who participate in congressional elections in this country, and not everyone has a right to vote for Congress.

He has the right to vote for Congress if he has complied with certain nondiscriminatory laws enacted by States, and most States have some durational requirements, and if a person abandons a residence in one State, and moves to another, he may not have the right to vote for Congress in a given election, but under this legislation—

Mrs. Boggs. Mr. Wiggins, we must recess this hearing because we have another urgent matter to take up.

[Whereupon, the hearing was in recess.]

AFTER RECESS

Mrs. Boggs. Back on the record.

Mr. WIGGINS. At the time we recessed, there was a question pending, just to restate it, I was asking for your comment about the unequal treatment of American citizens living abroad, and American citizens living at home, with respect to their right to vote in Congressional and Senatorial elections.

Dr. STOCKWELL. As I understand it, part of the question behind the question is whether or not citizens living abroad are close enough to what is going on in their own home district to be able to make informed judgments on the choice of senators or congressman.

I recognize that is an area of problem, but it seems to me in Federal elections, and at this point, I understand Senators and Representatives, they act in a Federal capacity most of the time, there is even greater lack of equity for these 750,000, however many persons it is overseas, who are tremendously affected by what Congress does.

If there is some change needed in the law, I do not know enough about it to say this, to bring about a perfect equity if that is possible, I should think that might be secured.

I recognize that the person living in Bangkok, let us say, for 5 years, is not apt to know as much about what is going on in his home district, as if he were living there, but his concern with the Federal policy, with the policies of our Nation as a whole, is great, and he is affected by them at any point.

Mr. WIGGINS. You are really addressing yourself to questions I did not intend to ask, but I appreciate your testimony.

Dr. STOCKWELL. Maybe I did not hear your question right.

Mr. WIGGINS. I am concerned about the fact that the current law in the United States will deny to a U.S. citizen who is living somewhere within the United States, the right to vote in a congressional election, unless he has established a domicile, and has maintained a certain durational requirement, within the state of his domicile.

It matters not one whit how well informed he is, or is not. He has to meet that standard, and if he fails to do so, that person cannot vote in a congressional election, nor in a senatorial election, but this legislation will give him the right as possessed by U.S. citizens at home, as these U.S. citizens living abroad by permitting them to vote in the State of their former domicile, a right which is not accorded to other U.S. citizens living in the United States, and that is the question I want you to address.

Dr. STOCKWELL. I am not sure how to answer that, sir.

All I can say is, I think, that it seems to me that if the situation with reference to citizens in this country is correct, there may be some legal way of remedying that, I don't know, but it seems to me that whatever that may be, that does not really give a reason for denying the overseas citizen the right to vote in Federal elections.

Now, that may not be a sufficient answer, but it is the best I can come up with.

Mr. WIGGINS. I understand. Thank you.

Mrs. BOGGS. Mr. Burton?

Mr. BURTON. No questions.

Mrs. BOGGS. Mr. Moore?

Mr. MOORE. No questions.

Mrs. BOGGS. We do thank you, sir, very much.

Would you like the policy statement also made a part of the record?

Dr. STOCKWELL. Yes; if you would, please, because it is referred to in the testimony.

Mrs. BOGGS. With no objection, we will make that part of the record also. Thank you so much.

[The policy statement follows:]

A POLICY STATEMENT OF THE NATIONAL COUNCIL OF THE CHURCHES OF CHRIST
IN THE UNITED STATES OF AMERICA

EQUAL REPRESENTATION IS A RIGHT OF CITIZENSHIP

(Adopted by the General Board, June 3, 1965)

The General Board of the National Council of Churches of Christ in the U.S.A. has repeatedly expressed its Christian concern for the maintenance and enhancement of human rights and liberties, most recently for "the right to full participation of the person in political and civic life."¹ The General Board has an equal

¹ Policy Statement on *Human Rights*, unanimously adopted by the General Assembly, December 6, 1963.

concern for the ever fuller attainment of a just and open society. Both of these concerns have come to focus in the right to vote.

As our understanding of the God-given dignity of man has developed and matured, most of our fellow-citizens have now realized the urgency of giving all adult members of our society equal access to the ballot. What has not been as widely realized is the necessity of protecting the quality of the ballot. We welcome the action of our Commission on Religion and Race within its special mandate witnessing to the conviction that "every American citizen has, as his inalienable right, not only an equal right to vote, but also a right to an equal vote."²

The condition has arisen in our country that many legislatures have refused to reapportion themselves according to the shifting of population, thus permitting the representatives of less populous areas to continue to outnumber the representatives of the growing cities and suburbs, and so to maintain their dominance over the affairs of the several states.

In recent years, the courts have sought to rectify this condition by insisting that the legislatures be reapportioned in proportion to the current distribution of population, so that the votes of all citizens for their legislators would be substantially equal in effect. The Supreme Court's interpretation of the equal protection clause of the Constitution guarantees this personal right of representation for individual voters. This right must not be abrogated by any constitutional revision. But the Supreme Court's decision have been met by moves to amend the United States Constitution to withdraw this issue from the jurisdiction of the courts and to permit the states by referendum of their present voters or by other means to apportion the membership of one house of a bicameral legislature on factors other than population.

In the light of these circumstances, the General Board concludes that many of the causes of civil rights and liberties we have long supported are at stake in the question of equal representation, and now affirms our Christian conviction that one of the fundamental rights of citizenship is the right of every citizen to representation substantially equal to that of other citizens, regardless of where he lives or what may be his wealth or learning.

We do not find in the nature of men as children of God and distinction of kind such that one man should cast a vote worth more than another's. Neither race nor religious adherence, neither property nor education, neither rural residence nor urban, nor appeal to states rights, entitles one man or group of men to a disproportionate share in the *basic franchise* by which their civic affairs are governed. The structures of government erected upon this base may vary in design and operation according to the development of the techniques of political science, but the right of every person to say his full "Yea" or "Nay" in periodic elections is more than a technical question.

If the right to vote is denied, or if the vote itself is diluted, then to that extent the membership of the voter in civil society is diminished and his political personhood is impaired. He becomes less of a "man" than his fellows, and loses to them some portion of his right to help determine his civic destiny. This is a moral question and ultimately a theological one, concerning which the National Council of the Churches of Christ may not remain silent.

When the founders of our nation declared, "All men are created equal and are endowed by their Creator with certain inalienable rights," they perceived and expressed a profound truth about the nature of man, which earlier generations had not had the social experience or political opportunity to discover. In the Christian view man is a child of God who is loved by His Heavenly Father, and who is called to love his brother as a member of God's family. As such he is also a son of God who is of infinite value in God's sight and who, in obedient response to His will, values all other human beings as sons of God with the dignity and the freedom of action of such sonship.

Believing, then, that "all men are created equal"—not in their abilities but in their rights among the rest of humankind—we do not know of any proper basis on which that equality can be reduced or the rights which God has given alienated, not even by majority vote of the electorate. Individuals may refrain from exercising their franchise, but it ought not to be kept or taken from them—in whole or in part—by those who presently possess political power in order to perpetuate their possession of that power. Rights guaranteed to persons by the Constitution are not "rights" if they depend on the outcome of elections.

² Resolution on Reapportionment, by the Commission on Religion and Race, April 14, 1965.

The story of this nation is in part the story of the extension of the franchise to all adult citizens. The founders of our nation failed to apply fully their daring insight that all men are created equal. They failed to give women the right to vote, and for the purpose of allocating representatives to the states counted Negro slaves as three-fifths persons and even then denied them the right to cast these votes themselves.

Ever since that time, we have been striving as a nation toward a goal which could not then be, and has not yet been, fully attained. For over a century we have suffered as a nation the continuing consequences of undervaluing the personhood of some of our fellow men. Recently we have begun to perform a national penance for this injustice. But having striven thus far toward achieving a genuine and effective political equality, we should not now change our Constitution in any way that would take our nation back toward fractional citizenship. Rather we should move in the opposite direction toward the integrity and equality of every citizen's full belonging to the civic commonwealth of God's children. If our democracy is to function properly those who are eligible to vote should be encouraged to exercise their franchise and to prepare themselves to vote intelligently on candidates and issues.

We believe that equal representation is every person's fundamental right and a necessary adjunct to full political personhood. Therefore, the National Council of Churches records its opposition to the proposals for an amendment to the Constitution or any other moves which would restrict the right of every person to substantially equal representation.

For 77—Against 16—Abstained 7.

Mrs. Boggs. Our next witness is Mr. Sargent Shriver.

I have the great pleasure of presenting to the committee an old and valued friend, who has known the problems of overseas Americans from many points of view.

STATEMENT OF SARGENT SHRIVER, CHAIRMAN, AMBASSADORS COMMITTEE FOR VOTING BY AMERICANS OVERSEAS

Mr. SHRIVER. Thank you, Madam Chairman. May I present Mr. Richard Byron Berryman, who is a lawyer, and member of the same law firm, of which I am a partner, who has lived in Europe, and in England, practicing law for our firm a number of years, he is back here in the United States, and he is conversant with a number of these problems.

I am appearing, Madam Chairman, on behalf of the ad hoc committee of former ambassadors, who have served in a number of different countries, and I am here to express their views, as well as my own, on this proposed piece of legislation.

I am happy to read through this document, as I supplied it, if you wish me to, but in the interest of time, I know you are all very busy. I thought it might be useful to just pick out some of the highlights.

If I do proceed that way, however, I will request the Chair's permission to have this statement incorporated in its entirety in the record.

Mrs. Boggs. Without objection, so ordered.

Mr. SHRIVER. From my experience abroad, both as an ambassador overseas, and then during the period which I was head of the Peace Corps and in wartimes, it always seems to me that Americans abroad have a heightened interest in some respects in what is going on at home.

I think it explains partially why news magazines and Time and Newsweek have a tremendous circulation overseas, and in fact, it is

a very popular newspaper in Europe called and International Herald Tribune which has a substantial circulation in all parts of Europe.

They are also very much affected overseas by what is done back here. Of course, they are subject to all of the laws of the United States, as when they existed for compulsory military service, they are subject to tax laws and other laws, and as a consequence, it is only the fact that they are living abroad, the fact that they are not physically within the United States, that seems to put them in this particular classification as to whether they are going to vote.

I think that with the improvement in communications, and the constrictures of the world you might say in recent years, that this particular restriction is less appropriate than it may have been 50 or a 100 years ago, when somebody did live abroad for a considerable length of time, it was quite likely they could get out of touch with what is going on at home, but that is no longer true.

In fact, you could say that this group of Americans, which is a substantial number of people, it is in the millions, is the only group of Americans that does not have any representation.

If I am living abroad, there is not really any Congressman that I could write to relative to a particular problem.

There would not be anybody that would have me within their jurisdiction, their particular jurisdiction, and also, it would strike me as being inappropriate, that since State laws vary from State to State, two of us might be living in Rome or Vienna, one from one State, and one from another State, and since the State laws are different, one of us might be able to vote, and the other might not be able to vote.

At this time, there is a certain capriciousness to the effect of the various State laws overseas.

Now, sometimes people think that this proposed legislation will confer special benefits on people living abroad.

In fact, that is not true. What we are trying to do is merely give the people the same benefits as the people have at home.

It does not exempt them from any tax laws. Some people think that is true.

What it does do is merely say that the States cannot use the mere fact that a person voted in an election as proof that they are for that reason subject to State tax laws.

The State could determine exactly how they want to make their laws apply, and a substantial number of people living abroad do pay both Federal taxes and State taxes.

This bill merely says that if you vote, you do thereby incur a liability for taxes which you would not have been subjected to, if you had not voted.

In other words, it takes off the sort of poll tax quality which would otherwise exist, if by merely voting, one became liable to taxes, which they would not have been therefore liable to pay.

Finally, I might emphasize that this is a bipartisan effort. A number of the people on this committee which I speak for are Republicans, including some rather prominent ones like the representative of the United States in mainland China, George Bush—they are in favor of this. They are in favor of it not because it is going to be of any partisan political advantage, but simply because it seems to be an equitable thing, and an equitable way to treat Americans living abroad.

From my point of view, I have been told that there are more Republicans living abroad than there are Democrats, and probably this would be of an advantage to the Republican party if this bill was passed, and since I see three members of that party here today, I am happy to emphasize this.

I have a brief supplementary statement, which I would also like to ask the Chair's permission to incorporate in the record, and this has to do with a poll which was conducted in Europe—principally in England—by a bipartisan committee there on voting, absentee voting, and I will just pick out some of the highlights of this poll.

[The supplemental information referred to appears on p. 190.]

Incidentally, the poll was conducted by a well-known public opinion firm in England, which in the last election, I am told, did poll for the Labor Party, which won that election, and so the polling had many advantages in an election which would be an indication of the quality of this particular organization.

Ninety-four percent of the survey responses said that they did take an active interest in U.S. affairs, and I did refer to that earlier.

Ninety-five percent favored legislation to insure that Americans living abroad could vote in Presidential elections, without paying taxes, that they would not otherwise be liable for.

Seventy-one percent supported legislation which provides an opportunity to vote in congressional elections.

It is clear from those two that more would vote in the Presidential than the congressional elections, but it is still favorable.

Fifty-four percent said they were not able to vote in the 1972 election, and there are a number of interesting explanations given by these people, as to why they were not able to vote.

They got misinformation, or they had tremendous delays in trying to get the ballots, or the red tape, or obstructions. The details of the poll—I have copies of that poll here, if members of the committee would like to look at it—but one of the parts is more interesting, the specific steps that people made about their own experiences, statements made about their experiences.

In other words, this poll does show that an overwhelming majority of Americans living abroad, are interested in voting; they do take an interest in American affairs. For the benefit of some of the people here, it looks as if a large number, by far, come from New York, California, and New Jersey.

That is the end of my formal presentation, Madam Chairman.

I would be delighted to try to answer questions that might be directed to me, or to my colleague here, Mr. Berryman.

Mrs. BOGGS. Thank you very much.

Mr. Butler?

Mr. BUTLER. The last statistics, there is not a large number from Maryland and Virginia?

Mr. SHRIVER. I just said the largest particular group. This poll was limited to England, and there were 25 States.

Mr. BERRYMAN. There were citizens representing 25 States responding to the poll.

The largest number representing 21 percent was from New York, and 15 percent was from California, 9 percent from New Jersey, and other States were Massachusetts, Minnesota, and so forth.

Mr. BUTLER. From the enthusiasm from Maryland, I would say that this was excluded from being a Maryland problem. The only problem I have with this is that it deals with the privileges that we are giving with reference to a congressional election.

I would think that, as your poll indicates, that the people were more interested in Presidential than congressional, they do not have an identity with a locality in many instances, and for that reason, if that is the interest in voting, fine, and of course, I realize that you are reporting on both Presidential and congressional, but don't you think the enthusiasm you have found is really directed to Presidential elections, and that congressional elections is more secondary; it is just that there is not too much incentive, would that be fair?

Mr. SHRIVER. I would say they are more interested in Presidential elections, but the fact that 71 percent are interested in Presidential, rather than senatorial, I would say is a rather large percentage, and sufficient to justify including the right to vote in senatorial, or House races, as well as the right to vote in Presidential.

I think if you are going to do it at all, there is good reason to do it for all of the Federal elections, agreeing with you, however, they are probably more interested in the Presidential than in the congressional races.

Mr. BUTLER. Are you familiar with the inconsistency this will create in the law?

Mr. SHRIVER. Congressman Wiggins was talking about that just a few minutes ago. If I understand the inconsistency accurately, it is my suggestion that the law be changed at home to permit the people at home to vote, despite the fact they have moved in the way you describe, rather than to penalize the people overseas the way the people at home are penalized.

I do not understand what the value is of the restriction in the United States anymore than the value of the restriction on people abroad.

Mr. BUTLER. That was a decision the Congress made.

Mr. SHRIVER. I understand. It was made in 1970, and experience now indicates that maybe it is totally inequitable, and perhaps it would not be untimely to change it.

Mr. BUTLER. Would you suggest holding up on this legislation and straightening out the other?

Mr. SHRIVER. I would suggest you pass this one, and use this as a justification to change the other one.

Mr. BUTLER. No further questions.

Mrs. BOGGS. Mr. Burton.

Mr. BURTON. I just have one question on the congressional elections.

In the bill, the more I read it, the more questions are raised, but again to have someone who is from San Francisco, leave San Francisco, goes to Paris, never to return to San Francisco, never to return to California, but to vote where they were last registered before they left, and I guess just kept on the rolls in that precinct, even in a precinct like some of mine were torn down and are now freeways, it kind of bothers me a little bit, and I really do not know how many people who go over there, and do not have an intent to go back, but do you understand the problem?

Mr. SHRIVER. I do understand. I sympathize with it.



It came up here a little while ago, when Congressman Wiggins said why should it be the last State, and this is related to your question, I think.

Let me say this, my experience with the people abroad is that it is a considerable percentage.

I do not have a figure that a certain amount do intend to come back to the United States. It is the exception rather than the common thing that a person has gone to England, or Rome, or wherever, Africa, to stay for their entire life.

The problem is they do not always know, even if they intend to come home, where they will come home to.

For example, let us say they are working for General Electric, or Westinghouse, or somebody, and they are in Brazil, they may come back to the headquarters of Westinghouse in Pittsburgh, or Westinghouse may send them to a regional headquarters in Georgia, they do not know that, even though they do intend to come back.

Mr. BURTON. Well, I wish one of the authors of the bill were here, is there some problem with having the person kind of state, I mean their present intent, yes, if I am going to go back, I will go back to San Francisco, and that will change maybe next week, but they have some kind of intent as to where they are going to be, I don't know, I mean, just the questions that have been raised.

Mr. SHRIVER. The reason the last State was chosen, was simply it was because it was a handy way to identify where the person originated from, or emanated from.

Now, it also deals with that problem, that maybe everybody abroad would gang up, and all decide to vote in just one State, some people were worried about that, and say there are some States with not that many registered voters in the whole State, if somebody got the people living abroad to all register for that State, where they outnumbered the people who lived in the State, that could theoretically cause a problem, so if you make it the last State, that means they are hooked to where they were, rather than theoretically manipulable to vote in a State together.

Mr. BURTON. One last question, is the problem the fact that the States have such restrictive laws, that even if I left San Francisco, and I am going to go back to San Francisco, but I still cannot vote.

In other words, how many people are over there, and they do not really know where they will come back to, as opposed to people who really know where they are going to come back to, and, when they send in their affidavit, it is my intention to return to the Fifth Congressional District in California, they say, assuming it was not reappointed, or something like that, how many people—

Mr. SHRIVER. I do not know the answer to that. We do not have any statistics on that.

Mr. BERRYMAN. We do not have a figure. I lived in London for 3 years, and there is a considerable number of American citizens living there, and I would say they fall into various categories.

Some people knew where they were going when they returned to the United States, but many did not, and I think if you would impose a restriction, which would require the intention to return to a specific State or district, you would then put people living abroad under a difficult choice.

I think in many cases, they cannot conscientiously say that they really do intend to return to a particular district.

They may have been outside of the District for a substantial period of time, and they may not really know where they will come back to. It is likely they will go back to a place where they own a house, and for some reason I think a requirement of intention would impose a very considerable burden.

I did want to respond about congressional elections. The experience I have had, I found that Americans living overseas may take considerable interest in voting in congressional elections. I cannot say they always knew the particular candidates in a particular election, but as American citizens, as Americans living overseas, they do pay Federal income taxes.

There is an exemption which is available, but you could debate whether or not that is a sound policy, whether that should be continued or not, but I think their voice should be heard in that debate, because they are clearly affected by it, perhaps more than anybody else, and I think at a time in our history when Congress is increasingly asserting its authority, and rightfully so in the area of foreign relations, foreign policy and the like, it is no less important that Americans living abroad have an opportunity to participate in the process, by which they can vote for Representatives in Congress and also for the President of the United States.

Mrs. Boggs. Mr. Wiggins.

Mr. WIGGINS. First of all, Mr. Shriver, I want to thank you for your presence before the subcommittee, but I want to say quickly in response to Counsel, if it be true, as you say, that any U.S. citizens living abroad may not know the name of candidates in a given primary election for Congress, then they do not know anything with respect to that election, because absent of the knowledge of the candidates, you are unable to vote on the issues.

I realize that all Americans have and should have a great awareness of broad national questions, but that national policy is implemented through elected individuals, and unless you know what is his or her point of view, you do not really know much.

One way to address this problem, is to simply permit U.S. citizens living abroad to declare a domicile, and to say he is a domiciliary of that State, and be treated like all other domiciliaries of that State.

That may or may not subject them to some taxes, but if so, it would be equal to other domiciliaries of that State.

That has been stoutly resisted by all of those who speak for substantial numbers overseas, and I am given to the conclusion that there is a great concern that these citizens may be compelled to pay State taxes, and they do not wish to do that.

State taxes rather than Federal taxes to which they are subject, why should we insulate those citizens from the payment of certain taxes, why should they be accorded that benefit which is not available to a domiciliary, you know what I am talking about, a normal resident of the State?

Mr. SHRIVER. I think that is right on the point that the States, if they want to can modify their tax laws to tax anybody abroad that they wish to tax, if they wish to do so.

The only thing we are saying under this legislation is that the mere

act of voting should not by itself be interpreted as subjecting a person to a State tax, which they would not otherwise be subject to.

Now, the State is at liberty to change whatever the law is, and make it reach somebody whom it does not reach now, if they wish to, so this is not impeding the States to act.

Mr. WIGGINS. The territorial reach of the State, it requires some access to the State, and domiciliary status is sufficient.

Mr. SHRIVER. Well, I have given the answer that is best, that is the best answer I have to your question, namely that it is a question of States' rights.

Mr. WIGGINS. Let me give you a factual situation, which might demonstrate the problem.

Let us suppose a domiciliary of the State of Maryland, he is at home, he is registered here, he has a proprietary license here, and all of the other things that looks to manifestation of domicile, and he goes overseas to a temporary assignment, retaining all of that here in Maryland.

He is entitled I believe under the laws of Maryland to vote by absentee ballot. He also is entitled, or rather has a duty of paying taxes to the State of Maryland. He is in effect covered, and is treated like all others living in Maryland, eligible to vote.

Now, take another person who is given an assignment overseas, but he for reasons known best to him, abandoned all of this, sold his home, sold his car, he has nothing remaining here in Maryland, nothing at all, other than the fact that it used to be his home, and he goes overseas, and lives next door to the man.

Now, in this legislation, we would grant to the second category the right to vote in Maryland, but he would not bear the same burdens as his neighbor.

His neighbor would still be compelled to pay taxes in Maryland. He would not. Now, that might be considered by some to be unequal treatment rather than equal treatment.

Mr. SHRIVER. I think that is a good case, and I think part of the answer to it, an answer to cases like that, would be that when some people go abroad, they get rid of all of their local property, all things of that kind, and, in fact, they do not come back and forth very often, they do not get any services from that State.

They do not use the roads, their children do not go to school there, they do not have the protection that their property is being protected by State police, et cetera.

If I have a piece of property in the State of Maryland, it does get certain benefits, protection by State officials, et cetera, fire protection, et cetera, and perhaps it is justified that I should pay something for that, but if I have nothing in that State, physically there, then I am not getting any services, and my family might not be there.

Now, I am not saying that is all of those cases. I am perfectly willing to agree with you that it is likely or probable, or at least possible that some people do what you say in order to exclusively avoid the State tax. There is no question about it. Let us just say that is true. Now, I would say that the State should be empowered to modify its laws if it wishes to prevent that from happening.

Mrs. Boggs. We should have a constitutional basis upon which to assert taxing power.

Mr. SHRIVER. What I am saying, and people can differ on this, but I do not think the use of the vote by itself should open up that person

who is trying to avoid taxes, that the use of the vote should be used like a poll tax, so that if that person does not do anything in the State of Maryland except to vote, it costs him \$5,000, let's say.

Mr. WIGGINS. That is a way to couch what he does other than vote. We could simply by Federal statute make him a domiciliary, and forbid a State to challenge him, and thereby subject to all of the benefits of that status or all of the burdens of that status.

Mr. SHRIVER. But that also would be inequitable, because he would have to pay for services he does not get, whereas the other fellows would be getting things he did pay for, so that would be inequitable. I do not think it is perfect. I do not think that our solution is perfect.

Mr. WIGGINS. You cannot play that out too much, because the domiciliary who remains obligated to pay taxes, and all of the other burdens of citizenship continues with that obligation often with longer periods of absence from the State, and he is not excused simply because he is not receiving benefits.

Mr. SHRIVER. I was in that same position, so I paid all of the taxes, and I know how it feels; so I am just trying to say, I do not think that there is any law that would be perfectly equitable to everybody, but what is true here, I think, Congressman, that a substantial number of people in the millions are not being allowed to vote, which is an elementary right of citizenship, and something we are trying to encourage as a matter of fact, simply because of that, namely being residents abroad.

Mrs. Boggs. Mr. Moore?

Mr. MOORE. No questions.

Mrs. Boggs. Mr. Shriver, may I ask you something, please.

In your service, as an ambassador, and as a representative of the other U.S. ambassadors, have you had great expressions while you were in service overseas from Americans living abroad who wish to vote?

Mr. SHRIVER. Well, that is one of the reasons I am doing what I am doing.

There was a meeting, in fact last fall, I cannot remember exactly when it was, but I was traveling in Europe, and I was asked to come to a meeting in Paris, precisely among other reasons to discuss this issue, and to my astonishment, I think there must have been 150 to 200 people who showed up for that meeting.

That is an awful lot of people to come to a meeting in Paris.

They do not usually go to meetings, and they all came, and they seemed to be really interested.

In addition to that, like many other citizens living abroad, like those living in a foreign country, you find them bringing it up in conversations.

Mrs. Boggs. Also, as an ambassador, do you feel that Americans who are living abroad, perhaps contribute to the stature of the United States abroad, by and large?

Mr. SHRIVER. They can certainly do it, and sometimes I say they can hurt it, I am sorry to say.

The fact is they are not looked upon as a citizen of let's say Texas, or people do not look on them and say there is a Texan.

People abroad tend to evaluate a country on the basis of the way

this particular fellow operates, or what he does, so that although they are not ambassadors, and they are certainly not officials in any sense, they do contribute to our good, or to our bad reputation, depending on how they act.

Mrs. Boggs. Thank you so much, Mr. Shriver.

[Mr. Shriver's supplementary material follows:]

SURVEY OF AMERICAN CITIZENS ABROAD

November 1973-January 1974

(Research Study conducted for The Bipartisan Committee for Absentee Voting (UK))

INTRODUCTION

This report is based on the findings of a survey carried out among a list of American citizens on behalf of the Bipartisan Committee for Absentee Voting (UK). The purpose of the survey was to collect information from Americans living abroad, chiefly in Great Britain, so as to determine how many are interested in voting in American elections, how many were able to do so in 1972, and for those who did not, why not.

The survey was conducted by post, which is recognized as an imperfect survey methodology at best, and is further limited by the lack of any complete listing of Americans resident in Great Britain which could be used as a sampling frame. Nonetheless, it is a start on systematically defining what are the attitudes of Americans living abroad towards their voting rights. In the event, a mailing of approximately 1,500 questionnaires was made in November 1973, and returns trickled in over the next few months. The source of the mailing list included lists provided by Democrats Abroad (UK), Republican Party in Great Britain, and the British Americans for McGovern Committee. Inevitably there were many duplicate addresses included among the lists, many who had moved back to the U.S. or elsewhere abroad, and many who had moved from the address on the list and could not be traced. Further, it was found that there were many duplicated by the fact that more than one person in a family was included, and in a few cases it was found that British subjects were on the lists. While by no means precise, it can be reasonably estimated that there were about 1,000 eligibles on the list, of whom 253 returned questionnaires in time to be included in the processing. Five British questionnaires were returned after the cut-off date. In addition, there were 31 French questionnaires returned from a mailing done by the Democratic Party Committee in France which, because the format was not compatible, are not included in the computer analysis, but which have been sent to Washington to the Bipartisan Committee along with this report. Finally, 18 questionnaires were received from the Berlin Democratic group who used the British questionnaire which allowed them to be included in the processed results.

Mailing was in November 1973, and returns were received through the end of January 1974. The questionnaires were coded and punched in February and processed on a computer in March. This report was written in May-June 1974.

Research Coverage

This report presents the findings of the survey questionnaire, which is in three parts:

1. *Experience of Voting*: this section covers the experience of those who were able to vote in 1972, 46% of the sample, and identifies where they voted, whether or not they maintained a residence there at the time, details of registration procedure and any difficulty experienced.
2. *Experience of Not Voting*: the second section covers the majority, 54%, who for one reason or another were not able to vote in the 1972 election. It covers experience in attempting to register, problems encountered, and the like. It also covers the important aspect of attitudes towards voting rights in relation to the Senate and House, and measures the concern expressed about linking voting to taxes.
3. *Other Attitudes of Americans Abroad*: the third section reports on how long those answering the questionnaire have been abroad, their interest in U.S. affairs, support for the rights of Americans abroad to vote, and other information about them.

Analysis and Presentation of the Data

This brief summary of the findings is followed by a full printout of the computer analysis of the answers to the questions, giving not only the overall answers to each question, but breaking the answers down into categories under the headings of:

- Party affiliation.
- Contributed (to the Bipartisan Committee's efforts).
- Active interest (in U.S. affairs).
- Reside abroad (length of time the respondent has lived overseas).
- Retain a domicile (in the U.S.).

It is estimated that there are some 80,000 civilian Americans living in Great Britain. If this is the case, it will be noted that this survey represents but a tiny proportion of Americans living in Britain. As such, it cannot be considered representative of all Americans living in Great Britain. That stated, it does collect attitudes of a large number of American citizens living mainly in Great Britain who, for the most part, are denied their voting rights—we believe, unfairly. Thus we hope that this effort to collect and present these data will not be denigrated but will be accepted for what it is, a volunteer effort to present to Congress the heartfelt belief of many Americans that legislation should be enacted to guarantee to all Americans the right to vote—even to those of us who, temporarily, reside outside the United States.

The idea of the survey was chiefly David Birenbaum's, with the assistance of, among others, Gene Marans in Washington, Dick Moore in Paris, Toby Hyde, Susan Blackburn and Nathan Silver in London. The coding was done by Joann Worcester, and the analysis and report draft by Bob Worcester.

SUMMARY

Section I: Experience of Voting

1. Forty-six percent of the 253 Americans responding to the survey voted in the 1972 Presidential election. This included a substantial 83% of those in the sample who had been abroad less than two years, dropping to 58% of those with 2-5 years abroad, and only 37% of those of 5-10 years of residence overseas. Because the overwhelming bulk of the survey respondents said they take an active interest in U.S. affairs (94% said they do so), it is not surprising to find that 47% of these interested citizens voted. What is perhaps more surprising is that equal percentages of those who are sufficiently concerned about this cause to contribute to the effort voted (48%) as those who did not make any financial contribution (47%).

2. Twenty-five of America's 50 states had absentee ballots from Americans abroad. The largest number were to New York (21%), California (15%) and New Jersey (9%). States that allowed voting in the absence of a domicile in that state included California, Connecticut, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Rhode Island, Tennessee, Texas, Wisconsin, and Washington, D.C. This is not to say that other states would not have allowed this, just that the above states did so in 1972.

3. One-third (34%) of those who were able to vote in 1972 maintained a house or apartment in that state at the time and two-thirds (66%) did not. Forty-one percent of those saying they retain a domicile (i.e. intend to return) maintain a house in the States.

4. Sixty percent of those who voted in the 1972 Presidential election said it was not necessary for them to (re)register in 1972, and of the 38% who said they registered in 1972, about seven in ten registered from abroad.

5. Most who registered from abroad did so by form letter (43%) or form postcard (37%). Only 11% said they used the Chamber of Commerce form.

6. Only eight percent of those who voted in the 1972 Presidential election did so while in the U.S.; some 90% voted absentee, the remainder did not answer the question.

7. When asked if they had had any "unreasonable difficulty" in either registering or voting as an absentee, 50% said yes. As one patient lady who has resided abroad 10-25 years, but who retains her interest in American affairs, put it:

"Application forms to register invariably arrive late or not at all and require enclosed U.S. postage stamps (unobtainable here). I've managed to vote in the last two elections only because relatives in N.Y. City pick up the form for me and send it to me with the right amount of U.S. stamps."

Another—a well known actor who says he resides equally on both sides of the Atlantic—expressed his difficulty as follows:
 "Delay of receipt of ballot until fortnight after the election—and I received two!"

Other complaints were cumbersome procedures (31%), too late ballot (22%), postage problems (11%), and difficulties with the American Embassy (11%). One tenacious overseas resident reported:

"Extreme delays—they never replied by airmail, although I always sent enormous amounts for postage, etc. They didn't deny my right to vote, though they might have, as their first reply to me said they would 'decide' on validity of my application. When it got very late, I sent a tough 'scare' letter threatening to report to appropriate sources their obstruction of my right to vote—this brought an immediate airmail ballot."
 and another said:

"Registration not accepted initially, but I wrote to Democratic Party in Boston who helped by intervening with the registrar."

Section II: Experience of Not Voting

8. Fifty-four percent of respondents were not, for one reason or another, able to vote in the 1972 election. Of those who did not vote, 31% attempted to and failed. In several cases these even included Americans who own property and even a couple who attempted to register while actually in the US. Misinformation, delays, red tape and obstructions characterized the efforts of most who tried and failed. One lady said that she

"Wrote letter to Embassy stating desire to vote, informed that this would not be possible."

Another, a University of Illinois faculty member, reported:

"Principal problems just (I suppose) the usual ones—one must, without reminder, write way ahead for application forms, find a notary, get them notarised, wait for reply, get ballot (very complicated punchcard), find another notary, etc., etc. Also costs about \$10.00. The other problem is that my county will not supply absentee ballots unless you have lived at the address during the preceding 12 months. Those who owned houses, OK, but I had always rented there, as was tenured member of university faculty and hence permanent resident. Now, having resigned my tenure, I am considered by UK automatically domiciled here with my (English) husband, and believe myself now disenfranchised. I am about to visit USA and look into establishing domicile at my mother's."

Several former Pennsylvanians had difficulty:
 "Personal letter to Voter Registration in Norristown followed by phone calls to the US."

"Too much red tape, never completed the procedure."
 and a Floridian said:

"The form was sent to me surface and arrived after the election!"

Several women expressed their dismay with discriminatory treatment:

"Left USA with mother, aged six and a half years, returned from seventeen to twenty years. Failed to register after 21st birthday, and continued to work abroad. Then married a non-US citizen. Do not wish to give up my citizenship. Have made enquiries since 1967 about voting, always to have been told one must have registered in a state in the US. Not allowed to vote in England, what price female suffrage!"

"I could not do as I am married to a British subject. I altered the form to state my position, had it notarised but have not heard anything further from the Bloomfield Township clerk. I was told at the American Embassy that American women married to foreigners and living abroad were in a difficult position and that my receiving the absentee ballot was probably a mistake, because there has been little legislation giving American women like myself the right to vote abroad."

9. Of the 69% who did not vote and did not attempt to do so, half said it was because they believed they were not eligible because of residence abroad, although most felt they should be allowed to vote at least for President. Another third (32%) did not because they were afraid doing so would attract taxation. One cautious Virginian wrote:

"I previously applied to vote in Virginia (Arlington) but they sent me tax forms along with ballot so I sent it back. I was then registered in Virginia."

10. Of those who did not vote in 1972, nearly all (94%) said they believed they and other Americans abroad should have the right to vote for President and Vice-

President. A more mixed feeling was expressed about Senators and Congressmen: about half (51%) felt Americans abroad should be able to vote for Congress, and 43% said they felt not. Domicile did not influence this attitude much, with nearly equal percentages of those domiciled in a state in favour and against. There were several alternative ideas. One offered the suggestion that:

"It would seem to me that there are enough Americans living abroad to be entitled to at least one representative in the House and at least a spokesman in the Senate."

and another suggested:

"Why not allow us to vote in District of Columbia to avoid specifying a state?"

Other thoughtful answers to this problem included:

"While I do not think that Americans overseas should vote for Senators or Representatives of any given State, except when they retain legal residence there, I think that they should have representation in the legislature as well as in the executive branch. Therefore I would suggest that Americans overseas be granted the power to elect their own Senators and Representatives to be sent to Congress."

and
 "Legislation on voting for Congressmen should distinguish between citizens temporarily abroad but without US domicile and those permanently abroad. Some sort of declaration of intent to return should permit voting for State offices in citizens' former State."

11. Again, there was near unanimity in those who did not vote in 1972 in saying they would vote if they knew that voting did not subject them to extra taxes. This is obviously an important factor, with a number of views expressed:

"Since I have to file tax returns and pay what is necessary, I feel even non-residents should have some say in Presidential elections, since he continues to represent us in world and national affairs."

"Yes—taxation without representation."

"Apathy among large number of people abroad because of tax situation."

"Actually I pay taxes to Commonwealth of Massachusetts but—as far as I know—can't vote because I don't have a physical residence there."

and, perhaps most forcefully:

"I pay U.S. taxes as well as U.K. taxes. Taxation without representation is tyranny."

Section III: Attitudes of Americans Abroad

12. As noted above, nearly all—94%—of the respondents said they take an active interest in U.S. affairs, and this includes even those who have resided abroad over 25 years and over nine in ten (92%) who no longer retain a domicile in the U.S. (i.e. intend someday to return).

13. And 95% favour legislation adequate to ensure that Americans abroad can vote for President (and 71% for Senators and Congressmen) without being liable for taxes they otherwise would not have to pay. An especially moving comment was received from one woman who wrote:

"Because of personal circumstances have only voted once in my life, in the 1952 election, feel I have been unjustly deprived of a basic right. My two children, both aged 19, live here but would like to be able to vote. See no possibility of this under present regulations. Being able to vote would have a significant effect on their attitude towards the country they were born in—and, in my son's case, towards the possibility of his being drafted. He has felt that the young American men of draft age were being given the opportunity to vote, but he was not."

And, in conclusion, one respondent summed it up by saying:

"The franchise is the most precious democratic right and should be completely divorced from property, tax or residence qualifications."

- Q1 -

Individual voter questionnaire, American citizen abroad

Please write in answers where blanks are shown, or circle the number next to your answer.

Example: 1 yes

2 no

Name (optional - but please return this questionnaire even if you prefer to remain anonymous)

Address (optional)

Telephone number (optional)

Usual party affiliation or interest (optional)

Would you like more copies of this questionnaire for members of your family or friends who are US citizens over the age of 18? How many more?

1 Did you vote in the 1972 Presidential election?

1 yes
2 no

A. If you DID vote in the 1972 election (skip to part B if you didn't):

2 In or through which state did you vote?

3 What is your voting district (county, city, or number if you know it)?

4 Did you maintain a house or apartment in that state at the time?

1 yes
2 no

5 Did you have to register in 1972 (as opposed to having permanent or multiple year registration that qualified you)?

1 yes - registered
2 no - previous registration

6 If you answered that you had previous registration, skip this. If you did register in 1972, did you do so while in the USA?

1 while in the USA
2 from abroad

7 If you registered while in the USA, skip this. If you registered from abroad, please try to remember the form of application you used (for registration, not the ballot). Was it

1 a form letter
2 a form postcard
3 a Chamber of Commerce form
4 some other (describe)job id
1-5serial
nos.
6-9

10

11

12

13-17

18

19

20

21

22

- Q2 -

8 Did you then vote by absentee ballot or at home in the USA?

1 absentee ballot
2 in the USA

9 If you voted in the USA, skip to part C. If you voted by absentee ballot, please try to remember the form of application you used for this. Was it

1 a form letter
2 a form postcard
3 a Chamber of Commerce form
4 some other (describe)

10 If you both registered and voted in the USA in 1972, skip this. If you registered or voted as an absentee, did you have any unreasonable difficulty?

1 difficulty
2 no problems

11 If difficulty: what?

12 Skip this if you voted in the USA. If you voted abroad, has your state or local government tried to collect taxes from you as a result? (That is, taxes you wouldn't have been asked to pay otherwise?)

1 yes, state
2 yes, local
3 no

B. If you DIDN'T vote in the 1972 election:

13 Did you attempt to register to vote in 1972?

1 yes
2 no

14 If no, skip to no. 29. If yes, in which state and district (e.g. country, city) did you attempt to register?

15 If you attempted to register, did you maintain a house or apartment in that state at the time?

1 yes
2 no

16 If you attempted to register, was it in the USA or abroad?

1 while in the USA
2 from abroad

17 If you tried in the USA, skip this. If you tried abroad, what form do you remember using?

1 a form letter
2 a form postcard
3 a Chamber of Commerce form
4 some other (describe)

18 If you tried to register in the USA, skip this. If you tried abroad, did you claim on the form that you intended eventually to return to your home state? (That you were "domiciled" in that state?)

1 yes
2 no

19 Were you able to become registered?

1 yes
2 no

20 If not, what was the reason given for refusal?

21 If you became registered, did you apply for an absentee ballot?

1 yes
2 no

22 If yes, to what state and district (county or city) did you apply for a ballot?

23

24

25

26-27

28

29

30-31

32

33

34

35

36

37-38

39

40-41

Note: Percentages rounded.

- 23 What type of absentee ballot application do you remember using?
- 1 a form letter
 - 2 a form postcard
 - 3 a Chamber of Commerce form
 - 4 some other (describe)
- 24 If you applied for an absentee ballot, did you claim on your ballot application that you intended eventually to return to your home state? (That you were "domiciled" in that state?)
- 1 yes
 - 2 no
- 25 If you applied for an absentee ballot, did you obtain one?
- 1 yes
 - 2 no
- 26 If you were denied an absentee ballot at this stage, what was the reason given?
- 27 If you got your absentee ballot, did it arrive in time or too late?
- 1 in time for election
 - 2 too late to be returned or counted
- 28 If you applied for an absentee ballot and got one, please try to remember when you applied for it and when it arrived.
- (date ballot applied for)
- (date ballot arrived)
- 29 If you were abroad and didn't attempt to register or to obtain an absentee ballot, why?
- 1 not interested in voting in 1972
 - 2 believed not eligible because abroad
 - 3 feared voting would attract taxes that wouldn't otherwise have to be paid.
 - 4 another reason (say why)
- 30 If you remain abroad, do you feel you should be able to vote for Senators and Congressman?
- 1 yes
 - 2 no
- 31 If you remain abroad, do you feel you should be able to vote for President?
- 1 yes
 - 2 no
- 32 Would you vote if you knew that voting didn't subject you to taxes you wouldn't otherwise have to pay?
- 1 yes
 - 2 no
- C. Whether or not you voted in 1972:**
- 33 Do you take an active interest in US affairs?
- 1 yes
 - 2 not much
- 34 Do you favor legislation adequate to insure that Americans abroad can vote for President without being liable for taxes they wouldn't otherwise have to pay?
- 1 yes
 - 2 no or don't care
- 35 Do you favor similar legislation adequate to insure that Americans abroad can vote for Senators and Congressmen without being liable for taxes they wouldn't otherwise have to pay?
- 1 yes
 - 2 no or don't care

- 36 Any further comments on problems of voting while abroad?
- 37 Which of these publications do you look at regularly (say three out of four issues)?
- 1 Daily Express, UK
 - 2 Daily Mail, UK
 - 3 Daily Telegraph, UK
 - 4 Financial Times, UK
 - 5 Guardian, UK
 - 6 Times, UK
 - 7 Economist, UK
 - 8 Herald Tribune
 - 9 Time
 - 10 Newsweek
 - 11 Other US publications (write in)
- 38 How long have you been residing abroad?
- 1 0-2 years
 - 2 2-5 years
 - 3 5-10 years
 - 4 10-25 years
 - 5 over 25 years
- 39 Do you consider that you still retain a domicile in a particular state (i.e. you intend eventually to return there), even though you may not currently have a house or apartment in the state?
- 1 yes
 - 2 no
- 40 Do you have children of voting age who reside abroad?
- 1 yes
 - 2 no
- 41 If so, did any to your knowledge ever vote or register to vote in a US election?
- 1 yes
 - 2 no

Thank you for your help. Please return soon to

Anthony Hyde
20 Chester Square
London SW1, England.

Question 1. Did you vote in the 1972 presidential election? Base—All respondents.

TABLE 1A

	Total		Yes		No	
	Number	Percent	Number	Percent	Number	Percent
Total	253	100.0	117	46.0	136	54.0
Party affiliation:						
Democrat.....	136	100.0	72	53.0	64	47.0
Republican.....	25	100.0	10	40.0	15	60.0
Other.....	14	100.0	5	36.0	9	64.0
No answer.....	78	100.0	30	38.0	38	62.0
Contributed:						
Yes.....	23	100.0	11	48.0	12	52.0
No.....	199	100.0	93	47.0	106	53.0
Active interest:						
Yes.....	238	100.0	113	47.0	125	53.0
No.....	13	100.0	4	31.0	9	69.0
No answer.....	2	100.0			2	100.0
Reside abroad:						
0 to 2 yr.....	18	100.0	15	83.0	3	17.0
2 to 5 yr.....	100	100.0	58	58.0	42	42.0
5 to 10 yr.....	71	100.0	26	37.0	45	63.0
10 to 25 yr.....	59	100.0	16	27.0	43	73.0
over 26 yr.....	4	100.0	1	25.0	3	75.0
No answer.....	1	100.0	1	100.0		
Retain a domicile:						
Yes.....	154	100.0	73	47.0	81	53.0
No.....	84	100.0	32	38.0	52	62.0
No answer.....	15	100.0	12	80.0	3	20.0

Note: Percentages rounded.

Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

Table 2a

	TOTAL	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
TOTAL	117 100%	-	-	-	1	17	-	5	-	-	2	-	-	-	-
PARTY AFFILIATION															
DEMOCRAT	72 100%	-	-	-	-	10	-	3	3	-	2	-	-	-	-
REPUBLICAN	10 100%	-	-	-	-	4	-	-	-	-	-	-	-	-	4
OTHER	5 100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	30 100%	-	-	-	1	3	-	-	20	-	-	-	-	-	-
CONTRIBUTED															
YES	11 100%	-	-	-	-	1	-	1	-	-	-	-	-	-	-
NO	93 100%	-	-	-	1	14	-	9	5	-	2	-	-	-	9
ACTIVE INTEREST															
YES	113 100%	-	-	-	1	17	-	5	6	-	2	-	-	-	3
NO	4 100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

(CONTINUED)

(CONTINUED PAGE 2)

Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

Table 2b

	TOTAL	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
RESIDE ABROAD															
0 - 2 YEARS	15 100%	-	-	-	-	2	-	-	-	-	1	-	-	-	2
2 - 5 YEARS	58 100%	-	-	-	1	12	-	2	5	-	1	-	-	-	1
5 - 10 YEARS	26 100%	-	-	-	-	1	-	1	-	-	-	-	-	-	-
10 - 25 YEARS	16 100%	-	-	-	-	2	-	1	1	-	-	-	-	-	-
OVER 25 YEARS	1 100%	-	-	-	-	-	-	1	-	-	-	-	-	-	-
NO ANSWER	1 100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RETAIN A DOMICILE															
YES	73 100%	-	-	-	1	12	-	4	2	-	2	-	-	-	2
NO	32 100%	-	-	-	-	3	-	1	2	-	-	-	-	-	-
NO ANSWER	12 100%	-	-	-	-	2	-	-	2	-	-	-	-	-	1

(PERCENTAGES ROUNDED)

0002

Table 2c

Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE (CONTINUED)
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	15.	16.	17.	18.	19.	20.	21.	22.	23.	24.	25.	26.	27.	28.	
TOTAL	117 100%	-	-	-	1	-	-	4	8	6	2	-	2	-	-	
<u>PARTY AFFILIATION</u>																
DEMOCRAT	72 100%	-	-	-	1	-	-	4	4	1	2	-	2	-	-	
REPUBLICAN	10 100%	-	-	-	-	-	-	-	-	1	-	-	-	-	-	
OTHER	5 100%	-	-	-	-	-	-	-	-	1	-	-	-	-	-	
NO ANSWER	30 100%	-	-	-	-	-	-	-	4	3	-	-	-	-	-	
<u>CONTRIBUTED</u>																
YES	11 100%	-	-	-	-	-	-	2	-	1	-	-	-	-	-	
NO	93 100%	-	-	-	1	-	-	2	5	5	2	-	2	-	-	
<u>ACTIVE INTEREST</u>																
YES	113 100%	-	-	-	-	-	-	4	8	6	2	-	2	-	-	
NO	4 100%	-	-	-	1	-	-	-	-	-	-	-	-	-	-	
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

(CONTINUED)

Table 2d

(CONTINUED PAGE 2)
 Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE (CONTINUED)
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	15.	16.	17.	18.	19.	20.	21.	22.	23.	24.	25.	26.	27.	28.	
<u>RESIDE ABROAD</u>																
0 - 2 YEARS	15 100%	-	-	10	-	-	-	1	3	2	-	-	-	-	-	
2 - 5 YEARS	58 100%	-	-	4	1	-	-	1	3	-	2	-	2	-	-	
5 - 10 YEARS	26 100%	-	-	3	-	-	-	2	-	3	-	-	-	-	-	
10 - 25 YEARS	16 100%	-	-	1	-	-	-	-	2	1	-	-	-	-	-	
OVER 25 YEARS	1 100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
NO ANSWER	1 100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<u>RETAIN A DOMICILE</u>																
YES	73 100%	-	-	1	-	-	-	1	4	6	-	-	1	-	-	
NO	32 100%	-	-	-	-	-	-	3	4	2	-	-	1	-	-	
NO ANSWER	12 100%	-	-	-	8	-	-	-	-	-	-	-	-	-	-	

(PERCENTAGES ROUNDED)

BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION
 Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE (CONTINUED)

Table 2e

Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE (CONTINUED)
 ASF - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

 (D05) SEQUENCE INVALID

	TOTAL	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.
TOTAL	117 100.	1	1	11	-	25	-	-	1	-	-	4	2	-	-
PARTY AFFILIATION															
DEMOCRAT	72 100.	1	1	3	-	20	-	-	-	-	-	3	1	-	-
REPUBLICAN	10 100.	-	-	3	-	-	-	-	-	-	-	-	-	-	-
OTHER	5 100.	-	-	2	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	30 100.	-	-	40	-	-	-	-	-	-	-	-	-	-	-
CONTRIBUTED															
YES	11 100.	-	1	1	-	2	-	-	-	-	-	-	-	-	-
NO	93 100.	-	9	9	-	18	-	-	-	-	-	-	-	-	-
ACTIVE INTEREST															
YES	113 100.	1	1	11	-	25	-	-	1	-	-	4	2	-	-
NO	4 100.	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

(CONTINUED)

202

(CONTINUED PAGE 2)

Table 2f

Q.2. IN OR THROUGH WHICH STATE DID YOU VOTE (CONTINUED)
 ASF - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.
RESIDE ABROAD															
0 - 2 YEARS	15 100.	-	-	-	-	3	-	-	-	-	-	-	-	-	-
2 - 5 YEARS	58 100.	-	-	4	-	9	-	-	1	-	-	4	-	-	-
5 - 10 YEARS	26 100.	1	1	7	-	4	-	-	-	-	-	-	1	-	-
10 - 25 YEARS	16 100.	-	-	-	-	8	-	-	-	-	-	-	1	-	-
OVER 25 YEARS	1 100.	-	-	-	-	-	-	-	-	-	-	-	6	-	-
NO ANSWER	1 100.	-	-	-	-	1	-	-	-	-	-	-	-	-	-
RETAIN A DOMICILE															
YES	73 100.	1	1	9	-	13	-	-	1	-	-	2	1	-	-
NO	32 100.	-	-	1	-	9	-	-	-	-	-	-	1	-	-
NO ANSWER	12 100.	-	-	8	-	3	-	-	-	-	-	2	-	-	-

(PERCENTAGES ROUNDED)

203

BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	43.	44.	45.	46.	47.	48.	49.	50.	51.	52.
TOTAL	117	2	5	1	-	-	2	-	1	-	-
100.	100.	2.	4.	1.	-	-	2.	-	1.	-	-
<u>PARTY AFFILIATION</u>											
DEMOCRAT	72	2	2	-	-	-	2	-	1	-	-
100.	100.	3.	3.	-	-	-	3.	-	1.	-	1.
REPUBLICAN	10	-	-	-	-	-	-	-	-	-	2
100.	100.	-	-	-	-	-	-	-	-	-	20.
OTHER	5	-	1	-	-	-	-	-	-	-	-
100.	100.	-	20.	-	-	-	-	-	-	-	-
NO ANSWER	30	-	2	1	-	-	-	-	-	-	1
100.	100.	-	7.	3.	-	-	-	-	-	-	3.
<u>CONTRIBUTED</u>											
YES	11	-	-	-	-	-	-	-	-	-	1
100.	100.	-	-	-	-	-	-	-	-	-	9.
NO	93	1	5	1	-	-	2	-	1	-	2
100.	100.	1.	5.	1.	-	-	2.	-	1.	-	2.
<u>ACTIVE INTEREST</u>											
YES	113	2	4	1	-	-	2	-	1	-	2
100.	100.	2.	4.	1.	-	-	2.	-	1.	-	2.
NO	4	-	1	-	-	-	-	-	-	-	2
100.	100.	-	25.	-	-	-	-	-	-	-	50.
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-
100.	100.	-	-	-	-	-	-	-	-	-	-

(CONTINUED)

204

(CONTINUED PAGE 2)

BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	43.	44.	45.	46.	47.	48.	49.	50.	51.	52.
TOTAL	117	2	5	1	-	-	2	-	1	-	-
100.	100.	2.	4.	1.	-	-	2.	-	1.	-	-
<u>RESIDE ABROAD</u>											
0 - 2 YEARS	15	1	-	-	-	-	-	-	-	-	-
100.	100.	7.	-	-	-	-	-	-	-	-	-
2 - 5 YEARS	58	1	4	1	-	-	1	-	-	-	2
100.	100.	2.	7.	2.	-	-	2.	-	-	-	3.
5 - 10 YEARS	26	-	1	-	-	-	1	-	1	-	2
100.	100.	-	4.	-	-	-	4.	-	4.	-	8.
10 - 25 YEARS	16	-	-	-	-	-	-	-	-	-	-
100.	100.	-	-	-	-	-	-	-	-	-	-
OVER 25 YEARS	1	-	-	-	-	-	-	-	-	-	-
100.	100.	-	-	-	-	-	-	-	-	-	-
NO ANSWER	1	-	-	-	-	-	-	-	-	-	-
100.	100.	-	-	-	-	-	-	-	-	-	-
<u>RETAIN A DOMICILE</u>											
YES	79	1	4	1	-	-	2	-	-	-	2
100.	100.	1.	5.	1.	-	-	3.	-	-	-	3.
NO	32	1	1	-	-	-	-	-	1	-	2
100.	100.	3.	3.	-	-	-	-	-	3.	-	6.
NO ANSWER	12	-	-	-	-	-	-	-	-	-	-
100.	100.	-	-	-	-	-	-	-	-	-	-

(PERCENTAGES ROUNDED)

205

Q.4. DID YOU MAINTAIN A HOUSE OR APARTMENT IN THAT STATE AT THAT TIME
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
TOTAL	117	40	77	-
AGE	100.	34.	66.	-
<u>PARTY AFFILIATION</u>				
DEMOCRAT	72	26	46	-
100.	36.	64.	-	
REPUBLICAN	10	6	4	-
100.	60.	40.	-	
OTHER	5	-	5	-
100.	-	100.	-	
NO ANSWER	30	27	22	-
100.	27.	73.	-	
<u>CONTRIBUTED</u>				
YES	11	3	8	-
100.	27.	73.	-	
NO	93	35	58	-
100.	38.	62.	-	
<u>ACTIVE INTEREST</u>				
YES	113	40	73	-
100.	35.	65.	-	
NO	4	-	4	-
100.	-	100.	-	
NO ANSWER	-	-	-	-

(CONTINUED)

(CONTINUED PAGE 2)

Q.4. DID YOU MAINTAIN A HOUSE OR APARTMENT IN THAT STATE AT THAT TIME
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	15	7	8	-
100.	47.	53.	-	
2 - 5 YEARS	58	20	38	-
100.	34.	66.	-	
5 - 10 YEARS	26	5	21	-
100.	19.	81.	-	
10 - 25 YEARS	16	7	9	-
100.	44.	56.	-	
OVER 25 YEARS	1	-	1	-
100.	-	100.	-	
NO ANSWER	1	1	-	-
100.	100.	-	-	
<u>RETAIN A DOMICILE</u>				
YES	73	30	43	-
100.	41.	59.	-	
NO	32	5	27	-
100.	16.	84.	-	
NO ANSWER	12	5	7	-
100.	42.	58.	-	

(PERCENTAGES ROUNDED)
 0006

Q.5. DID YOU HAVE TO REGISTER IN 1972
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
TOTAL	117 100%	45 38%	70 60%	2 2%
<u>PARTY AFFILIATION</u>				
DEMOCRAT	72 100%	31 43%	40 56%	1 1%
REPUBLICAN	10 100%	1 10%	9 90%	-
OTHER	5 100%	3 60%	2 40%	-
NO ANSWER	30 100%	10 33%	19 63%	1 3%
<u>CONTRIBUTED</u>				
YES	11 100%	3 27%	8 73%	-
NO	93 100%	39 42%	53 57%	1 1%
<u>ACTIVE INTEREST</u>				
YES	113 100%	44 39%	68 60%	1 1%
NO	4 100%	1 25%	2 50%	1 25%
NO ANSWER	-	-	-	-

(CONTINUED)

(CONTINUED)

(CONTINUED PAGE 2)

Q.5. DID YOU HAVE TO REGISTER IN 1972
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	15 100%	5 33%	10 67%	-
2 - 5 YEARS	58 100%	18 31%	38 66%	2 3%
5 - 10 YEARS	26 100%	12 46%	14 54%	-
10 - 25 YEARS	16 100%	9 56%	7 44%	-
OVER 25 YEARS	1 100%	-	1 100%	-
NO ANSWER	1 100%	1 100%	-	-
<u>RETAIN A DOMICILE</u>				
YES	73 100%	24 33%	47 64%	2 3%
NO	32 100%	13 41%	19 59%	-
NO ANSWER	12 100%	8 67%	4 33%	-

(PERCENTAGES ROUNDED)
 0007

Q.6. IF YOU DID REGISTER IN 1972, DID YOU DO SO WHILE IN THE U.S.A.
 BASE - ALL WHO REGISTERED IN 1972

	TOTAL	YES	NO	N/A
TOTAL	43 100%	10 22%	32 71%	3 7%
PARTY AFFILIATION				
DEMOCRAT	31 100%	8 26%	20 65%	3 10%
REPUBLICAN	1 100%	-	1 100%	-
OTHER	3 100%	-	3 100%	-
NO ANSWER	10 100%	2 20%	8 80%	-
CONTRIBUTED				
YES	3 100%	-	2 67%	1 33%
NO	39 100%	9 23%	28 72%	2 5%
ACTIVE INTEREST				
YES	44 100%	10 23%	31 70%	3 7%
NO	1 100%	-	1 100%	-
NO ANSWER	-	-	-	-

(CONTINUED)

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(CONTINUED)

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(CONTINUED PAGE 2)

Q.6. IF YOU DID REGISTER IN 1972, DID YOU DO SO WHILE IN THE U.S.A.
 BASE - ALL WHO REGISTERED IN 1972

	TOTAL	YES	NO	N/A
RESIDE ABROAD				
0 - 2 YEARS	5 100%	5 100%	-	-
2 - 5 YEARS	18 100%	3 17%	15 83%	-
5 - 10 YEARS	12 100%	2 17%	10 83%	-
10 - 25 YEARS	9 100%	-	6 67%	3 33%
OVER 25 YEARS	-	-	-	-
NO ANSWER	1 100%	-	1 100%	-
RETAIN A DOMICILE				
YES	24 100%	5 21%	17 71%	2 8%
NO	13 100%	2 15%	10 77%	1 8%
NO ANSWER	8 100%	3 38%	5 63%	-

(PERCENTAGES ROUNDED)

0008

211

Table 7a

Q.7. IF YOU REGISTERED FROM ABROAD, WHAT FORM OF APPLICATION DID YOU USE
 BASE - ALL WHO REGISTERED FROM ABROAD

TOTAL	TOTAL	DID YOU DO SO WHILE IN THE U.S.A.?					1. A FORM LETTER 2. A FORM POSTCARD 3. A CHAMBER OF COMMERCE FORM	4. SOME OTHER 5. NO ANSWER
		1.	2.	3.	4.	5.		
35	100.	15	13	4	3	-	-	
100.	100.	43.	37.	11.	9.	-	-	
<u>PARTY AFFILIATION</u>								
DEMOCRAT	23	11	10	1	1	-	-	
100.	100.	48.	43.	4.	4.	-	-	
REPUBLICAN	1	-	1	-	-	-	-	
100.	100.	-	100.	-	-	-	-	
OTHER	3	1	-	2	-	-	-	
100.	100.	33.	-	67.	-	-	-	
NO ANSWER	8	3	2	1	2	-	-	
100.	100.	38.	29.	19.	25.	-	-	
<u>CONTRIBUTED</u>								
YES	3	-	1	-	2	-	-	
100.	100.	-	33.	-	67.	-	-	
NO	30	14	11	4	1	-	-	
100.	100.	47.	37.	13.	3.	-	-	
<u>ACTIVE INTEREST</u>								
YES	34	14	13	4	3	-	-	
100.	100.	41.	38.	12.	9.	-	-	
NO	1	1	-	-	-	-	-	
100.	100.	100.	-	-	-	-	-	
NO ANSWER	-	-	-	-	-	-	-	

(CONTINUED)

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(CONTINUED PAGE 2)

Table 7b

Q.7. IF YOU REGISTERED FROM ABROAD, WHAT FORM OF APPLICATION DID YOU USE
 BASE - ALL WHO REGISTERED FROM ABROAD

TOTAL	TOTAL	DID YOU DO SO WHILE IN THE U.S.A.?					1. A FORM LETTER 2. A FORM POSTCARD 3. A CHAMBER OF COMMERCE FORM	4. SOME OTHER 5. NO ANSWER
		1.	2.	3.	4.	5.		
<u>RESIDE ABROAD</u>								
0 - 2 YEARS	-	-	-	-	-	-	-	
100.	100.	-	-	-	-	-	-	
2 - 5 YEARS	15	7	6	2	-	-	-	
100.	100.	47.	40.	13.	-	-	-	
5 - 10 YEARS	10	5	1	2	2	-	-	
100.	100.	50.	10.	20.	20.	-	-	
10 - 25 YEARS	9	3	5	-	1	-	-	
100.	100.	33.	56.	-	11.	-	-	
OVER 25 YEARS	-	-	-	-	-	-	-	
100.	100.	-	-	-	-	-	-	
NO ANSWER	1	-	1	-	-	-	-	
100.	100.	-	100.	-	-	-	-	
<u>RETAIN A DOMICILE</u>								
YES	19	8	5	3	3	-	-	
100.	100.	42.	26.	16.	16.	-	-	
NO	11	6	5	-	-	-	-	
100.	100.	59.	45.	-	-	-	-	
NO ANSWER	5	1	3	1	-	-	-	
100.	100.	20.	60.	20.	-	-	-	

(PERCENTAGES ROUNDED)

213

Q.8. DID YOU THEN VOTE BY ABSENTEE BALLOT OR AT HOME IN THE U.S.A.
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	ABSENTEE	U.S.A.	N/A
TOTAL	117	105	9	3
	100.	90.	8.	3.
<u>PARTY AFFILIATION</u>				
DEMOCRAT	72	63	7	2
	100.	88.	10.	3.
REPUBLICAN	10	10	-	-
	100.	100.	-	-
OTHER	5	5	-	-
	100.	100.	-	-
NO ANSWER	30	27	2	1
	100.	90.	7.	3.
<u>CONTRIBUTED</u>				
YES	11	8	1	2
	100.	73.	9.	18.
NO	93	86	7	-
	100.	92.	8.	-
<u>ACTIVE INTEREST</u>				
YES	113	102	9	2
	100.	90.	8.	2.
NO	4	3	-	1
	100.	75.	-	25.
NO ANSWER	-	-	-	-

(CONTINUED)

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(CONTINUED)
 (CONTINUED PAGE 2)
 Q.8. DID YOU THEN VOTE BY ABSENTEE BALLOT OR AT HOME IN THE U.S.A.
 BASE - ALL WHO VOTED IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	ABSENTEE	U.S.A.	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	15	9	6	-
	100.	60.	40.	-
2 - 5 YEARS	58	55	2	1
	100.	95.	3.	2.
5 - 10 YEARS	26	23	1	2
	100.	88.	4.	8.
10 - 25 YEARS	16	16	-	-
	100.	100.	-	-
OVER 25 YEARS	1	1	-	-
	100.	100.	-	-
NO ANSWER	1	1	-	-
	100.	100.	-	-
<u>RETAIN A DOMICILE</u>				
YES	73	68	4	1
	100.	93.	5.	1.
NO	32	28	2	2
	100.	88.	6.	6.
NO ANSWER	12	9	3	-
	100.	75.	25.	-

(PERCENTAGES ROUNDED)

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Table 9a

Q.9. IF YOU VOTED BY ABSENTEE, WHAT FORM OF APPLICATION DID YOU USE
 BASE - ALL WHO VOTED BY ABSENTEE BALLOT

	TOTAL	1.	2.	3.	4.	5.	6.
TOTAL	105	41	9	4	7	3	41
100.	100.	39.	9.	4.	7.	3.	39.
<u>PARTY AFFILIATION</u>							
DEMOCRAT	63	25	7	3	5	-	23
100.	100.	40.	11.	5.	8.	-	37.
REPUBLICAN	10	5	-	-	-	-	5
100.	100.	50.	-	-	-	-	50.
OTHER	5	2	1	-	-	-	2
100.	100.	40.	20.	-	-	-	40.
NO ANSWER	27	9	1	1	2	3	11
100.	100.	33.	4.	4.	7.	11.	41.
<u>CONTRIBUTED</u>							
YES	8	4	-	-	1	-	3
100.	100.	50.	-	-	13.	-	38.
NO	86	32	6	4	6	3	35
100.	100.	37.	7.	5.	7.	3.	41.
<u>ACTIVE INTEREST</u>							
YES	102	38	9	4	7	3	41
100.	100.	37.	9.	4.	7.	3.	41.
NO	3	3	-	-	-	-	-
100.	100.	100.	-	-	-	-	-
NO ANSWER	-	-	-	-	-	-	-

(CONTINUED)

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(CONTINUED PAGE 2)

Table 9b

Q.9. IF YOU VOTED BY ABSENTEE, WHAT FORM OF APPLICATION DID YOU USE
 BASE - ALL WHO VOTED BY ABSENTEE BALLOT

	TOTAL	1.	2.	3.	4.	5.	6.
RESIDE ABROAD							
0 - 2 YEARS	9	4	2	-	-	-	3
100.	100.	44.	22.	-	-	-	33.
2 - 5 YEARS	55	21	6	3	3	3	19
100.	100.	38.	11.	5.	5.	3.	35.
5 - 10 YEARS	23	8	1	1	2	-	11
100.	100.	35.	4.	4.	9.	-	48.
10 - 25 YEARS	16	7	-	-	2	-	7
100.	100.	44.	-	-	13.	-	44.
OVER 25 YEARS	1	-	-	-	-	-	1
100.	100.	-	-	-	-	-	100.
NO ANSWER	1	1	-	-	-	-	-
100.	100.	100.	-	-	-	-	-
<u>RETAIN A DOMICILE</u>							
YES	68	24	5	2	6	3	28
100.	100.	35.	7.	3.	9.	4.	41.
NO	28	14	4	-	1	-	9
100.	100.	50.	14.	-	4.	-	32.
NO ANSWER	9	3	-	2	-	-	4
100.	100.	33.	-	22.	-	-	44.

(PERCENTAGES ROUNDED)
 0011

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Table 10a

Q.10. IF YOU REGISTERED OR VOTED AS AN ABSENTEE, DID YOU HAVE ANY UNREASONABLE DIFFICULTY
BASE - ALL WHO REGISTERED OR VOTED AS AN ABSENTEE

	TOTAL	YES	NO	N/A
TOTAL	32 100%	16 50%	16 50%	-
<u>PARTY AFFILIATION</u>				
DEMOCRAT	20 100%	12 60%	8 40%	-
REPUBLICAN	1 100%	1 100%	-	-
OTHER	3 100%	-	3 100%	-
NO ANSWER	8 100%	3 38%	5 63%	-
<u>CONTRIBUTED</u>				
YES	2 100%	1 50%	1 50%	-
NO	28 100%	14 50%	14 50%	-
<u>ACTIVE INTEREST</u>				
YES	31 100%	16 52%	15 48%	-
NO	1 100%	-	1 100%	-
NO ANSWER	-	-	-	-

(CONTINUED)

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(CONTINUED)

Table 10b

(CONTINUED PAGE 2)
Q.10. IF YOU REGISTERED OR VOTED AS AN ABSENTEE, DID YOU HAVE ANY UNREASONABLE DIFFICULTY
BASE - ALL WHO REGISTERED OR VOTED AS AN ABSENTEE

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	-	-	-	-
2 - 5 YEARS	15 100%	8 53%	7 47%	-
5 - 10 YEARS	10 100%	4 40%	6 60%	-
10 - 25 YEARS	6 100%	3 50%	3 50%	-
OVER 25 YEARS	-	-	-	-
NO ANSWER	1 100%	1 100%	-	-
<u>RETAIN A DOMICILE</u>				
YES	17 100%	9 53%	8 47%	-
NO	10 100%	5 50%	5 50%	-
NO ANSWER	5 100%	2 40%	3 60%	-

(PERCENTAGES ROUNDED)

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Table 11a

Q.11. IF DIFFICULTY, WHAT
BASE - ALL WHO HAD DIFFICULTY REGISTERING OR VOTING AS AN ABSENTEE

	TOTAL	DIFFICULTY												
		1. TOO LATE BALLOT	2. HAD TO REREGISTER	3. MUST OWN PROPERTY	4. POSTAGE	5. CUMBERSOME	6. NO RESPONSE	7. TAX LIABILITY	8. HAD TO CALL	9. HAD TO GET EMBASSY	10. NEEDED INTERVENTION	11. YES, NO, YES	12. YES, NO, YES	13. NOT ENOUGH BALLOTS
TOTAL	36 100%	8 22%	1 3%	2 6%	4 11%	11 31%	1 3%	2 6%	-	8 22%	9 25%	10 28%	11 31%	13 36%
<u>PARTY AFFILIATION</u>														
DEMOCRAT	24 100%	6 25%	1 4%	2 8%	3 13%	7 29%	1 4%	-	-	1 4%	1 4%	1 4%	-	4 17%
REPUBLICAN	3 100%	-	-	-	-	-	-	2 67%	-	-	1 33%	-	-	-
OTHER	1 100%	1 100%	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	8 100%	1 13%	-	-	1 13%	4 50%	-	-	-	-	-	-	-	-
<u>CONTRIBUTED</u>														
YES	4 100%	2 50%	-	-	2 50%	-	-	-	-	1 25%	-	-	-	-
NO	27 100%	6 22%	1 4%	2 7%	7 26%	1 4%	2 7%	-	4 15%	1 4%	1 4%	2 7%	1 4%	5 19%
<u>ACTIVE INTEREST</u>														
YES	35 100%	7 20%	1 3%	2 6%	4 11%	11 31%	1 3%	2 6%	-	4 11%	2 6%	2 6%	1 3%	5 14%
NO	1 100%	1 100%	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-	-	-	-

(CONTINUED)

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Table 11b

Q.11. IF DIFFICULTY, WHAT
BASE - ALL WHO HAD DIFFICULTY REGISTERING OR VOTING AS AN ABSENTEE

	TOTAL	DIFFICULTY												
		1. TOO LATE BALLOT	2. HAD TO REREGISTER	3. MUST OWN PROPERTY	4. POSTAGE	5. CUMBERSOME	6. NO RESPONSE	7. TAX LIABILITY	8. HAD TO CALL	9. HAD TO GET EMBASSY	10. NEEDED INTERVENTION	11. YES, NO, YES	12. YES, NO, YES	13. NOT ENOUGH BALLOTS
<u>RESIDE ABROAD</u>														
0 - 2 YEARS	4 100%	-	-	-	-	4 100%	-	-	-	2 50%	-	-	-	-
2 - 5 YEARS	17 100%	5 29%	6 35%	2 12%	1 6%	4 24%	-	-	-	2 12%	1 6%	1 6%	-	2 12%
5 - 10 YEARS	6 100%	-	-	-	1 17%	1 17%	-	2 33%	-	-	1 17%	1 17%	1 17%	-
10 - 25 YEARS	8 100%	2 25%	-	-	2 25%	2 25%	1 13%	-	-	-	-	-	-	3 38%
OVER 25 YEARS	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NO ANSWER	1 100%	1 100%	-	-	-	-	-	-	-	-	-	-	-	-
<u>RETAIN A DOMICILE</u>														
YES	22 100%	7 32%	-	1 5%	2 9%	8 36%	1 5%	-	-	4 18%	2 9%	-	1 5%	1 5%
NO	11 100%	1 9%	9 81%	1 9%	2 18%	1 9%	-	2 18%	-	-	-	1 9%	-	4 36%
NO ANSWER	3 100%	-	-	-	-	2 67%	-	-	-	-	-	1 33%	-	-

(PERCENTAGES ROUNDED)

0013

Table 12a

Q.12. IF YOU VOTED ABROAD, HAS YOUR STATE OR LOCAL GOVERNMENT TRIED TO COLLECT TAXES FROM YOU AS A RESULT BASE - ALL WHO VOTED BY ABSENTEE BALLOT

	TOTAL	YES STATE	YES LOCAL	NO	N/A
TOTAL	105 100.	1. 1.	1. 1.	86. 82.	17. 16.
PARTY AFFILIATION					
DEMOCRAT	63 100.	1. 2.	-	53. 84.	9. 14.
REPUBLICAN	10 100.	-	-	8. 80.	2. 20.
OTHER	5 100.	-	-	5. 100.	-
NO ANSWER	27 100.	-	1. 4.	20. 74.	6. 22.
CONTRIBUTED					
YES	8 100.	-	-	8. 100.	-
NO	86 100.	-	1. 1.	71. 83.	14. 16.
ACTIVE INTEREST					
YES	102 100.	1. 1.	1. 1.	83. 81.	17. 17.
NO	3 100.	-	-	3. 100.	-
NO ANSWER	-	-	-	-	-

(CONTINUED)

222

Table 12b

(CONTINUED PAGE 2)

Q.12. IF YOU VOTED ABROAD, HAS YOUR STATE OR LOCAL GOVERNMENT TRIED TO COLLECT TAXES FROM YOU AS A RESULT BASE - ALL WHO VOTED BY ABSENTEE BALLOT

	TOTAL	YES STATE	YES LOCAL	NO	N/A
RESIDE ABROAD					
0 - 2 YEARS	9 100.	-	-	7. 78.	2. 22.
2 - 5 YEARS	55 100.	2. 2.	1. 1.	44. 80.	9. 16.
5 - 10 YEARS	23 100.	-	-	21. 91.	2. 9.
10 - 25 YEARS	16 100.	-	-	12. 75.	4. 25.
OVER 25 YEARS	1 100.	-	-	1. 100.	-
NO ANSWER	1 100.	-	-	1. 100.	-
RETAIN A DOMICILE					
YES	68 100.	-	-	55. 81.	13. 19.
NO	28 100.	1. 4.	-	24. 86.	3. 11.
NO ANSWER	9 100.	-	1. 11.	7. 78.	1. 11.

(PERCENTAGES ROUNDED)

223

Q.13. DID YOU ATTEMPT TO REGISTER TO VOTE IN 1972
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO
TOTAL	136 100.	42 31.	94 69.
PARTY AFFILIATION			
DEMOCRAT	64 100.	24 38.	40 63.
REPUBLICAN	15 100.	2 13.	13 87.
OTHER	9 100.	3 33.	6 67.
NO ANSWER	48 100.	13 27.	35 73.
CONTRIBUTED			
YES	12 100.	3 25.	9 75.
NO	106 100.	32 30.	74 70.
ACTIVE INTEREST			
YES	125 100.	41 33.	84 67.
NO	9 100.	1 11.	8 89.
NO ANSWER	2 100.	-	2 100.

(CONTINUED)

224

(CONTINUED PAGE 2)

Q.13. DID YOU ATTEMPT TO REGISTER TO VOTE IN 1972
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO
RESIDE ABROAD			
0 - 2 YEARS	3 100.	1 33.	2 67.
2 - 5 YEARS	42 100.	16 38.	26 62.
5 - 10 YEARS	45 100.	17 38.	28 62.
10 - 25 YEARS	43 100.	7 16.	36 84.
OVER 25 YEARS	3 100.	1 33.	2 67.
NO ANSWER	-	-	-
RETAIN A DOMICILE			
YES	81 100.	26 32.	55 68.
NO	52 100.	14 27.	38 73.
NO ANSWER	3 100.	2 67.	1 33.

(PERCENTAGES ROUNDED)
 0015

225

Table 14a

Q.15. IF YOU ATTEMPTED TO REGISTER, DID YOU MAINTAIN A HOUSE OR APARTMENT IN THAT STATE AT THE TIME
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER

	YES	NO	DONT KNOW	
TOTAL	42 100.	2 5.	37 88.	3 7.
PARTY AFFILIATION				
DEMOCRAT	24 100.	2 8.	21 88.	1 4.
REPUBLICAN	2 100.	-	1 50.	1 50.
OTHER	3 100.	-	3 100.	-
NO ANSWER	13 100.	-	12 92.	1 8.
CONTRIBUTED				
YES	3 100.	-	3 100.	-
NO	32 100.	2 6.	28 88.	2 6.
ACTIVE INTEREST				
YES	41 100.	2 5.	36 88.	3 7.
NO	1 100.	-	1 100.	-
NO ANSWER	-	-	-	-

(CONTINUED)

Table 14b

(CONTINUED PAGE 2)

Q.15. IF YOU ATTEMPTED TO REGISTER, DID YOU MAINTAIN A HOUSE OR APARTMENT IN THAT STATE AT THE TIME
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER

	YES	NO	DONT KNOW	
RESIDE ABROAD				
0 - 2 YEARS	1 100.	-	1 100.	-
2 - 5 YEARS	16 100.	-	15 94.	1 6.
5 - 10 YEARS	17 100.	1 6.	15 88.	1 6.
10 - 25 YEARS	7 100.	1 14.	5 71.	1 14.
OVER 25 YEARS	1 100.	-	1 100.	-
NO ANSWER	-	-	-	-
RETAIN A DOMICILE				
YES	26 100.	1 4.	22 85.	3 12.
NO	14 100.	1 7.	13 93.	-
NO ANSWER	2 100.	-	2 100.	-

(PERCENTAGES ROUNDED)

0016

Q.16. IF YOU ATTEMPTED TO REGISTER, WAS IT IN THE U.S.A. OR ABROAD
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER

	TOTAL	U.S.A	ABROAD	N/A
TOTAL	42 100%	2 5%	37 88%	3 7%
<u>PARTY AFFILIATION</u>				
DEMOCRAT	24 100%	2 8%	21 88%	1 4%
REPUBLICAN	2 100%	-	1 50%	1 50%
OTHER	3 100%	-	2 67%	1 33%
NO ANSWER	13 100%	-	13 100%	-
<u>CONTRIBUTED</u>				
YES	3 100%	-	3 100%	-
NO	32 100%	2 6%	27 84%	3 9%
<u>ACTIVE INTEREST</u>				
YES	41 100%	2 5%	36 88%	3 7%
NO	1 100%	-	1 100%	-
NO ANSWER	-	-	-	-

(CONTINUED)

228

(CONTINUED)

(CONTINUED, PAGE 2)

Q.16. IF YOU ATTEMPTED TO REGISTER, WAS IT IN THE U.S.A. OR ABROAD
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER

	TOTAL	U.S.A	ABROAD	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	1 100%	-	1 100%	-
2 - 5 YEARS	16 100%	-	15 94%	1 6%
5 - 10 YEARS	17 100%	12 71%	14 82%	1 6%
10 - 25 YEARS	7 100%	-	6 86%	1 14%
OVER 25 YEARS	1 100%	-	1 100%	-
NO ANSWER	-	-	-	-
<u>RETAIN A DOMICILE</u>				
YES	26 100%	1 4%	22 85%	3 12%
NO	14 100%	1 7%	13 93%	-
NO ANSWER	2 100%	-	2 100%	-

(PERCENTAGES ROUNDED)
 0017

229

0.17. IF YOU TRIED ABROAD, WHAT FORM DO YOU REMEMBER USING
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER FROM AB ROAD

	TOTAL	1.	2.	3.	4.	5.	6.	7.
TOTAL	100.37	19.7	8.3	3.1	24.9	3.1	3.1	15.41
PARTY AFFILIATION								
DEMOCRAT	100.21	24.5	14.3	-	24.5	-	5.1	39.7
REPUBLICAN	100.1	-	-	-	-	-	-	100.1
OTHER	100.2	50.1	-	-	-	-	-	50.1
NO ANSWER	100.19	8.1	-	8.1	3.4	8.1	-	6.46
CONTRIBUTED								
YES	100.3	-	-	-	67.2	33.1	-	-
NO	100.27	22.6	11.3	4.1	19.5	-	4.1	11.41
ACTIVE INTEREST								
YES	100.36	19.7	8.3	-	25.9	3.1	3.1	15.42
NO	100.1	-	-	100.1	-	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-

(CONTINUED)

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(CONTINUED)
 (CONTINUED PAGE 2)

0.17. IF YOU TRIED ABROAD, WHAT FORM DO YOU REMEMBER USING
 BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER FROM AB ROAD

	TOTAL	1.	2.	3.	4.	5.	6.	7.
RESIDE ABROAD								
0 - 2 YEARS	100.1	-	-	-	100.1	-	-	-
2 - 5 YEARS	100.15	20.3	13.2	-	13.2	-	7.1	47.7
5 - 10 YEARS	100.14	14.2	-	7.1	36.5	-	-	43.6
10 - 25 YEARS	100.6	33.2	17.1	-	-	17.1	-	33.2
OVER 25 YEARS	100.1	-	-	-	100.1	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-
RETAIN A DOMICILE								
YES	100.22	18.4	9.2	-	36.8	5.1	-	32.7
NO	100.19	23.3	8.1	8.1	1.1	-	8.1	46.6
NO ANSWER	100.2	-	-	-	-	-	-	100.2

(PERCENTAGES ROUNDED)
 0018

231

Table 17a

Q.18. IF YOU TRIED ABROAD, DID YOU CLAIM ON THE FORM THAT YOU EVENTUALLY INTENDED TO RETURN TO YOUR HOME STATE BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER FROM ABROAD

TOTAL	37	20	11	6
	100.	54.	30.	16.
<u>PARTY AFFILIATION</u>				
DEMOCRAT	21	11	6	4
	100.	52.	29.	19.
REPUBLICAN	1	1	-	-
	100.	100.	-	-
OTHER	2	1	1	-
	100.	50.	50.	-
NO ANSWER	13	7	4	2
	100.	54.	31.	15.
<u>CONTRIBUTED</u>				
YES	3	2	1	-
	100.	67.	33.	-
NO	27	13	9	5
	100.	48.	33.	19.
<u>ACTIVE INTEREST</u>				
YES	36	20	10	6
	100.	56.	28.	17.
NO	1	-	1	-
	100.	-	100.	-
NO ANSWER	-	-	-	-
	-	-	-	-

(CONTINUED)

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(CONTINUED PAGE 2)

Table 17b

Q.18. IF YOU TRIED ABROAD, DID YOU CLAIM ON THE FORM THAT YOU EVENTUALLY INTENDED TO RETURN TO YOUR HOME STATE BASE - ALL WHO DIDN'T VOTE BUT ATTEMPTED TO REGISTER FROM ABROAD

<u>RESIDE ABROAD</u>				
0 - 2 YEARS	1	1	-	-
	100.	100.	-	-
2 - 5 YEARS	15	10	2	3
	100.	67.	13.	20.
5 - 10 YEARS	14	6	5	3
	100.	43.	36.	21.
10 - 25 YEARS	6	3	3	-
	100.	50.	50.	-
OVER 25 YEARS	1	-	1	-
	100.	-	100.	-
NO ANSWER	-	-	-	-
	-	-	-	-
<u>RETAIN A DOMICILE</u>				
YES	22	15	3	4
	100.	68.	14.	18.
NO	13	3	8	2
	100.	23.	62.	15.
NO ANSWER	2	2	-	-
	100.	100.	-	-

(PERCENTAGES ROUNDED)
0019

233

Q.19. WERE YOU ABLE TO BECOME REGISTERED
 BASE - ALL WHO DIDN' T VOTE BUT ATTEMPTED TO REGISTER

	TOTAL	YES	NO	N/A
TOTAL	42 100.	21.9	69.	10.
<u>PARTY AFFILIATION</u>				
DEMOCRAT	24 100.	7	16	1
REPUBLICAN	2 100.	1	-	1
OTHER	3 100.	-	2	1
NO ANSWER	13 100.	1	11	1
<u>CONTRIBUTED</u>				
YES	3 100.	-	3	-
NO	32 100.	8	21	3
<u>ACTIVE INTEREST</u>				
YES	41 100.	9	28	4
NO	1 100.	-	1	-
NO ANSWER	-	-	-	-

(CONTINUED)

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(CONTINUED)

(CONTINUED PAGE 2)

Q.19. WERE YOU ABLE TO BECOME REGISTERED
 BASE - ALL WHO DIDN' T VOTE BUT ATTEMPTED TO REGISTER

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	1 100.	-	1	-
2 - 5 YEARS	16 100.	5	9	2
5 - 10 YEARS	17 100.	3	12	2
10 - 25 YEARS	7 100.	1	6	-
OVER 25 YEARS	1 100.	-	1	-
NO ANSWER	-	-	-	-
<u>RETAIN A DOMICILE</u>				
YES	26 100.	8	14	4
NO	14 100.	1	13	-
NO ANSWER	2 100.	-	2	-

(PERCENTAGES ROUNDED)

235

Table 19a

Q.20. IF NOT, WHAT WAS THE REASON FOR REFUSAL
BASE - ALL WHO UNABLE TO BECOME REGISTERED

	TOTAL	1.	2.	3.	4.	5.	6.	7.
TOTAL	29 100.	10.	38.	17.	3.	7.	3.	21.
PARTY AFFILIATION								
DEMOCRAT	16 100.	6.	63.	13.	6.	6.	6.	-
REPUBLICAN	-	-	-	-	-	-	-	-
OTHER	2 100.	-	-	-	-	1.	-	1.
NO ANSWER	11 100.	2.	9.	3.	-	-	-	5.
CONTRIBUTED								
YES	3 100.	-	1.	1.	1.	-	-	-
NO	21 100.	10.	38.	10.	-	2.	5.	29.
ACTIVE INTEREST								
YES	28 100.	11.	39.	18.	4.	7.	4.	18.
NO	1 100.	-	-	-	-	-	-	100.
NO ANSWER	-	-	-	-	-	-	-	-

(CONTINUED)

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(CONTINUED)

(CONTINUED PAGE 2)

Table 19b

Q.20. IF NOT, WHAT WAS THE REASON FOR REFUSAL
BASE - ALL WHO UNABLE TO BECOME REGISTERED

	TOTAL	1.	2.	3.	4.	5.	6.	7.
TOTAL	1	-	-	-	-	-	-	1
RESIDE ABROAD								
0 - 2 YEARS	1 100.	-	-	-	-	-	-	100.
2 - 5 YEARS	9 100.	-	56.	22.	-	11.	11.	-
5 - 10 YEARS	12 100.	17.	33.	17.	-	-	-	4.
10 - 25 YEARS	6 100.	17.	33.	17.	-	17.	-	17.
OVER 25 YEARS	1 100.	-	-	-	100.	-	-	-
NO ANSWER	-	-	-	-	-	-	-	-
RETAIN A DOMICILE								
YES	14 100.	21.	29.	14.	-	-	7.	29.
NO	13 100.	-	54.	8.	8.	15.	-	15.
NO ANSWER	2 100.	-	-	100.	-	-	-	-

(PERCENTAGES ROUNDED)
0021

237

Q.29. IF YOU WERE ABROAD AND DIDN'T ATTEMPT TO REGISTER OR TO OBTAIN AN ABSENTEE BALLOT, WHY
 BASE - ALL WHO DIDN'T ATTEMPT TO REGISTER

	TOTAL	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
TOTAL	94 100.	8	47	30	7	1	3	3	1	3	12
PARTY AFFILIATION											
DEMOCRAT	40 100.	3	19	12	4	1	-	3	1	1	7
REPUBLICAN	13 100.	-	7	8	-	-	-	-	-	-	-
OTHER	6 100.	-	3	2	1	-	-	-	-	-	1
NO ANSWER	35 100.	14	18	8	2	-	3	-	-	2	4
CONTRIBUTED											
YES	9 100.	-	5	4	1	1	-	-	-	-	-
NO	74 100.	8	36	21	6	-	3	3	1	3	11
ACTIVE INTEREST											
YES	84 100.	7	42	25	7	1	3	3	1	2	12
NO	8 100.	1	3	5	-	-	-	-	-	1	-
NO ANSWER	2 100.	-	2	-	-	-	-	-	-	-	-

(CONTINUED)

Q.29. IF YOU WERE ABROAD AND DIDN'T ATTEMPT TO REGISTER OR TO OBTAIN AN ABSENTEE BALLOT, WHY
 BASE - ALL WHO DIDN'T ATTEMPT TO REGISTER

	TOTAL	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
RESIDE ABROAD											
0 - 2 YEARS	2 100.	-	1	-	-	-	-	-	-	-	1
2 - 5 YEARS	26 100.	1	11	10	4	-	2	4	-	-	6
5 - 10 YEARS	28 100.	4	11	12	4	-	-	1	4	7	2
10 - 25 YEARS	36 100.	3	24	7	14	1	1	-	-	3	2
OVER 25 YEARS	2 100.	-	-	1	-	-	-	50	-	-	50
NO ANSWER	-	-	-	-	-	-	-	-	-	-	-
RETAIN A DOMICILE											
YES	55 100.	4	26	24	1	1	1	2	-	1	5
NO	38 100.	4	21	13	16	-	2	3	3	5	7
NO ANSWER	1 100.	-	-	1	-	-	-	-	-	-	-

(PERCENTAGES ROUNDED)
 0022

Q.30. IF YOU REMAIN ABROAD, DO YOU FEEL YOU SHOULD BE ABLE TO VOTE FOR SENATORS AND CONGRESSMEN
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
TOTAL	136	70	58	8
	100.	51.	43.	6.
PARTY AFFILIATION				
DEMOCRAT	64	33	26	5
	100.	52.	41.	8.
REPUBLICAN	15	7	8	-
	100.	47.	53.	-
OTHER	9	8	1	-
	100.	89.	11.	-
NO ANSWER	48	22	23	3
	100.	46.	48.	6.
CONTRIBUTED				
YES	12	6	5	1
	100.	50.	42.	8.
NO	106	56	45	5
	100.	53.	42.	5.
ACTIVE INTEREST				
YES	125	70	48	7
	100.	56.	38.	6.
NO	9	-	100.	-
	100.	-	100.	-
NO ANSWER	2	-	1	1
	100.	-	50.	50.

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Q.30. IF YOU REMAIN ABROAD, DO YOU FEEL YOU SHOULD BE ABLE TO VOTE FOR SENATORS AND CONGRESSMEN
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
RESIDE ABROAD				
0 - 2 YEARS	3	2	1	-
	100.	67.	33.	-
2 - 5 YEARS	42	27	14	1
	100.	64.	33.	2.
5 - 10 YEARS	45	19	24	2
	100.	42.	53.	4.
10 - 25 YEARS	43	21	18	4
	100.	49.	42.	9.
OVER 25 YEARS	3	1	1	1
	100.	33.	33.	33.
NO ANSWER	-	-	-	-
	-	-	-	-
RETAIN A DOMICILE				
YES	81	42	34	5
	100.	52.	42.	6.
NO	52	25	24	3
	100.	48.	46.	6.
NO ANSWER	3	3	-	-
	100.	100.	-	-

(PERCENTAGES ROUNDED)
 0025

241

Q.31. IF YOU REMAIN ABROAD DO YOU FEEL YOU SHOULD BE ABLE TO VOTE FOR PRESIDENT
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
TOTAL	136 100.	128 94.	4 3.	4 3.
PARTY AFFILIATION				
DEMOCRAT	64 100.	61 95.	1 2.	2 3.
REPUBLICAN	15 100.	15 100.	-	-
OTHER	9 100.	9 100.	-	-
NO ANSWER	48 100.	43 90.	3 6.	2 4.
CONTRIBUTED				
YES	12 100.	12 100.	-	-
NO	106 100.	100 94.	4 4.	2 2.
ACTIVE INTEREST				
YES	125 100.	118 94.	3 2.	4 3.
NO	9 100.	8 89.	1 11.	-
NO ANSWER	2 100.	2 100.	-	-

(CONTINUED)

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(CONTINUED)

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Q.31. IF YOU REMAIN ABROAD DO YOU FEEL YOU SHOULD BE ABLE TO VOTE FOR PRESIDENT
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
RESIDE ABROAD				
0 - 2 YEARS	3 100.	3 100.	-	-
2 - 5 YEARS	42 100.	41 98.	1 2.	-
5 - 10 YEARS	45 100.	42 93.	1 2.	2 4.
10 - 25 YEARS	43 100.	39 91.	2 5.	2 5.
OVER 25 YEARS	3 100.	3 100.	-	-
NO ANSWER	-	-	-	-
RETAIN A DOMICILE				
YES	81 100.	75 93.	2 2.	4 5.
NO	52 100.	50 96.	2 4.	-
NO ANSWER	3 100.	3 100.	-	-

(PERCENTAGES ROUNDED)
 0024

243

Q.32. WOULD YOU VOTE IF YOU KNEW THAT VOTING DIDN'T SUBJECT YOU TO TAXES YOU WOULDN'T OTHERWISE HAVE TO PAY
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
TOTAL	136 100%	123 90%	13 10%	-
<u>PARTY AFFILIATION</u>				
DEMOCRAT	64 100%	61 95%	3 5%	-
REPUBLICAN	15 100%	14 93%	1 7%	-
OTHER	9 100%	9 100%	-	-
NO ANSWER	48 100%	39 81%	9 19%	-
<u>CONTRIBUTED</u>				
YES	12 100%	12 100%	-	-
NO	106 100%	95 90%	11 10%	-
<u>ACTIVE INTEREST</u>				
YES	125 100%	113 90%	12 10%	-
NO	9 100%	9 100%	-	-
NO ANSWER	2 100%	1 50%	1 50%	-

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Table 23b

Q.32. WOULD YOU VOTE IF YOU KNEW THAT VOTING DIDN'T SUBJECT YOU TO TAXES YOU WOULDN'T OTHERWISE HAVE TO PAY
 BASE - ALL WHO DIDN'T VOTE IN THE 1972 PRESIDENTIAL ELECTION

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	3 100%	2 67%	1 33%	-
2 - 5 YEARS	42 100%	40 95%	2 5%	-
5 - 10 YEARS	45 100%	42 93%	3 7%	-
10 - 25 YEARS	43 100%	36 84%	7 16%	-
OVER 25 YEARS	3 100%	3 100%	-	-
NO ANSWER	-	-	-	-
<u>RETAIN A DOMICILE</u>				
YES	81 100%	71 88%	10 12%	-
NO	52 100%	49 94%	3 6%	-
NO ANSWER	3 100%	3 100%	-	-

(PERCENTAGES ROUNDED)

Q.33. DO YOU TAKE AN ACTIVE INTEREST IN U.S. AFFAIRS
 BASE - ALL RESPONDENTS

	TOTAL	YES	NO	N/A
TOTAL	253 100.	238 94.	13 5.	2 1.
<u>PARTY AFFILIATION</u>				
DEMOCRAT	136 100.	129 95.	5 4.	2 1.
REPUBLICAN	25 100.	25 100.	-	-
OTHER	14 100.	14 100.	-	-
NO ANSWER	78 100.	70 90.	10 10.	-
<u>CONTRIBUTED</u>				
YES	23 100.	22 96.	1 4.	-
NO	199 100.	187 94.	10 5.	2 1.
<u>ACTIVE INTEREST</u>				
YES	238 100.	238 100.	-	-
NO	13 100.	-	13 100.	-
NO ANSWER	2 100.	-	-	2 100.

(CONTINUED)

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(CONTINUED PAGE 2)

Q.33. DO YOU TAKE AN ACTIVE INTEREST IN U.S. AFFAIRS
 BASE - ALL RESPONDENTS

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	18 100.	18 100.	-	-
2 - 5 YEARS	100 100.	95 95.	5 5.	-
5 - 10 YEARS	71 100.	65 92.	6 8.	-
10 - 25 YEARS	59 100.	55 93.	2 3.	2 3.
OVER 25 YEARS	4 100.	4 100.	-	-
NO ANSWER	1 100.	1 100.	-	-
<u>RETAIN A DOMICILE</u>				
YES	154 100.	147 95.	7 5.	-
NO	84 100.	77 92.	5 6.	2 2.
NO ANSWER	15 100.	14 93.	1 7.	-
<u>VOTED IN ELECTION</u>				
YES	117 100.	113 97.	4 3.	-
NO	136 100.	125 92.	9 7.	2 1.

(PERCENTAGES ROUNDED)
 0026

247

Q.34. DO YOU FAVOUR LEGISLATION ADEQUATE TO INSURE THAT AMERICANS ABROAD CAN VOTE FOR PRESIDENT WITHOUT BEING LIABLE FOR TAXES THEY OTHERWISE WOULDN'T HAVE TO PAY

	TOTAL	YES	NO	N/A
TOTAL	253 100.	241 95.	9 4.	3 1.
<u>PARTY AFFILIATION</u>				
DEMOCRAT	136 100.	133 98.	1 1.	2 1.
REPUBLICAN	25 100.	23 92.	2 8.	-
OTHER	14 100.	14 100.	-	-
NO ANSWER	78 100.	71 91.	6 8.	1 1.
<u>CONTRIBUTED</u>				
YES	23 100.	22 96.	-	1 4.
NO	199 100.	189 95.	9 5.	1 1.
<u>ACTIVE INTEREST</u>				
YES	238 100.	227 95.	9 4.	2 1.
NO	13 100.	13 100.	-	-
NO ANSWER	2 100.	1 50.	-	1 50.

(CONTINUED)

(CONTINUED PAGE 2)

Q.34. DO YOU FAVOUR LEGISLATION ADEQUATE TO INSURE THAT AMERICANS ABROAD CAN VOTE FOR PRESIDENT WITHOUT BEING LIABLE FOR TAXES THEY OTHERWISE WOULDN'T HAVE TO PAY

	TOTAL	YES	NO	N/A
<u>RESIDE ABROAD</u>				
0 - 2 YEARS	18 100.	17 94.	1 6.	-
2 - 5 YEARS	100 100.	96 96.	3 3.	1 1.
5 - 10 YEARS	71 100.	68 96.	2 3.	1 1.
10 - 25 YEARS	59 100.	55 93.	3 5.	1 2.
OVER 25 YEARS	4 100.	4 100.	-	-
NO ANSWER	1 100.	1 100.	-	-
<u>RETAIN A DOMICILE</u>				
YES	154 100.	147 95.	5 3.	2 1.
NO	84 100.	79 94.	4 5.	1 1.
NO ANSWER	15 100.	15 100.	-	-
<u>VOTED IN ELECTION</u>				
YES	117 100.	112 96.	4 3.	1 1.
NO	136 100.	129 95.	5 4.	2 1.

(PERCENTAGES ROUNDED)

0027

Q.35. DO YOU FAVOUR SIMILAR LEGISLATION ADEQUATE TO INSURE THAT AMERICANS ABROAD CAN VOTE FOR SENATORS AND CONGRESSMEN WITHOUT BEING LIABLE FOR TAXES THEY OTHERWISE WOULDN'T HAVE TO PAY

BASE - ALL RESPONDENTS

	TOTAL	YES	NO	N/A
TOTAL	253 100.	180 71.	73 29.	-
PARTY AFFILIATION				
DEMOCRAT	136 100.	105 77.	31 23.	-
REPUBLICAN	25 100.	12 48.	13 52.	-
OTHER	14 100.	14 100.	-	-
NO ANSWER	78 100.	49 63.	29 37.	-
CONTRIBUTED				
YES	23 100.	13 57.	10 43.	-
NO	199 100.	146 73.	53 27.	-
ACTIVE INTEREST				
YES	238 100.	174 73.	64 27.	-
NO	13 100.	6 46.	7 54.	-
NO ANSWER	2 100.	-	2 100.	-

(CONTINUED)

Q.35. DO YOU FAVOUR SIMILAR LEGISLATION ADEQUATE TO INSURE THAT AMERICANS ABROAD CAN VOTE FOR SENATORS AND CONGRESSMEN WITHOUT BEING LIABLE FOR TAXES THEY OTHERWISE WOULDN'T HAVE TO PAY

BASE - ALL RESPONDENTS

	TOTAL	YES	NO	N/A
RESIDE ABROAD				
0 - 2 YEARS	18 100.	15 83.	3 17.	-
2 - 5 YEARS	100 100.	80 80.	20 20.	-
5 - 10 YEARS	71 100.	45 63.	26 37.	-
10 - 25 YEARS	59 100.	37 63.	22 37.	-
OVER 25 YEARS	4 100.	2 50.	2 50.	-
NO ANSWER	1 100.	1 100.	-	-
RETAIN A DOMICILE				
YES	154 100.	113 73.	41 27.	-
NO	84 100.	53 63.	31 37.	-
NO ANSWER	15 100.	14 93.	1 7.	-
VOTED IN ELECTION				
YES	117 100.	98 84.	19 16.	-
NO	136 100.	82 60.	54 40.	-

(PERCENTAGES ROUNDED)
0028

FRIDAY, MARCH 11, 1978

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON ELECTORS OF THE
COMMITTEE ON HOUSE ADMINISTRATION
WASHINGTON, D.C.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1976

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

TUESDAY, MARCH 11, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:40 p.m., in room H-329, the Capitol, Hon. John H. Dent (chairman of the subcommittee) presiding.

Present: Representatives Dent (presiding), Mathis, Boggs, John L. Burton, Butler, and Moore.

Also present: John McGarry, legal counsel; Rick Oleszewski, clerk; and Louis Ingram, minority counsel.

Mr. DENT. The meeting will come to order.

Under the Rules of the House, only two Members need be present to take testimony. As you know, we are in the middle of the session. Many committees are meeting and we have a very heavy schedule.

At the request of Mr. Butler we have invited today's witness. I would appreciate it if he would introduce his witness.

Mr. BUTLER. I had read Ms. Lawton's testimony before the Senate and I asked her to update it and come here to testify.

Mr. DENT. It is a pleasure to have you.

Mr. BUTLER. If Ms. Lawton can be sworn, we will let her proceed with any statements she may wish.

Mr. DENT. You may proceed.

STATEMENT OF MARY C. LAWTON, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE

Ms. LAWTON. Mr. Chairman, I appreciate the opportunity to appear before this subcommittee to discuss H.R. 3211, a bill to require States to permit the registration and voting in Federal elections of overseas citizens who were formerly domiciled in the State. The intent of the bill is to extend the franchise to citizens residing overseas who do not now meet State bona fide residence requirements or are otherwise disenfranchised because of certain registration and voting procedures.

For the reasons I will discuss, the Department of Justice has serious reservations as to the constitutionality of H.R. 3211.

The threshold question in any legislation which concerns the voting franchise is whether Congress has the authority to accomplish its aims by legislation alone or whether a constitutional amendment is required. I think it will be helpful, therefore, to review the provisions of the Constitution relating to voting in an election.

(253)

Article I, section 2 of the Constitution, providing for the election of the House of Representatives, specifies that "Electors in each State shall have the qualifications requisite for electors for the most numerous branch of the State legislature." The 17th amendment adopted this same language with respect to popular election of Senators.

Article I, section 4 authorizes the States to prescribe the times, places and manner of holding elections for Senators and Representatives, "but the Congress may at any time by law make or alter such regulations." Article II, section 1 authorizes the Congress to determine the time for choosing Presidential electors and the day on which they will vote.

These are the basic constitutional provisions relating to the elective franchise. As is evident, they leave to the States the power to determine the qualification of voters but permit the Congress to legislate with respect to voting procedures. From time to time, however, it has been considered necessary to restrict the States in the setting of voter qualifications. Thus, the 15th amendment prohibits qualifications based on race, color or previous condition of servitude and authorizes Congress to adopt any necessary implementing legislation. The 19th amendment does the same with respect to qualifications based on sex. State poll tax requirements have been prohibited by the 24th amendment with respect to Federal elections, and 18 was established as the minimum age for voting by the 26th amendment. These four amendments directly restrict the State's authority to set voter qualifications.

The Supreme Court has held that the 14th amendment also restricts State voter qualifications and that under its Section 5 power to implement the 14th amendment Congress may override State qualifications it finds to be invidiously discriminatory. *Katzenbach v. Morgan*, 384 U.S. 641 (1966), upheld the elimination of literacy tests for those educated in American-flag schools in languages other than English, enacted as part of the Voting Rights Act of 1965. The Court found the legislation to be "appropriate" to the implementation of the equal protection clause of the 14th amendment. The Court began its opinion, however, acknowledging that the establishment of voter qualifications is ordinarily left to the States under the Constitution. *Id.* at 647.

In addition to the Voting Rights Act of 1965, Congress has on another occasion altered State voting qualifications by simple legislation, rather than constitutional amendment. The Voting Rights Act Amendments of 1970 suspended the use of literacy tests entirely, eliminated durational residency requirements in Presidential elections, permitted nonresidents to vote in Presidential elections if they had moved within 30 days of election day, and lowered the voting age to 18 in all elections. This legislation was based on congressional power to implement the 14th and 15th amendments.

As you recall, these provisions were promptly challenged in court as being beyond the authority of Congress. In a complex series of opinions, the Supreme Court sustained all but the lowering of the voting age in State, as distinguished from Federal, elections. *Oregon v. Mitchell*, 400 U.S. 112 (1970).

The *Oregon* case bears some analysis here because of the different bases on which the Justices reached their conclusions. There are five opinions written in that case, none representing a majority view. All

of the Justices concurred in the validity of the provision suspending literacy tests, and all, with the possible exception of Justice Douglas, did so on the basis of congressional power to implement the 15th amendment.

With Justice Harlan dissenting, the Court also sustained the provisions relating to durational residency, and even nonresidency, in presidential elections. Justice Black, speaking only to himself, found inherent congressional authority to set qualifications in Federal elections, assuming, despite precedents to the contrary,¹ that presidential elections are Federal elections. Justice Douglas concluded that voting for President and Vice President is a privilege of national citizenship and, therefore, a proper subject of legislation under the privileges and immunities clause of the 14th amendment. Justices Brennan, White, and Marshall in one opinion, and Justices Stewart and Blackmun, together with the Chief Justice, in a separate opinion, relied on section 5 of the 14th amendment and the right of interstate travel to sustain the presidential election provisions. In none of the opinions is there much discussion of the provision making it possible to vote for President in a State after residence has been terminated.

The division in the Court with respect to the 18-year-old vote was much closer. The lowering of the age in Federal elections was sustained by only five votes and the lowering of the age in State elections rejected by the same number. Justice Black again relied on "inherent" congressional authority to set qualifications in Federal elections, but held that only States could set qualifications in State elections. Justice Douglas concluded that Congress could lower the age in all elections in implementation of the equal protection clause. Justice Harlan rejected the age provision in any elections as being beyond the powers of Congress. In contrast, Justices Brennan, White, and Marshall thought the 14th amendment gave Congress the power to lower the voting age in all elections. Justice Stewart, writing for himself the Chief Justice and Justice Blackmun, noted that article I, section 2 gives the States alone the power to set voter qualifications and concluded that Congress could not lower the age in either Federal or State elections.

The *Oregon* case, while it supports some congressional authority to legislate in the area of voter qualifications, is a difficult precedent upon which to assess the constitutionality of legislation such as H.R. 3211.

One other case bears mention here, even though it does not deal directly with the power of Congress to alter State voting qualifications. In *Dunn v. Blumstein*, 405 U.S. 330 (1972), the plaintiff challenged Tennessee's durational residency requirements for voting in State elections on the ground that these violated his rights under the 14th amendment by restricting the right to interstate travel. The Court held that a 1-year residency requirement did indeed infringe on the right to interstate travel and that there was no compelling State interest to justify such an infringement. At the same time, the Court took pains to point out that it was not questioning the State's right to insist upon bona fide residency as a qualification of voters.

¹ *Ray v. Blair*, 343 U.S. 214, 224-225 (1952); and *Burroughs v. United States*, 290 U.S. 534, 545 (1934) hold that presidential electors are State officials.

At one point in the opinion the Court observes that "an appropriately defined and uniformly applied requirement of bona fide residency may be necessary to preserve the basic conception of a political community, and, therefore, could withstand close constitutional scrutiny." *Id.* at 343-44.

To summarize, the Constitution commits to the States the authority to set voter qualifications, but this has been modified by constitutional amendments which, in turn, authorize Congress to alter certain State practices by legislation. How far the power of Congress extends with respect to voter qualifications is unclear, but congressional power seems to be more extensive with respect to Federal elections. States are clearly not forbidden by the Constitution from requiring bona fide residency as a qualification for voters. At the same time, Congress has in one narrow instance—voting in presidential elections by those who have moved interstate within 30 days before an election—abolished the bona fide residency qualification, and its power to do so has been upheld by the Supreme Court. The question with respect to H.R. 3211 is whether Congress may go further in restricting State bona fide residency requirements.

Section 2(b) of the bill suggests the constitutional theories relied upon to require States to accept overseas voters. All of the findings in this subsection appear to be grounded on one or another clause of the 14th amendment. They include findings that existing State laws deny the inherent constitutional right to vote in Federal elections, abridge the right to travel, deny privileges and immunities guaranteed by the Constitution, in some cases deny the franchise because of the method of voting, deny due process and equal protection, and do not further any compelling State interest.

The reference to an inherent constitutional right to vote in Federal elections is apparently premised on Justice Black's opinion in the *Oregon* case. Since this represents the view of only one Justice who is no longer sitting on the Court, it seems a very tenuous basis on which to premise Federal legislation overriding State voter qualifications.

Similarly, the reliance on the privileges and immunities clause of the 14th amendment may be misplaced. Only Justice Douglas, in the *Oregon* case, viewed this as a basis for altering State voter qualification laws.

The general reference to the due process and equal protection clauses, as well as the finding of an abridgement of the right to travel, find greater support in the *Oregon* case for an exercise of congressional authority under the 14th amendment. Six Justices, all of whom are still sitting on the Court, considered these valid bases to sustain the provisions of the Voting Rights Act amendments relating to durational residency or nonresidence in Presidential elections. It should be noted, however, that three of the Justices—Brennan, White, and Marshall—sustained the congressional action only because there was no compelling State interest in maintaining the durational residency requirements. While H.R. 3211 contains a similar finding that there is no compelling State interest in maintaining existing State residency and domicile laws, this finding is totally inconsistent with the decision in *Dunn v. Blumstein, supra*, which emphasizes that bona fide residency requirements do indeed serve a compelling State interest. Thus,

we question whether the provisions of H.R. 3211, insofar as they would eliminate a State requirement of bona fide residency, could survive constitutional challenge.

The finding concerning denial of the right to vote because of the method of voting, which we assume is directed as State laws requiring either registration or voting in person, may provide a sound basis for the provisions in section 5 of the bill for providing absentee registration and ballots for otherwise qualified overseas voters. Congress has express constitutional authority to regulate the "manner" of holding congressional elections (article I, section 4) and this power may be broad enough to warrant legislation requiring absentee registration and ballots. While this express authority extends only to congressional elections, it is arguable that it impliedly covers presidential elections as well. Certainly, a majority of the Court in *Oregon* made no distinction, lumping both presidential and congressional elections together under the general designation "Federal elections."

Were H.R. 3211 limited to the absentee ballot provisions of section 5, we would have little difficulty with its constitutionality. Similarly, we would have no difficulty with a bill which made recommendations to the States with respect to less stringent standards for determining bona fide residency of citizens overseas, cast in the hortatory terms of the Federal Voting Assistance Act of 1955, as amended, 50 U.S.C. 1451-1476. In its present form, however, H.R. 3211 goes far beyond this and is, in our view, inconsistent with article I, section 2 of the Constitution.

Section 4 of the bill would enfranchise any citizen of the United States in the State of his last residence on the basis of his intent to retain that State as a voting residence, so long as he is not domiciled or registered to vote in another State. This would extend even to those citizens who have established a permanent legal domicile abroad and have no intention of returning to the United States, let alone the State of last residence. Congress would, by creating a new category of residence—voting residence—eliminate any requirement that the individual have a bona fide residence of legal domicile in the State in which he votes. This strikes at the most fundamental of State voter qualifications, established under article I, section 2, and cannot, in our view, be justified as an exercise of congressional authority to implement any of the various rights guaranteed by the 14th amendment.

Because of our serious doubts as to the constitutionality of H.R. 3211 in its present form, the Department of Justice must, as a legal matter, oppose the enactment of this bill.

Mr. DENT. Thank you very kindly, Ms. Lawton. I must say it is a very well-prepared statement. We thank you for it. It will give us a lot of help. I have said to this committee many times, and over the past 40 years I have been in the political field, I feel when it comes to legislation, we need input from the branch of government which executes the laws. But if we were to rely upon a departmental position on constitutionality, I would say, over 50 to 60 percent of the landmark legislation would never have been passed because all declarations were based on constitutionality. I was told unemployment compensation was unconstitutional, the minimum wage bill was unconstitutional. All those things were unconstitutional but somehow or

another, they survived the constitutional test. I appreciate your research and it will be very helpful to us.

I can pick the decision I like best and I imagine I could make a premise of constitutionality on it. However, there is something else that bothers me. Do your State Department and Justice Department employees overseas, vote?

Ms. LAWTON. Most of them, I think, are permitted under State law to vote.

Mr. DENT. Also, by absentee vote?

Ms. LAWTON. Yes, in most States.

Mr. DENT. I think it clearly proves we do have some inherent right as has been noted by one of the learned justices, to regulate the manner in which Federal elections are held. Nowhere in the Constitution do I find a qualification for voting based upon your employment. And to say that the citizen overseas is denied rights that we grant to another citizen because the one is working in private enterprise or whatever, and the other happens to be working for the Government. That is a distinction I cannot find anywhere as a qualification for voting. All we are attempting to do is to establish some basic change in the law to allow an overseas citizen of the United States to vote.

Where they have changed their legal domicile do they, in your opinion, give up their allegiance to this country?

Ms. LAWTON. No, sir.

Mr. DENT. If that is the case, then they are still citizens of the United States?

Ms. LAWTON. Yes.

Mr. DENT. If that is the case, it is a question of whether or not we want to give them an opportunity to vote or whether for some reason or not, we are afraid to give them the right to vote. If these 700,000-odd persons were living in the United States they would be able to vote in some instance whether domiciled in their home State or whether domiciled elsewhere. Most of my employees live here and all except one come from my home district. But they are registered in Pennsylvania and vote by absentee ballots. The entire District of Columbia population is, of course, for Federal purposes registered in their home States or home areas. I do not see much difference. In the global situation we are in and this country scattering its activities all over the world and with the advent of the international corporation, I see a greater overseas population growth. If it can be done physically, I personally believe we ought to give them the right. This is my view and that also of the chairman, who is one of the chief sponsors of the bill.

We will have to leave it to the Supreme Court to determine if we have overstepped the Federal rights of those overseas.

Again, thank you very much, you have prepared a fine paper.

Mr. Butler.

Mr. BUTLER. I agree with the chairman. I have some questions in my mind and as the chairman indicates, I do not know that it is all good.

There are certain inconsistencies in the philosophy and perhaps even the diet of some of our Justices on the Supreme Court, from time to time. But I think your judgment is certainly well reasoned here. I would like to ask you some questions about some other matters, then work our way back into your statement.

If this legislation passes, it is of concern to some of the committee members that we will be giving the right to vote to citizens overseas while that right will not be available to certain nonresident citizens within the confines of the United States.

Do you find any inconsistency there or do you recognize what I am suggesting?

Ms. LAWTON. I recognize what you are suggesting. The chairman alluded to possible discrimination in applying residency standards to Federal employees overseas and non-Federal employees. I think this presents a serious problem for the State and probably an equal protection problem. But if the standard is applied uniformly no matter where they live, whether in other States, Puerto Rico, Virgin Islands or overseas, then I think the State can do it, constitutionally.

Mr. BUTLER. If the Federal Government treats them unequally does it raise question under the equal protection clause?

Ms. LAWTON. It raises questions. What the rationale is will depend on whether it is valid or not.

Mr. BUTLER. You alluded to the inherent right of citizens to vote. I judge from your comment the only place you find anybody giving real lip service to that is Mr. Justice Black.

Ms. LAWTON. Yes.

Mr. BUTLER. Nowhere else in our case law is it mentioned.

Ms. LAWTON. Nowhere else in *Oregon*. I cannot say that concurring opinions since then might not have concurred with the Black opinion. But in cases in this area that I have read, 25 to 30 of them, I do not find that.

Mr. BUTLER. Certainly, precedents do not establish that right.

Ms. LAWTON. No, sir.

Mr. BUTLER. It has been suggested to me if this legislation is constitutional, that is, by Federal legislation, a person has a right to vote wherever the Federal Government says he has the right to vote, it would also be possible to write the legislation to say all the overseas voters would have the right to vote in the District of Columbia.

Ms. LAWTON. Yes. It is a sort of a Federal, rather than a State, right and the Federal Government could place it anywhere.

Mr. BUTLER. Referring to article I, section 2 of the Constitution, if I may, the House of Representatives shall be composed of Members chosen every second year by the people of the several States and by the electors of the several States. I am referring to the reference, the people of the several States. Would it not do violence to that provision to say by Federal legislation who shall be the people of the States?

Ms. LAWTON. It is my concern, sir, that it would.

Mr. DENT. Would you not interpret that as being descriptive of what is actually the fact in the matter? People of the several States because we are apportioned statewide. Each State is measured as to its population then divided into equal districts. If you do not do it by the several States how then would you have a State delegation representing that particular State?

Mr. BUTLER. No, Mr. Chairman, I cannot accept your view of it. I cannot.

My concern, sir, is that we in Washington will say the people of Louisiana should include a gentleman who happens to be living in

Guam or China at the moment. And I just question whether we can do that constitutionally.

Mr. DENT. Do we allow State and Federal employees living in Guam to vote?

Ms. LAWTON. We do it under our military system.

Mr. DENT. When I was in the Marines I was allowed to vote. If I went out there and repaired planes for those marines I would not be allowed to vote. We used to have an occupational tax in Pennsylvania and it was a detriment to the right to vote. The right to vote was made over several series of acts, poll tax, payroll tax and various other State restrictions put on Federal voting.

Mr. BUTLER. I was just trying to get the opinion of our counsel. I have high regard for both your military and legal career.

Mr. DENT. We did not fly very high in those years, single engine planes.

Mr. BUTLER. You can fly pretty high without getting off the ground sometimes.

While we are at it I am interested whether that particular objection might be less objectionable if we limited this to presidential elections. I would like your view generally, as to whether this would be less objectionable constitutionally, in your judgment, if it only included presidential elections?

Ms. LAWTON. I would have some of the same problems in either case. The question is not who is allowed to vote, but by whom? In the case of military and Federal employees the right to vote derives from the States. It is their determination. There is an old line of cases which says the election of presidential electors is a purely State election. I suspect if it ever came to a head-on collision, the court would reject that.

Mr. BUTLER. Is it not pretty much Oregon ignores that?

Ms. LAWTON. They do not overrule the cases, they just ignore them. There is a political science justification for limiting this nonresident vote to presidential elections in that these are, as the court has noted on occasion, national officers with no particular constituency they are supposed to represent. I think there is a different rationale for extending the overseas voting to presidential elections only and while the case law to date would not support that, this is a fast-shifting area and one which is very hard to predict. I think the narrower the legislation is worded in this first try, if you will, the better chance it would have to be sustained on some rationale. I do not know what.

Mr. BUTLER. All right. I thank you for that. Let me ask you one more question, if I may.

You allude to the constitutional basis for the title II of the Voting Rights Act, premised on the right of interstate travel. Now, is there any distinction between the right of interstate travel and the right to travel foreign?

Ms. LAWTON. Both are constitutional rights. In some of the foreign travel cases, there is a suggestion that it is a right subject to more restrictions than the right of interstate travel. Interstate travel may be a little stronger right and subject to less restrictions than overseas travel, but again, most of those cases have involved foreign policy problems and wartime restrictions so it is hard to say.

Mr. BUTLER. Do you think there is sufficient constitutional basis in the right to travel in foreign commerce to justify in part, at least, the extension of the franchise in the manner in which this legislation proposes?

Ms. LAWTON. Not insofar as the legislation goes to the nonresident who has no legal domicile in the State and will never return.

Mr. BUTLER. What you are saying is there just "ain't" no way to justify that under the legislation? This legislation does not try to do that for persons not intending to return.

Ms. LAWTON. 3211 as drafted, would cover those who intend to return but do not know what State they will be returning to. The Supreme Court says you cannot infringe the right to vote unless there is a compelling State interest.

In *Dunn* where they threw out jurisdictional residency, they reiterated that bona fide residency meets a compelling State interest test.

Mr. BUTLER. I think I am still with you.

Ms. LAWTON. It is very hard with these cases.

Mr. BUTLER. I think you have laid it out in a fashion that even we can understand, given time. I guess basically, all we have in *Dunn v. Blumstein* is a statement by the Court that in a State election you can make some bona fide residency limitations that probably you cannot make in a presidential election because of what is said in *Oregon v. Mitchell*.

Ms. LAWTON. No. *Dunn* comes after *Oregon*. It specifies that bona fide residency meets the compelling interest test. That is a rather consistent theme in court cases, for instance, in *Kramer v. School District*, 395 U.S. 621 (1969). Bona fide residency is always cited as an example of a requirement that is permissible.

Mr. BUTLER. But certainly, we have a conflicting issue in *Oregon v. Mitchell* because of the presidential issue.

Ms. LAWTON. Yes, sir. There were two elements to section 202 which were under review. At no time is that ever discussed at all. They just say section 202 is all right. There is no mention of this nonresident element in that one bill. That is a legislative precedent for what you have asked me before.

Mr. BUTLER. It is a legislative precedent which has been sustained regardless of what has been said about it before.

I did not advise you with reference to this at all in advance of your testimony. Can you give us some idea of the effect of this legislation on apportionment?

Ms. LAWTON. I suspect it will drive the census crazy.

Mr. BUTLER. Is there any other reason to vote for this bill?

Ms. LAWTON. It will be very difficult. You have presently in the law domicile and bona fide residency which are equated. Those are the States of your official ties regardless of where you reside. Then you have actual residence which may not have any legal effects of where you are domiciled. This would create a third condition, voting residence.

It will be very difficult in determining where population is to be assigned for census purposes on which reapportionment rests.

Mr. BUTLER. Whatever it is, it would be a good basis for litigation.

Ms. LAWTON. This whole area is a beautiful basis for litigation, sir. I think it would be a very beautiful area in things like reapportionment and determining population for other purposes. Whether you can count people in one area for the purpose of grant programs and whether "voting residence" is a different factor for reapportionment purposes are litigable issues.

Mr. BUTLER. Would you like to go back and think about the census thing and we can keep the record open on the census thing?

Mr. DENT. How much time do you need?

Ms. LAWTON. I think that is all I would like to say on that.

Mrs. BOGGS. I was wondering about this, too. I suppose your employees, Mr. Chairman, who are residents of Pennsylvania and vote there, even though they are domiciled in Pennsylvania and environs, I would assume they are counted in the census and pay taxes in Pennsylvania. Is this true of the Federal employees abroad?

Ms. LAWTON. Yes.

Mrs. BOGGS. And they are in apportionment and so on?

Ms. LAWTON. Yes.

Mrs. BOGGS. So that does make a difference in the kind of employees, Mr. Chairman.

Mr. DENT. We are assuming all these individuals had a legal domicile within the States and are registered some place. All we are saying is, as long as they are overseas and are not registered with some other States, they are legally domiciled. It is the same as a man overseas working for Sun Oil or somebody. He has a home in Venezuela, but he has a legal domicile back here. I see no question about it at all.

Mrs. BOGGS. But I do think it makes a difference in apportionment. We went through three different elections with three different redistrictings. We finally, in Louisiana, have it down to 0.09 in every district. If the persons overseas who are not with the Federal Government or not with the military, are not counted in the census, it would seem to me that could upset the balance of the redistricting in our State.

Mr. DENT. I have never seen a census taken where we did not realine the districts in Congress. You will find by the time the next census comes around you will have to re-do the whole State of Louisiana.

Mr. BUTLER. What will the State of Louisiana do in dividing up the State of Louisiana?

Mr. MOORE. Mr. Chairman, I think this is where you may be making a fundamental misconception. These people pay taxes. If you are not a bona fide resident of this country any more, you can get away income tax free.

Mr. DENT. Congress passed that law. We can take it and repeal it if we want to.

Mr. MOORE. The easiest way to get around the whole problem is to simply say that citizens overseas must be a valid domiciliary of that State; that is, they must consider themselves citizens of Baton Rouge, Louisiana, for example, and they will be liable for State and Federal taxes.

Mr. DENT. I look on that with great favor in writing this legislation. They have to assert responsibility for taxes.

Mr. MOORE. What our witness has been telling us is that we are establishing a new domiciliary, if we make it so there is no distinction

any longer. If you want to vote, you must be a valid domiciliary of this State or town then—

Mr. DENT. What do you call a legal domicile?

Mr. MOORE. Merely the intention of, this is your home and your place.

Mr. DENT. A hat or a cap hanging in a closet.

Mr. MOORE. I do not think so.

Mr. DENT. You have to have some piece of clothing in somebody's house some place. If I could only find all the old hats I have lost.

[Laughter.]

Mr. BURTON. If you are in the Army but live in San Francisco, a career soldier, the place where you live is not there any more, and you have been overseas and you do not have a home left in San Francisco, but that is where you used to be, are you eligible to vote?

Ms. LAWTON. My interpretation of the California law would say, yes. They are quite liberal about military and Federal employees and they are not liberal as to corporate employees.

Mr. BURTON. In California what we would be doing is saying private enterprise employees are treated the same as Federal employees.

Ms. LAWTON. If you passed a law saying only that, I would have no problem, but this goes a little further.

Mr. BURTON. One question I have on the census. When they take a census, the seaports get credit for all the people out at sea. I got credit for every boat out of that harbor. I think these people are considered for census purposes that are not really resident of that district but because I had a seaport I was given credit. Census may not work that way as far as these people are concerned. They are, in fact, possibly counted somewhere. I know I could never figure out how I had so few actual people under the one man, one vote. It turned out they were all out to sea. It was a very weird thing.

Mr. DENT. Will the gentleman yield for an observation?

Let us make it closer to home. We have thousands of American citizens working on the Alaskan slope. They can vote. The minute they move it down to Canada what can they do? Are they then working in a foreign country? Will they have to come home to register in order to vote in the next election?

Mr. MATHIS. They were already registered when they left.

Mr. DENT. We clean our files every 2 years in Pennsylvania if people do not vote.

Mr. MATHIS. That is why you have so few people voting.

Mr. DENT. We got rid of the phantom vote a long time ago.

Mr. BUTLER. I have not checked this out, but a member of my staff says the Census Bureau tells us that the census of citizens residing overseas, the civilian and military, indicates their State of residence. This is used to apportion the congressional representation between the States, but no effort is made to assign them to Districts within the State. We have two different sets of figures. It seems to me it will alter the whole concept of one man, one vote, and I think we ought to think seriously about it.

Mr. DENT. I am sure we will and if it is a problem we will iron it out.

Mr. Mathis.

Mr. MATHIS. In your opinion, could someone living overseas be a candidate for Congress or for the Senate or for any Federal office at the present time without being a resident?

Ms. LAWTON. No, sir; but there are many people overseas who meet residency requirements to qualify for election. The requirement is, if they are qualified voters, regardless of where they live, they can be candidates.

Mr. MATHIS. We are creating a new class of electors.

Ms. LAWTON. Yes. A new thing called voting residence, unrelated to domicile and residence.

Mr. MATHIS. I am not a lawyer and—

Mr. BURTON. It shows.

Mr. MATHIS [continuing]. And I have no seaport in my district but do I understand, we are allowing citizens aboard to enjoy postcard registration which is a privilege not allowed to citizens within the various States?

Ms. LAWTON. No, sir. As to the form of registration, Congress has the right to set it. I think Congress could say you have got to do it with postcards with overseas residents, be they military or Federal or private enterprise employees. I think you could come up with a reasonable basis for distinguishing. It is a lot more difficult and expensive for them to get back to the States.

Mr. MATHIS. Suppose I had a constituent working on the North Slope in Alaska and one in Yucatan?

Ms. LAWTON. Congress can draw specific lines even though the rationale might not be consistent.

Mr. DENT. You have given me a good idea. If I have an opponent in Pompeii next year I will have a hell of a good time.

Mr. MATHIS. We can have people overseas running for office just to get their \$20,000 or whatever.

Mr. DENT. That bill has not been introduced in this committee nor by this Chairman. Not too long in the future you will have somebody else introducing it.

Mr. MATHIS. Mr. Kennedy.

Mr. DENT. Mr. Moore.

Mr. MOORE. I have finished.

Mr. DENT. Mrs. Boggs.

Mrs. BOGGS. I am finished.

Mr. DENT. Mr. Burton.

Mr. BURTON. No questions.

Mr. DENT. Thank you. You have been a very fine witness. The committee will stand adjourned until further call of the Chair.

[The following supplemental material was subsequently filed for the record:]

BIPARTISAN COMMITTEE ON ABSENTEE VOTING, INC.,
Washington, D.C., June 23, 1975.

HON. JOHN H. DENT,
Chairman, Subcommittee on Elections of the House Administration Committee,
U.S. House of Representatives, Washington, D.C.

DEAR MR. DENT: As requested by the Subcommittee, we are pleased to submit this statement of additional views in support of the Overseas Citizens Voting Rights Act of 1975 pending before your Subcommittee, H.R. 3211, which would assure the right of otherwise qualified American citizens residing overseas to vote in presidential and congressional elections in their state of last domicile.

At the outset, we want to express our gratitude to you and your Subcommittee for conducting these hearings on absentee registration and voting by overseas residents. We particularly appreciate your keen understanding of the need to assure private U.S. citizens the same rights to register and vote absentee in federal elections in their state of last domicile as are now enjoyed by U.S. government employees and their dependents.

As you know, the Senate has recently passed the Overseas Citizens Voting Rights Act of 1975 (S. 95) in a form identical to H.R. 3211. With the pendency of the 1976 primary elections, the Bipartisan Committee on Absentee Voting urges the House Administration Committee and the full House to act promptly in approving this important legislation.

I. CONSTITUTIONALITY

We share your view, expressed in the hearings on H.R. 3211, that the U.S. Supreme Court has the primary responsibility for determining the constitutionality of this legislation.

We submit there is little doubt H.R. 3211 would be upheld if subjected to constitutional challenge in the Supreme Court.

A. Constitutional findings

The constitutional basis for the bill is outlined in the findings and declarations of purpose in section 2. The enumeration of these findings is patterned closely on those in section 202(a) of the Voting Rights Act Amendments of 1970 (the "1970 Amendments"), which was upheld by the Supreme Court in an 8-1 decision in *Oregon v. Mitchell*, 400 U.S. 112 (1970).

The broad sweep of the findings in H.R. 3211 is not meant to suggest that Congress considers each one of the findings to have the same constitutional strength as every other. In accordance with long-established custom, the enumeration is designed to give the Justices on the Supreme Court several constitutional provisions on which to peg their opinion.

The Bipartisan Committee considers the key constitutional finding in H.R. 3211 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. We think Congress is also justified in retaining the other findings in the bill which indicate 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).

B. *Oregon v. Mitchell*

The Supreme Court, in approving section 202 of the 1970 Amendments in *Oregon v. Mitchell*, *supra*, upheld the provision (hereinafter the "change of residence provision") 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.

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

¹The 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.).

For example, Justice Stewart (speaking for himself and Justices Burger and Blackmun) devoted several pages of his opinion to the issue—

“whether, despite the intentional withholding from the Federal Government of a general authority to establish qualifications to vote in either congressional or presidential elections, there exists congressional power to do so when Congress acts with the objective of protecting a citizen's privilege to move his residence from one State to another.” 400 U.S. at 291-92.

In that opinion, Justice Stewart specifically stated that “the power to facilitate the citizen's exercise of his constitutional privilege to change residence is one that cannot be left for exercise by the individual States without seriously diminishing the level of protection available.” 400 U.S. at 292. Further, the opinion explicitly stated what he believed to be the permissible scope of congressional power to make an exception to State voter qualifications:

“The power that Congress has exercised in enacting [the change of residence provision] is not a general power to prescribe qualifications for voters in either federal or state elections. It is confined to federal action against a particular problem clearly within the purview of congressional authority.” *Ibid.*

Justices Brennan, White and Marshall, in their opinion, did not discuss Congress' power to regulate qualifications for voters in the same detail as Justice Stewart. They did recognize, however, that the change of residence provision in the 1970 Amendments operated to modify such State qualifications to some extent, and they concluded, as had Justice Stewart, that such a modification was justified to protect the right of free interstate migration. See 400 U.S. at 237-38.

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.

C. Retention of Bona Fide Voting Residence

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. We think there is little question that Congress may constitutionally require the States 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. 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 elections 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.

D. Proscription of Foreign Voting Domicile

As a matter of law, Congress has left the U.S. citizen going overseas little choice but to retain a voting domicile in his last State of domicile. The Immigration and Nationality Act of 1952 lists voting in a foreign election as one of the acts for which a U.S. citizen “shall lose his nationality.” 8 U.S.C. § 1481(a) (5).

Although the Supreme Court has questioned the constitutionality of requiring loss of citizenship for voting in foreign elections, the Court's decision was by only a 5-4 majority. *Afroyim v. Rusk*, 387 U.S. 253 (1967). The continuing vitality of this decision was called into question by the more recent 5-4 decision in *Rogers v. Bellei*, 401 U.S. 815 (1971).

The Library of Congress has stated, therefore, that the “constitutionality of congressionally-prescribed expatriation must be taken as unsettled.” The Constitution of the United States, Analysis and Interpretation 294 (1973) (referred to hereinafter as the “Constitution Annotated”).

Since a U.S. citizen cannot establish a foreign voting domicile without risking loss of his American citizenship, Congress would be fully justified in assuring that he could retain a bona fide voting residence in his last State of domicile in this country.

E. Voting by Government Personnel

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. See also Part V below.

F. Political Community

We are aware of the principal 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.

We also note that the change of residence provision upheld in *Oregon v. Mitchell* dealt only with Presidential elections. Each of the majority opinions dealing with the change of residence provision suggested in dictum, however, that the provision probably would also have been upheld if it applied to congressional, as well as to Presidential, elections.²

II. TAX LIABILITY

A. Tax Provision in H.R. 3211

Section 8(b) of H.R. 3211 provides that the exercise of the right to register or vote in Federal elections by an overseas citizen, and the retention by him of a State as his voting domicile *solely* for this purpose, shall not affect the determination of his place of domicile for Federal, State or local tax purposes.

This 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 overseas citizens *solely* in the basis of the citizen's exercise of the right to register and vote absentee in Federal elections. The tax provision in the bill is modeled on an Internal Revenue Service Ruling interpreting the existing Federal income tax exclusion (described below) in section 911 of the Internal Revenue Code. See Rev. Rul. 71-101, 1971-1 C.B. 214.

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 one state to another, from disenfranchisement in any federal election, whether congressional or presidential.” 400 U.S. at 287 (emphasis added).

B. Constitutional Basis of Tax Provision

We believe there is ample constitutional basis for the tax provision in the 24th Amendment abolishing the poll tax as a qualification to vote in Federal elections. The 24th Amendment specifically eliminates the payment of "any poll tax or other tax as a precondition for voting in Federal elections":

"SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax."

"SECTION 2. The Congress shall have power to enforce this article by appropriate legislation."

The prohibition of "any poll tax or other tax" in this Amendment would appear on its face to apply to U.S. citizens overseas as well as those at home. The Amendment itself specifically gives Congress the power to enforce the voting tax prohibition by appropriate legislation.

One member of your Subcommittee has proposed that an overseas citizen be required to retain full domicile (*i.e.*, intent to return), rather than only voting domicile, in his last State of bona fide voting residence in order to vote in Federal elections in that State. Under this proposal, the overseas citizens would have to subject himself to State tax liability as a condition to vote in Federal elections.

We think that such a requirement would be unconstitutional. *First*, requirement of full State domicile solely for voting purposes, without a specific tax exemption provision, would amount to an unconstitutional poll tax in the same way as if such a tax were enforced directly on the act of voting itself. *Cf. Harman v. Forssenius*, 280 U.S. 528 (1965).

Second, such a requirement of full State domicile solely for voting purposes, without a specific tax exemption provision, might very well constitute a violation of the due process clauses of the 5th and 14th Amendments. "The taxing power of a state is restricted to her confines and may not be exercised in respect of subjects beyond them." *Guaranty Trust Co. v. Virginia*, 305 U.S. 19, 23 (1938).

The Constitution Annotated expresses well the jurisdiction on which State income tax on individuals may be based:

"Jurisdiction, in the case of residents, is founded upon the rights and privileges incident to domicile; that is, the protection afforded the recipient of income in his person, in his right to receive the income, and in his enjoyment of it when received, and, in the case of nonresidents, upon dominion over either the receiver of the income or the property or activity from which it is derived and upon the obligation to contribute to the support of a government which renders secure the collection of such income." Constitution Annotated 1393.

It would appear, from the foregoing, that compelling an overseas citizen to pay State and local taxes *solely* for the privilege of voting in a Federal election, without the citizen enjoying any other rights and privileges incident to domicile in the State, would be a violation of due process as well as of the poll tax prohibition. See also the discussion in Part II(D) (2) below.

C. Effect of Tax Provision

1. Federal Taxation

The tax provision in H.R. 3211 should have no effect on the Federal income or inheritance tax liability of U.S. citizens overseas, except to codify existing IRS rulings and eliminate any remaining doubt in this area.

(a) *Income taxation*.—All U.S. citizens, whether residing at home or overseas, are subject to Federal income taxation on all of their income, subject to certain exemptions. For the citizen residing overseas, the Internal Revenue Code currently allows an exclusion of \$20,000 to \$25,000 for income earned in work overseas, as indicated above, the Internal Revenue Service has already issued a ruling stating that the overseas citizen would not lose this exclusion solely by voting in elections back home. The tax provision in H.R. 3211 only codifies this existing IRS policy. It does not create any new Federal income tax exemptions for overseas citizens.

The overseas citizen does not enjoy any exemption for investment income by reason of residence outside the United States. Investment income of overseas citizens is subject to Federal income taxation in the same manner as investment income of citizens at home. This includes dividends, interest, rents, royalties—all income other than income earned in work overseas.

(b) *Estate taxation*.—The overseas citizen is also fully liable for Federal estate tax to the same extent as citizens residing in the United States. The Internal Revenue Code provides no exemption from Federal estate tax for U.S. citizens by virtue of their residence overseas. The tax provision in H.R. 3211, therefore, would have no practical effect whatever on Federal estate tax liability of overseas citizens.

2. State and Local Taxation

The effect of the tax provision in H.R. 3211 on State and local income or inheritance tax liability of U.S. citizens overseas would differ from State to State.

(a) *Income taxation*.—In a 1971 study, the Library of Congress reported that—

11 states had no broad-based income tax;
12 states did not tax individuals with abodes outside the state on income earned overseas;

16 states exempted the first \$20,000–\$25,000 earned overseas; and only 12 states appeared to tax income earned overseas.

The practical effects of H.R. 3211 on State income taxation, as of the date of that study, would therefore have been as follows:

- (i) No effect in 11 states having no broad-based income tax;
- (ii) No effect in 12 states which did not tax individuals with abodes outside the state or income earned abroad, except possibly in those states that tax investment income of overseas citizens;
- (iii) No effect in 16 states having \$20,000–\$25,000 exclusion for income earned abroad, except on citizens with earned income above those levels and with investment income; and
- (iv) Limitation of income tax liability in the 12 states that tax income earned abroad to individuals who are subject to the state's taxing jurisdiction for reasons other than voting in Federal elections.

In sum, the tax provision of H.R. 3211 would have little or no practical effect on the income tax liability of overseas citizens in 38 states. With respect to the remaining 12 states, the tax provision would have an effect only on those citizens whose *sole* contact with the state is their exercise of the right to register and vote in Federal elections.

(b) *Inheritance taxation*.—State inheritance tax is generally imposed on overseas citizens on the basis of state domicile. The tax provision in H.R. 3211 would assure that state governments would not be able to assert inheritance tax jurisdiction on the overseas citizen *solely* on the basis of his exercise of the right to register and vote in Federal elections, although the state would not be precluded from asserting such inheritance tax jurisdiction on some other basis.

The tax provision in H.R. 3211 might, therefore, have some practical effect on the state inheritance tax liability of those overseas citizens whose *sole* remaining contact with their state of last domicile is the retention of a voting domicile for the purpose of voting in Federal elections.

D. Reasons for Tax Provision

1. Federal Taxes

As described above, the tax provision in H.R. 3211 codifies a current IRS ruling with respect to an existing Federal income tax exclusion. The tax provision has no effect whatever on an overseas citizen's Federal estate tax liability.

With respect to Federal taxation, therefore, the tax provision serves only to remove any remaining uncertainty as to an overseas citizen's income tax liability under present law, and would leave existing estate tax liability unchanged.

2. State and Local Taxes

There is ample justification for relieving the overseas citizens of the payment of state and local income and inheritance taxes *solely* for the privilege of voting in Federal elections.

First, the Poll Tax Amendment gives Congress a clear mandate to assure by appropriate legislation that states will allow "citizens of the United States" to vote in Federal elections without imposition of "any poll tax or other tax."

Second, as described above, the overseas citizen is already subject to Federal income taxation and estate taxation, even though he is currently given a limited exclusion from income taxation for foreign earned income. He is already subject to Federal taxation by virtue of being an American citizen, whether or not he votes in any election. It should be noted that even his limited exclusion from income taxation may well be phased out in the current round of tax reform legislation being considered by Congress.

Third, the overseas citizen in most instances is also subject to substantial foreign income tax and sales tax (or value-added tax) liability in the country of his residence. The foreign income taxation is generally creditable against any Federal income tax he must pay on such income, in order to avoid double taxation, but it is not ordinarily creditable against any state or local taxation. The foreign sales (or VAT) tax may run as high as 30 percent on some items, but it is not allowed either as a credit or as a deduction against Federal, state or local taxation in the United States.

By paying foreign income and sales (or VAT) taxes, the overseas citizen helps pay for the services actually used in his country of residence. He pays for police and fire services, schools, sewers, garbage collection, streets and highways, health care, social security, and any other government benefits provided by that country and used by him.

It plainly would be unreasonable for a state to impose an additional income tax burden on the overseas citizen *solely* for the purpose of voting in Federal elections, even though the citizen makes no use of any other service provided by the state, such as police, fire, education, sanitary, transportation and social services for which he is already paying taxes in his country of foreign residence.

Fourth, Federal and State governments long ago abandoned the notion of "no representation without taxation" in setting qualifications for voters in Federal elections in this country. Numerous classes of citizens residing at home pay no Federal or State income tax whatever even though they regularly vote in Federal elections in their state of residence. These groups include, among others, retired persons living solely on social security; students attending colleges and universities; disabled Americans supported entirely by veterans' or other compensation; and individuals living entirely on welfare.

Indeed, the current inability of hundreds of thousands of overseas citizens to vote in Federal elections produces invidious "taxation without representation," since these citizens do remain generally liable for U.S. income and estate taxation. It would seem highly appropriate for the Bicentennial Election to be the first election in which these taxpayers are finally assured the right to vote back home for President and Congress.

III. PROTECTION AGAINST FRAUD

The Bipartisan Committee submits that the potential of voting fraud in the implementation of H.R. 3211 is remote and speculative.

First, the Federal Voting Assistance Program 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.

Second, H.R. 3211 itself imposes a \$10,000 fine and five years' imprisonment for willfully giving false information for purposes of absentee registration and voting under the mechanisms set forth in the legislation.

Third, all States also have criminal statutes prohibiting voting fraud in elections held in the State. The State would be free to require that an overseas citizen seeking to vote under this bill designate a local agent to accept service of process in any criminal action brought against him for voting fraud, with an appropriate provision making it reasonably probable that a notice of such service will be communicated to the person charged. See Constitution Annotated 1419.

It might also be possible for a State to require the overseas voter to submit an advance waiver of extradition to the State for trial on a charge of voting fraud as a condition for registering and voting under H.R. 3211. Some foreign countries, however, do not respect a waiver of extradition, even if executed subsequent to the issuance of an extradition request by the United States. See 6 Whiteman, Digest of International Law 1030-1033 (1968).

As a practical matter, moreover, most extradition laws and treaties specifically exempt political (*e.g.*, voting) offenses. See Whiteman, *supra*, at 799. It might be possible to nullify this exemption by an advance waiver of extradition, but we are not aware of any situation in which this procedure has been attempted.

The use of an advance waiver of extradition probably would be novel in U.S. and international law. Indeed there appears to be no specific provision whatever in U.S. law regarding waiver of extradition. See Whiteman, *supra*, at 1031-1032. Each waiver situation appears to be handled on a case-by-case, country-by-country basis. *Ibid.*

Fourth, the States would still be free under H.R. 3211 to establish further safeguards against fraud. Many of the States, for example, already require notariza-

tion 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. consul 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.

Fifth, 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 of Identity issued under the authority of the Secretary of State.

Sixth, one can be confident that a U.S. citizen who has any continuing contacts with the United States, even without a stated intent to return to this country, is not casually going to risk an indictment for voting fraud. If a citizen were to be under indictment for voting fraud, and did not surrender himself for trial, he might well be obliged to remain a lifelong international fugitive, forever inhibited from entering the United States. There are, of course, constitutional problems in denying a U.S. citizen residing abroad his passport, social security or certain other benefits prior to a conviction. It is evident, however, that a citizen indicted on voting fraud charges could be subject to significant administrative sanctions by U.S. consular officials and various other federal agencies even before conviction.

Based on 20 years' prior experience, we think the various safeguards in the absentee registration and voting mechanism of H.R. 3211 make it highly unlikely that any overseas citizen would seek to use the procedures of this bill to commit voting fraud.

IV. CONGRESSIONAL ELECTIONS

A. General

The Bipartisan Committee's principal statement before your Subcommittee emphasized our view 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 other testimony in the hearings on the bill 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 citizen 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 overseas 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.

B. Comparison with 1970 Amendments

One member of your Subcommittee raised the question whether H.R. 3211 would discriminate in favor of overseas Americans, since the change of residence provision in the 1970 Amendments applicable to Americans at home applies only to Presidential elections and not to Congressional elections.

We believe that any such advantage for overseas citizens, if indeed it does exist, would pale beside the gross existing discrimination against Americans overseas.

First, under *Dunn v. Blumstein*, 405 U.S. 330 (1972), every voting-age American citizen at home can register and vote in Congressional, state and local elections, as well as Federal elections, in his new state of residence if he registers 30 days or more before the election. Private Americans overseas, in comparison, can register and vote absentee in Federal elections in only about half the states, and then only if they can prove an intent to return to the state.

Second, the number of voting-age Americans moving to a new state too late to register for any given election under the 30-day rule of *Dunn v. Blumstein*

amounts, at the maximum, to tens of thousands of individuals, and they will all be able to register to vote in their new state for all future Congressional elections. By contrast, hundreds of thousands of private Americans overseas are prevented from voting in Congressional elections indefinitely until they return to this country, and of course, they cannot vote in foreign elections without risking their American citizenship.

If the Congress perceives discrimination against Americans at home in H.R. 3211, the correct remedy is to add Congressional elections to the durational residency and change of residence provisions of the 1970 Amendments. Perpetuation of the existing grievous discrimination against Americans overseas definitely is the *wrong* remedy.

V. EQUALITY WITH GOVERNMENT EMPLOYEES

Virtually all States have statutes expressly allowing military personnel and 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 Bipartisan 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.

The extent of this discrimination against private U.S. citizens is further described in a recent Library of Congress study on absentee registration and voting,⁹ which is attached as Appendix A hereto.

The Library of Congress study shows that 49 States permit Federal government employees serving overseas to register and vote absentee or do not require registration, but only 28 States generally allow private U.S. citizens overseas to register and vote absentee.

As indicated above, however, even the 28 States which generally do allow private U.S. citizens overseas to register and vote absentee do not grant the private citizen the same legal presumption allowed government employees that the voter does intend to retain his prior State of voting domicile.

The result is that American businessmen, missionaries, teachers, students, retired couples and other citizens overseas often cannot vote in Federal elections even in these 28 States, while government employees living in the same foreign country have no difficulty in exercising the Federal franchise.

It is this serious discrimination against the private U.S. citizen that H.R. 3211 is designed in part to redress.

VI. DISTRIBUTION AMONG THE STATES

A recent survey made for the Federal Voting Assistance Program of the Defense Department indicates that the distribution among the states of the last voting domicile of U.S. citizens residing overseas should be generally comparable to the distribution among the states of U.S. voters as a whole in the 1972 Presidential election, with the exception of California and New York. One could have anticipated that these two states would have a somewhat higher proportion of overseas citizens claiming the state as their last voting domicile, since these are the two leading commercial states from which American businessmen go overseas.

It would appear, therefore, that adoption of H.R. 3211 would not result in a significantly disproportionate increase in the number of voters in federal elections in any one state, although California and New York might gain relatively more voters than other states. The likelihood is that the overseas citizens enfranchised to vote in federal elections by H.R. 3211 would be distributed among the states in generally the same proportion as are all voters in federal elections.

⁹Yadlovsky, Absentee Registration and Voting: Chart and Tables Showing Major Provisions of the Laws of the Fifty States and the District of Columbia (Burdette rev. Dec. 18, 1973).

The following table, based upon the Federal Voting Assistance Program survey, illustrates this conclusion by showing—

(a) the estimated percentage of overseas citizens that could claim each state as their last voting domicile under H.R. 3211; and

(b) each state's percentage of the total national popular vote in the 1972 Presidential election:

State	Estimated percentage of overseas citizens that could claim State as last voting domicile under H.R. 3211	State's percentage of total national popular vote in 1972 Presidential election
	(A)	(B)
Alabama	0.3	1.29
Alaska	.2	.12
Arizona	.6	.84
Arkansas	.1	.83
California	15.2	10.76
Colorado	.9	1.23
Connecticut	2.5	1.78
Delaware	.5	.30
District of Columbia	.4	.21
Florida	3.3	3.32
Georgia	.3	1.51
Hawaii	.8	.35
Idaho	.2	.40
Illinois	5.4	6.88
Indiana	1.1	2.73
Iowa	.6	1.58
Kansas	.4	1.18
Kentucky	.6	1.37
Louisiana	.4	1.35
Maine	.6	.54
Maryland	1.3	1.74
Massachusetts	4.9	3.16
Michigan	4.0	4.49
Minnesota	2.2	2.24
Mississippi	.1	.83
Missouri	1.9	2.38
Montana	.2	.41
Nebraska	.4	.74
Nevada	.1	.23
New Hampshire	.4	.43
New Jersey	4.5	3.86
New Mexico	.9	.50
New York	19.4	9.21
North Carolina	.7	1.95
North Dakota	.1	.36
Ohio	4.0	5.27
Oklahoma	.5	1.32
Oregon	1.1	1.19
Pennsylvania	4.8	5.91
Rhode Island	.7	.53
South Carolina	.3	.87
South Dakota	.2	.40
Tennessee	.7	1.55
Texas	5.1	4.47
Utah	1.0	.62
Vermont	.4	.24
Virginia	1.1	1.87
Washington	3.1	1.83
West Virginia	.1	.98
Wisconsin	1.5	2.38
Wyoming	.1	.19
Total	100.0	100.00

(A)—Voting statistics, nonfederally employed citizens residing outside the United States, survey for the Federal voting assistance program of the Department of Defense, cited in hearings on voting by U.S. citizens residing abroad, Subcommittee on Privileges and Elections, U.S. Senate Rules and Administration Committee, 93d Cong., 1st sess. 153-157 (1973).

(B)—See Election Statistics, the World Almanac 1975 at 734.

VII. EFFECT ON EACH STATE

The Federal Voting Assistance Program survey also indicates that H.R. 3211, if adopted, would generally produce only a nominal increase in the number of voters in any one state who might be expected to vote in Federal elections.

The estimated effect of H.R. 3211 would range from a 0.06-percent increase of voters in Federal elections in the State of West Virginia up to a 1.26-percent increase of voters in such elections in the State of Hawaii. The estimated increase

would exceed 1.0 percent of voters in Federal elections in only two states—Hawaii and New York. The estimated increase would be under 0.5 percent in thirty states.

The following table, based on the Federal Voting Assistance Program survey, illustrates this conclusion by showing—

- (a) the estimated maximum number of overseas citizens that might be expected to vote in each state under H.R. 3211;
 (b) each state's total popular vote in the 1972 Presidential election; and
 (c) the estimated maximum percentage effect that voting by overseas citizens under H.R. 3211 would have had on each state's total popular vote in the 1972 Presidential election.

State	Estimated maximum number of overseas citizens that might be expected to vote in each State under H.R. 3211 (A)	State's total popular vote in 1972 Presidential election (B)	Estimated maximum percentage effect of voting by overseas citizens under H.R. 3211 on State's total popular vote in 1972 Presidential election (C)
Alabama.....	1,300	1,006,083	0.13
Alaska.....	850	95,219	.89
Arizona.....	2,550	653,505	.39
Arkansas.....	450	647,666	.07
California.....	65,000	8,367,859	.78
Colorado.....	3,850	953,878	.40
Connecticut.....	10,700	1,384,277	.77
Delaware.....	2,150	235,516	.91
District of Columbia.....	1,700	163,421	1.04
Florida.....	14,100	2,583,283	.55
Georgia.....	1,300	1,174,722	.11
Hawaii.....	3,400	270,274	1.26
Idaho.....	850	310,379	.27
Illinois.....	23,100	4,723,236	.49
Indiana.....	4,700	2,125,529	.22
Iowa.....	2,550	1,225,944	.21
Kansas.....	1,700	916,095	.19
Kentucky.....	1,700	1,067,499	.24
Louisiana.....	2,550	1,051,491	.16
Maine.....	1,700	417,271	.61
Maryland.....	2,550	1,353,812	.41
Massachusetts.....	5,550	2,458,756	.85
Michigan.....	20,950	3,489,727	.49
Minnesota.....	17,100	1,741,652	.54
Mississippi.....	9,400	645,963	.07
Missouri.....	4,150	1,852,589	.44
Montana.....	8,100	317,603	.27
Nebraska.....	850	577,225	.29
Nevada.....	1,700	181,766	.25
New Hampshire.....	450	334,055	.51
New Jersey.....	1,700	2,997,229	.64
New Mexico.....	19,250	385,931	1.00
New York.....	3,850	7,161,830	1.16
North Carolina.....	82,950	1,518,612	.20
North Dakota.....	3,000	280,514	.16
Ohio.....	450	4,094,787	.42
Oklahoma.....	17,100	1,029,900	.21
Oregon.....	2,150	927,946	.51
Pennsylvania.....	4,700	4,592,105	.45
Rhode Island.....	20,500	411,000	.73
South Carolina.....	3,000	673,960	.19
South Dakota.....	1,300	307,415	.28
Tennessee.....	850	1,201,182	.25
Texas.....	3,000	3,471,281	.63
Utah.....	21,800	478,476	.90
Vermont.....	4,300	186,947	.91
Virginia.....	1,700	1,457,019	.32
Washington.....	4,700	1,470,847	.90
West Virginia.....	13,250	762,399	.06
Wisconsin.....	450	1,852,890	.35
Wyoming.....	6,400	145,570	.31
Total.....	428,450	77,734,195	

NOTES

(A) Computed from voting statistics, nonfederally employed citizens residing outside the United States, supra, based on approximately same percentage (57 percent) of 18-yr-or-older overseas citizens voting as of all 18-yr-or-older citizens voting in 1972 Presidential election (57 percent times 751,500 equals approximately 428,500).

(B) See election statistics, "The World Almanac," supra.

(C) (A) divided by (B).

Please do not hesitate to let us know if you have any further questions regarding the Bipartisan Committee's position on H.R. 3211.

Sincerely yours,

J. EUGENE MARANS,
 Counsel for the Bipartisan Committee
 on Absentee Voting.

Attachment.

APPENDIX A

ABSENTEE REGISTRATION AND VOTINGS CHART AND TABLES SHOWING MAJOR PROVISIONS OF THE LAWS OF THE FIFTY STATES AND THE DISTRICT OF COLUMBIA

INTRODUCTORY NOTE

The chart which follows is designed to provide quick reference for determining whether persons may register or vote by absentee procedures in particular jurisdictions. The tables provide statistical information regarding the number of jurisdictions which permit particular classes of persons to register or vote by absentee procedures. Neither the chart nor the tables specifically cover the actual application and voting provisions of any jurisdiction's law.

CONTENTS

- Chart (with references to code sections).
 Table 1.—Absentee Registration (civilian).
 Table 2.—Absentee Registration (military).
 Table 3.—Absentee Voting—Primaries (civilian).
 Table 4.—Absentee Voting—Primaries (military).
 Table 5.—Absentee Voting—General Elections (civilian).
 Table 6.—Absentee Voting—General Elections (military).

State	Civilians			Military, dependents, Federal employees		
	Register absentee	Vote absentee		Register absentee	Vote absentee	
		Primaries	General election		Primaries	General election
Alabama: 1958 Recomp. Code 1940, Title 17, and 1971 Supp.	No (§ 28)	Only those persons listed in next column (Supp. § 64(16)).	Only those confined to home or hospital because of physical disability (Supp. § 64(24)(a)); disabled veterans in veteran facilities (Supp. § 64(16)(a)); seamen, sailors, deep-sea fisherman (Supp. § 64(24)(g)); persons away on business (Supp. § 64(16)(b)).	No (Supp. § 27(1))	Yes (Supp. § 64(16)(a))	Yes (Supp. §§ 64(16)(a))
Alaska: Michie Stats. and 1973 Supp.	Yes (§ 15.07.050)	Yes (§ 15.20.010)	Yes (§ 15.20.010)	Yes (§ 15.70.050)	Yes (§ 15.20.010)	Yes (§ 15.20.010)
Arizona: Rev. Stats. Ann.; 1972-73 Supp.; and 1973 Sess. Laws Examined.	Yes (Supp. § 16-108)	Yes (Supp. §§ 16-1101; 16-1101.01).	Yes (Supp. § 16-1101)	Yes (Supp. § 16-108)	Yes (Supp. §§ 16-1101; 16-1101.01).	Yes (Supp. §§ 16-1101; 16-1101.01).
Arkansas: Stats. Ann. 1947, 1956 Rep. and 1971 Supp.	Only those unable because of illness to appear in person (Supp. Const. Amend. No. 51, § 9(e)).	Yes (Supp. § 3-901 and § 3-903).	Yes (Supp. § 3-901 and § 3-903).	Registration not required (Supp. Const. Amend. No. 51, § 9(f)).	Yes (Supp. § 3-901 and § 3-903).	Yes (Supp. § 3-901 and § 3-903).
California: West Election Code; 1973 Supp. and 1973 Sess. Laws Examined.	Yes (§ 213; Supp. 213(1))	Yes (§ 14630)	Yes (§ 14620) (Supp. §§ 14662, 14800) (1973 Sess. Laws, §§ 22032, 14629.5).	Yes. Application to register may be made at same time as application for absentee ballot (§ 213).	Yes (§ 14630)	Yes (Supp. § 14662).
Colorado: Rev. Stat., 1963; 1969 Handbook; and 1970, 1971 Sess. Laws Examined.	Yes. Elector known to county clerk may register members of his family (§ 49-4-2) or elector may use affidavit (1970 Sess. Laws § 49-4-13) or Federal postcard application (1970 Sess. Laws, § 49-4-14).	Yes (§ 49-14-1)	Yes (§ 49-14-1)	Yes. Application to register may be made at same time as application for absentee ballot. (1970 Sess. Laws, § 49-4-14).	Yes (§ 49-14-1, 49-14-2)	Yes (§ 49-14-1, 49-14-2).
Connecticut: Gen. Stats. Ann.; 1973 Supp.; and 1973 Sess. Laws Examined.	No (Supp. §§ 9-16, to 9-20), unless physically disabled (Supp. § 9-31a).	Yes (1973 Sess. Laws, § 9-133a).	Yes (Supp. § 9-135)	Yes (Supp. § 9-26)	Yes (1973 Sess. Laws, § 9-133a).	Yes (§ 9-134).
Delaware: Code Ann., Title 15; 1970 Supp.; and 1972 Noncumulative Supp.	No, unless out of country. (Noncum. Supp. § 1901).	No direct primary. (Noncum. Supp. § 55-01).	Yes (Noncum. §§ 5501, 5503).	Supp. Yes. Application to register made at same time as application for absentee ballot. (Supp. §§ 1901-1909).	No direct primary. (Noncum. Supp. § 5501).	Yes (Noncum. Supp. §§ 5501, 5503).
District of Columbia: Code 1973 ed.	No, except disabled. (§§ 1-1105 1-1107).	Yes. (§ 1-1105)	Yes (§ 1-1109(b))	Yes. May register simultaneously for both Primary and General election. (Armed Forces Voting Information 1964-D.O.D. Gen. 6p. 9).	Yes (§ 1-1105)	Yes (§ 1-1109(b)).
Florida: Stats. Ann.; 1973 Supp.; 1973 Sess. Laws Examined.	Yes (Supp. §§ 97.041, 97-063).	Yes (Supp. § 101.62)	Yes (Supp. § 101.62)	Yes. Application to register may be made at same time as application for absentee ballot. (Supp. §§ 97.063, 97.0631, 97-064).	Yes (Supp. § 101.691)	Yes (Supp. § 101.691).
Georgia: Code Ann. 1970 Revision and 1970-1973 Sess. Laws Examined.	No, except Federal employees outside State can register by mail. A relation may apply for registration card (§ 34-619).	Yes (§ 34-1401)	Yes (§ 34-1401)	Yes. A relative may apply for a military registration card (§ 34-169).	Yes (§ 34-1401)	Yes. (§ 34-1401).
Hawaii: Rev. Stats. 1968 ed. and 1972 Supp.	Yes (Supp. § 11-16)	Yes (Supp. §§ 15-1, 15-12)	Yes (Supp. §§ 15-1, 15-12)	Yes (Supp. § 11-16)	Yes (Supp. § 15-1)	Yes (Supp. § 15-1).
Idaho: Code; 1971 Supp.; and 1973 Sess. Laws Examined.	Yes (Supp. § 34-410)	Yes (Supp. § 34-1001 and 1973 Sess. Laws, §§ 1002, 1002A).	Yes (Supp. § 34-1001 and 1973 Sess. Laws, §§ 1002, 1002A).	Yes (Supp. § 34-410)	Yes (Supp. § 1001 and 1973 Sess. Laws, § 1002).	Yes (Supp. § 1001 and 1973 Sess. Laws, § 1002).
Illinois: Smith-Hurd Ann. Stats. 1965 ed. 1973-74 Supp.; 1973 Sess. Laws examined.	No, except in Presidential elections by out-of-country residents (Supp. § 21A-1).	Yes (Supp. § 19-1 and 1973 Sess. Laws §§ 19-2, 19-12.1).	Yes (Supp. § 19-1 and 1973 Sess. Laws §§ 19-2, 19-12.1).	Not required (§ 20-1)	Yes (§ 20-2 and 1973 Sess. Laws, § 20-3).	Yes (§ 20-2 and 1973 Sess. Laws, § 20-3).
Indiana: Burns Stats. Ann. 1972 ed., and 1973 Sess. Laws Examined.	Yes (§ 3-1-7-12)	Yes (§ 3-1-22-1)	Yes (§ 3-1-22-1)	Yes (§ 3-1-7-12) and at same time as application for absentee ballot (1973 Sess. Laws, § 3-1-22-3).	Yes (§ 3-1-22-1)	Yes (§ 3-1-22-1).
Iowa: Code Ann. 1973 ed. and 1973 Sess. Laws Examined.	Yes (§§ 48.12, 53.28)	Yes (1973 Sess. Laws, § 53.1).	Yes (1973 Sess. Laws, § 53.1).	Yes, execution of affidavit on absentee ballot constitutes registration (§ 53.38).	Yes (1973 Sess. Laws, § 53.39).	Yes (1973 Sess. Laws, § 53.39).
Kansas: Stats. Ann. 1964 ed.; and 1972-73 Sess. Laws Examined.	Yes (Supp. § 25-2309)	Yes (1972 Sess. Laws, § 25-1119)	Yes (1972 Sess. Laws, § 25-1119)	Registration not required (1972 Sess. Laws, § 25-2309)	Yes (§ 25-1220 and 1972 Sess. Laws, § 25-1122).	Yes (§ 25-1220 and 1972 Sess. Laws, § 25-1122).
Kentucky: Baldwins K.R.S., 1972 Pamphlet Edition.	Yes (§ 128.040(4))	Yes (§§ 125.220, 125.230)	Yes (§§ 125.220, 125.230)	Yes (§ 128.040(4))	Yes (§ 125.230)	Yes (§ 125.230).
Louisiana: Rev. Stat. Title 18, and 1973 Supp.	No (§ 233)	Yes, in person (Supp. §§ 1071(B), 1074).	Yes, in person (Supp. §§ 1071(B), 1074).	Yes (Supp. § 233)	Yes (Supp. § 1071(C))	Yes (Supp. § 1071(C)).
Maine: Rev. Stats. Ann. 1964, Title 21; 1973-74 Supp.; and 1973 Sess. Laws Examined.	No, except special provisions for disabled (§ 72, but see Supp. § 102-A).	Yes (§§ 1-1, 1-2, 1251)	Yes (§§ 1-1, 1-2, 1251)	Yes (§ 1302)	Yes (§§ 1-1, 1-2, 1306, 1307)	Yes (§§ 1-1, 1-2, 1306, 1307).
Maryland: Ann. Code, Art. 33; and 1973 Supp.	Yes (Supp. § 3-7)	Yes (Supp. §§ 27-1; 27-2)	Yes (Supp. §§ 27-1; 27-2)	Yes. Registration is automatic when the executed oath on absentee ballot envelope has been accepted by the Board of Supervisors of Elections. (and, Supp. § 3-7).	Yes (Supp. §§ 27-1; 27-2)	Yes (Supp. §§ 27-1; 27-2).

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State	Civilians			Military, dependents, Federal employees		
	Register absentee	Vote absentee		Register absentee	Vote absentee	
		Primaries	General election		Primaries	General election
Massachusetts: Gen. L. Ann.; 1973 Supp.; and 1973 Sess. Laws Examined.	No, except for physically disabled persons. (Supp., ch. 51, §§ 42, 42A, 42B).	Yes (Supp., ch. 54, § 86)....	Yes (Supp., ch. 54, § 86)....	Yes. Registered automatically when application for absentee ballot received. (Supp., ch. 54, §103D).	No (Supp., ch. 54; §§ 103 B, 103 C).	Yes (Supp. ch. 54, §§ 86 103B, 103C).
Michigan: Comp. L. Ann.; 1973-74 Supp. and 1973 Sess. Laws Examined.	Yes (§ 168. 504).....	Yes (Supp. §§ 168. 758, 168. 758a).	Yes (Supp. §§168. 758, 168. 758a).	Yes (Supp. §§ 168. 759a)....	Yes (Supp. § 168. 758).....	Yes (Supp. § 168. 758).
Minnesota: Stats. Ann.; 1973 Supp.; and 1973 Sess. Laws Examined.	Yes (§ 201. 20(2)).....	Yes (1973 Sess. Law, § 207. 02).	Yes (1973 Sess. Laws, §207. 02).	Yes (1973 Sess. Laws, §207. 19).	Yes (1973 Sess. Laws, § 207. 19).	Yes (1973 Sess. Laws, § 207. 19).
Mississippi: Code of 1942; 1972 Supp.; and 1973 Sess. Laws Examined.	No (Supp. § 3203-503)....	Yes. (Supp. §§ 3203-302, 3203-603).	Yes. (Supp. § 3203-302)....	Yes (Supp. § 3203-203)....	Yes (Supp. § 3203-202)....	Yes (Supp. § 3203-202).
Missouri: Vernon's Ann. Stats. (1966 Rev.); 1973 Supp.; and 1973 Sess. Laws Examined.	Yes (1973 Laws, Act 139, § 7).	Yes (Supp. § 112.010)....	Yes (Supp. § 112. 010)....	Registration not required. (Supp. § 112.310).	Yes (Supp. § 112.300)....	Yes (Supp. § 112.300).
Montana: Rev. Codes and 1973 Supp.	No (Supp. § 23-3006(1)) but may be registered at home. (Supp. § 23-3007).	Yes (Supp. 23-3701).....	Yes (Supp. § 23-3701)....	Yes (Supp. §§ 23-3006(2), 23-3719).	Yes (Supp. § 23-3706)....	Yes (Supp. § 23-3706).
Nebraska: Rev. Stats. 1943 Reissue of 1968; 1973 Cumulative Supp.; 1973 Supp.	Yes (1973 Supp. § 32-221)....	Yes (1973 Supp. §§ 32-803, 32-820).	Yes (1973 Supp. §§ 32-803, 32-820).	Yes. May register when they vote by absentee ballot. (1973 Supp. § 32-221).	Yes (1973 Supp. §§ 32-803, 32-820).	Yes (1973 Supp. §§ 32-803, 32-820).
Nevada: Rev. Stats. 1971 Ed., Title 24, and 1973 Sess. Laws Examined.	No (§ 293.517).....	Yes (§ 293.313).....	Yes (§ 293.313).....	Yes, when applying for ballot (§§ 293.320; 293.-553).	Yes (§ 293.313).....	Yes (§ 293.313).
New Hampshire: Rev. Stats. Ann. 1970 Ed., and 1970 Sess. Laws Examined.	No (§§ 55: 10-55:14) except those residing temporarily outside the United States (§ 55:24).	No (§ 60:1).....	Yes (§ 60:1).....	Yes, automatic when application for absentee ballot is accepted by election board (§ 60:23).	No (§ 60:1).....	Yes (§ 60:1).
New Jersey: N.J. Stats. Ann., 1973-74 Supp.; and 1973 Sess. Laws Examined.	No, except for physically disabled persons (§ 19: 31-6).	Yes (Supp. §§ 19:57-15, 19:57-19).	Yes (Supp. §§ 19:57-2, 19:57-3).	Registration not required (Supp. § 19:57-25).	Yes (Supp. §§ 19:57-2, 19:57-3).	Yes (Supp. §§ 19:57-2, 19:57-3).
New Mexico: Stats. 1953, 1970 Repl. Vol.; 1973 Supp.; and 1973 Sess. Laws Examined.	Yes (§§ 3-4-5; 3-4-7).....	Yes (§ 3-6-3).....	Yes (§ 3-6-3).....	Yes, automatic when application for absentee ballot is accepted (§ 3-6-2 and Supp. § 3-6-5(D)).	Yes. (§ 3-6-3).....	Yes (§ 3-6-3).
New York: McKinney's Election Law 1964 Rev.; 1973-74 Supp.; and 1973 Sess. Laws Examined.	Yes (Supp. § 153).....	No (§ 117).....	Yes (§ 117).....	Yes (Supp. § 305).....	No (Supp. § 302).....	Yes (Supp. § 303).
North Carolina: Gen. Stats., 1972 Repl. Vol., and 1972 Interim Supp.	No (§§ 163-72, 163-68)....	Yes (Supp. §§ 163-240, 163-240.1).	Yes (§ 163-226).....	Yes (§ 163-245).....	Yes (§ 163-245).....	Yes (§ 163-245).
North Dakota: Century Code 1971 Repl. Vol.; 1973 Supp.; and 1973 Sess. Laws Examined.	Registration not required (§ 16-04-26).	Yes (§ 16-18-01).....	Yes (§ 16-18-01).....	Registration not required... (Supp. § 3511.02).	Yes (§§ 16-18-01, 16-18-11).	Yes (§§ 16-18-01, 16-18-11).
Ohio: Page's Ohio Rev. Code 1972 Repl. Vol. and 1972 Supp.	Yes (Supp. § 3503.11).....	Yes (§§ 3509.01, 3509.02)....	Yes (§§ 3509.01, 3509.02)....	Registration not required (§ 3511.02).	Yes (§ 3511.01).....	Yes (§ 3511.01).
Oklahoma: Stats. Ann. Title 26; 1973-74 Supp.; and 1973 Sess. Laws Examined.	No (Supp. §§ 93.4, 103.8)....	Yes (Supp. § 326).....	Yes (Supp. § 326).....	Registration not required (Supp. § 345.1).	Yes (Supp. § 345.1).....	Yes (Supp. § 345.1).
Oregon: Rev. Stats., 1971 Ed., and 1973 Digest of Oregon Laws.	Yes (§ 247.111).....	Yes (§ 253.010).....	Yes (§ 253.010).....	Yes, not required in advance. Is automatic when the executed oath on the absentee ballot return has been accepted by election officials. (§ 253.-600).	Yes (§§ 253.510, 253.520, 253.530).	Yes (§§ 253.510, 253.520, 253.530).
Pennsylvania: Purdon's Pa. Stats. Ann. Title 25; 1973-74 Supp.; and 1973 Sess. Laws Examined.	No, except persons with physical disability. (Supp. § 951-18.2) Bedridden veterans not required to register. (Supp. § 3146.1 (i)).	Yes (Supp. § 3146.1).....	Yes (Supp. § 3146.1).....	Yes (Supp. § 951-18.1)....	Yes (Supp. § 3146.1).....	Yes (Supp. § 3146.1).
Rhode Island: Gen. L., 1969 Ed.; 1972 Supp.; and 1972 Sess. Laws Examined.	No, except for shut-ins (because of age, disability, illness) (§§ 17-9-7, 17-9-10).	No (Supp. § 17-20-1).....	Yes Supp. § 17-20-1).....	Registration not required (§ 17-21-2; Dependents see § 17-9-11; for members of Peace Corps see § 17-9-25).	No (§ 17-21-40).....	Yes (§ 17-21-40).
South Carolina: Code 1962; 1971 Supp.; and 1971-1972 Sess. Laws Examined.	No (Supp. §§ 23-63; 23-449.1) except "temporary" registration of students away at school (Supp. §§ 23-443; 23-444).	No (Supp. § 23-442) except students away at school (Supp. § 23-449.8).	No, except students away at school (Supp. §§ 23-441; 23-442).	Yes (Supp. § 23-444).....	Yes (Supp. § 23-449.8).....	Yes (Supp. § 23-442).
South Dakota: Comp. Laws 1967, Title 12; 1973 Supp. and 1973 Sess. Laws Examined.	Yes (Supp. § 12-4-4.1).....	Yes (Supp. § 12-19-1).....	Yes (Supp. § 12-19-1).....	Yes (Supp. § 12-19-18)....	Yes (§§ 12-19-15; 12-19-16).	Yes (§§ 12-19-15; 12-19-16).
Tennessee: Code Ann., 1971 Repl. Vol.; and 1972 Sess. Laws Examined.	Yes (Supp. §§ 2-215, 2-606, 2-612).	Yes (Supp. §§ 2-602, 2-611).	Yes (Supp. §§ 2-602, 2-611).	Yes (Supp. §§ 2-606, 2-612).	Yes (Supp. § 2-612).....	Yes (Supp. § 2-612).

State	Civilians			Military, dependents, Federal employees		
	Register absentee	Primaries	Vote absentee	Register absentee	Primaries	Vote absentee
Texas: Vernon's Texas Election Code; 1972-1973 Sess. and 1973 Sess. Laws Examined. Utah: Code Ann. 1953, 1969 Replacement; 1973 Sess. and 1973 Sess. Laws Examined.	Yes (Supp. Art. 5.13a)..... Yes (Supp. § 20-2-7).....	Yes (Supp. Art. 5.05)..... Yes (Supp. § 20-6-1).....	Yes (Supp. Art. 5.05)..... Yes (Supp. § 20-6-1).....	Not required (Supp. Art. 5.05 sub 2a). Yes, automatic when the back of the absentee ballot envelope has been accepted by election officials (§20-17-8). Yes, many execute Freeman's Oath and Oath of Allegiance at the time the affidavit on the back of the ballot envelope is executed (§§ 68, 135). Yes (§§ 24.1-47, 24.1-48).....	Yes (Supp. Art. 5.05 sub 2a). Yes (§ 20-17-7)..... Yes (§ 147)..... Yes (§ 24.1-227)..... Yes (§ 29.39.090, Supp. § 29.39.010). Yes (§ 3-3-1)..... Yes (Supp. § 6.85).....	Yes (Supp. Art. 5.05 sub. 2a) Yes (Supp. § 20-17-7) Yes (§ 147) Yes (§ 24.1-227) Yes (§ 29.39.090, Supp. § 29.39.010) Yes (§ 3-3-1) Yes (Supp. § 6.85)
Vermont: Stats. Ann., Title 17; 1973 Sess. and 1973 Sess. Laws Examined.	No (§ 80).....	Yes (§ 121).....	Yes (§ 121).....	Yes (§ 24.1-227).....	Yes (§ 147).....	Yes (§ 147). Yes (§ 24.1-227).
Virginia: Code 1950, 1973 Repl. Vol.; and 1973 Sess. Laws Examined.	No (§ 24.1-47), except temporary registration to vote in Presidential elections (§ 24.1-72.2). No (Supp. § 29.07.060).....	Yes (§ 24.1-227).....	Yes (§ 24.1-227).....	Yes (§ 24.1-227).....	Yes (§ 24.1-227).....	Yes (§ 24.1-227). Yes (§ 24.1-227).
Washington: Rev. Code Ann.; 1972 Sess.; and 1972-1973 Sess. Laws Examined.	No (Supp. § 29.07.060).....	Yes (Supp. § 29.36.010).....	Yes (Supp. § 29.36.010).....	Yes by signing affidavit on preaddressed ballot return envelope (§§ 29.39-110, 29.39.140). Yes (§ 3-2-23).....	Yes (§ 29.39.090, Supp. § 29.39.010). Yes (§ 3-3-1).....	Yes (§ 29.39.090, Supp. § 29.39.010). Yes (§ 3-3-1). Yes (Supp. § 6.85).
West Virginia: Code; 1971 Repl. Vol. and 1973 Sess. Laws Examined.	Yes (§ 3-2-23).....	Yes (§ 3-3-1).....	Yes (§ 3-3-1).....	Registration not required (§ 6.22). Yes (Supp. § 22.1-33(0)).....	Yes (§ 3-3-1).....	Yes (§ 3-3-1). Yes (Supp. § 6.85). Yes (Supp. § 22.1-135). Yes (Supp. § 22.1-135).
Wisconsin: Stats. Ann.; 1973 Sess.; and 1973 Sess. Laws Examined.	Yes, if more than 50 mi. from residence or ill (§ 6.30, Supp. § 6.30). Yes (Supp. § 22.1-33(e)).....	Yes (Supp. § 6.85).....	Yes (Supp. § 6.85).....	Registration not required (§ 6.22). Yes (Supp. § 22.1-33(0)).....	Yes (Supp. § 6.85).....	Yes (Supp. § 6.85). Yes (Supp. § 22.1-135). Yes (Supp. § 22.1-135).
Wyoming: Stats. 1957, 1973 Sess. and 1973 Sess. Laws Examined.	Yes (Supp. § 22.1-33(e)).....	Yes (Supp. § 22.1-135).....	Yes (Supp. § 22.1-135).....	Yes (Supp. § 22.1-33(0)).....	Yes (Supp. § 22.1-135).....	Yes (Supp. § 22.1-135). Yes (Supp. § 22.1-135).

TABLE 1.—Absentee registration (civilian)

A. North Dakota does not require registration as a prerequisite to voting.
B. Twenty-seven States permit absentee registration by civilians, including the following:

Alaska	Missouri
Arizona	Nebraska
California	New Mexico
Colorado	New York
Florida	Ohio
Hawaii	Oregon
Idaho	South Dakota
Indiana	Tennessee
Iowa	Texas
Kansas	Utah
Kentucky	West Virginia
Maryland	Wisconsin (if 50 miles from home)
Michigan	Wyoming
Minnesota	

C. Thirteen States do not generally permit absentee registration by civilians, including the following:

Alabama	North Carolina
Delaware	Oklahoma
Georgia	South Carolina (exceptions)
Louisiana	Vermont
Mississippi	Virginia (exceptions)
Nevada	Washington
New Hampshire (exceptions)	

D. Nine States and the District of Columbia permit certain civilians (e.g., ill, disabled, and so on) to register or to be registered at home, including the following:

Arkansas	Montana
Connecticut	New Jersey
Illinois	Pennsylvania
Maine	Rhode Island
Massachusetts	

TABLE 2.—Absentee registration (military)¹

- A. North Dakota does not require registration as a prerequisite to voting.
 B. Alabama does not permit servicemen to register absentee.
 C. Ten states do not require servicemen to register, including the following:

Arkansas	Ohio
Illinois	Oklahoma
Kansas	Rhode Island
Missouri	Texas
New Jersey	Wisconsin

D. Thirty-eights States *and* the District of Columbia permit absentee registration by servicemen, including the following:

Alaska	Mississippi
Arizona	Montana
California	Nebraska
Colorado	Nevada
Connecticut	New Hampshire
Delaware	New Mexico
Florida	New York
Georgia	North Carolina
Hawaii	Oregon
Idaho	Pennsylvania
Indiana	South Carolina
Iowa	South Dakota
Kentucky	Tennessee
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wyoming

¹ "Military" generally includes members of the armed forces, their dependents, and other federal employees serving overseas.

TABLE 3.—Absentee voting—primaries (civilian)

- A. Delaware has no direct primary.
 B. Alabama permits absentee voting in primaries only by certain, limited groups of civilians.
 C. Five States do not permit civilians to vote absentee in primaries, including the following:

Massachusetts	Rhode Island
New Hampshire	South Carolina
New York	

D. Forty-three States *and* the District of Columbia permit absentee voting in primaries by civilians, including the following:

Alaska	Montana
Arizona	Nebraska
Arkansas	Nevada
California	New Jersey
Colorado	New Mexico
Connecticut	North Carolina
Florida	North Dakota
Georgia	Ohio
Hawaii	Oklahoma
Idaho	Oregon
Illinois	Pennsylvania
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maine	Virginia
Maryland	Washington
Michigan	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming
Missouri	

TABLE 4.—Absentee voting—primaries (military)¹

- A. Delaware has no direct primary.
 B. Four States do not permit absentee voting in primaries by military personnel, including the following:

Massachusetts	New York
New Hampshire	Rhode Island

C. All other States *and* the District of Columbia permit absentee voting in primaries by military personnel.

TABLE 5.—Absentee voting—general elections (civilian)

- A. Two States, Alabama and South Carolina, only permit certain groups of civilians to vote absentee in general elections.
 B. All other States *and* the District of Columbia permit absentee voting by civilians in general elections.

TABLE 6.—Absentee voting—general elections (military)¹

All States *and* the District of Columbia permit absentee voting by military personnel in general elections.

¹ "Military" generally includes members of the armed forces, their dependents, and other federal employees serving overseas.