89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 711

VOTING RIGHTS

AUGUST 2, 1965.—Ordered to be printed

Mr. CELLER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 1564]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1564).

To enforce the 15th amendment to the Constitution of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the substantive provisions of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That this Act be known as the "Voting Rights Act of 1965".*

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

SEC. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: Provided, That the court need not authorize the appointment of examiners if any incidents of denial or abridgment of the right to vote on account of race or

color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

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

(c) If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abriding the right to vote on account of race or color: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: Provided, That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the

Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

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

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

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any 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.

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

(e)(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting, different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity: Provided, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7. (a) The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): Provided, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

SEC. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two

persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listings, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 10. (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate state interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment and section 2 of the fifteenth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purposes of this section.

(c) The district courts of the United States shall have jurisdiction of such actions 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 at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political subdivision with respect to which determinations have been made under subsection 4(b) and a declaratory judgment has not been entered under subsection 4(a), during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to election, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this Act to make an application for listing, and shall issue a receipt for such payment. The examiners shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant.

SEC. 11. (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: Provided, however, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the

same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11 (a) or (b), shall be fined nor more than $5,000, or imprisoned not more than five years, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11 (a) or (b) shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

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

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed

by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

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

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

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 of this Act, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: Provided, That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the

Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

And the House agree to the same.

The House recede from its amendment to the title of the bill and agree to the same.

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
HAROLD D. DONOHUE,
WILLIAM M. MCCULLOCH,
WILLIAM C. CRAMER,
Managers on the Part of the House.

THOMAS J. DODD,
PHILIP A. HART,
EDWARD V. LONG,
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 1564) to enforce the 15th amendment to the Constitution of the United States, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The House passed H.R. 6400 and then substituted the provisions it had adopted by striking out all after the enacting clause and inserting all of its provisions in S. 1564. The Senate insisted upon its version and requested a conference; the House then agreed to the conference. The House also amended the title of the bill, which was not necessary.

The conference report recommends that the Senate recede from its disagreement to the House amendment to the substantive provisions of the bill and agree to the same with an amendment, the amendment being to insert in lieu of the matter inserted by the House amendment the matter agreed to by the conferees, and that the House agree thereto.

The House recedes from its amendment to the title and agrees to the Senate version.

The conference report contains substantially the language of the House amendment with certain exceptions which are explained below.

Sections 1 and 2 of the House and Senate bills were not in disagreement.

Section 3 differed in the House and Senate bills in several respects:

(*a*) The Senate version authorizes a court to suspend all tests and devices rather than only the particular test found to have been administered discriminatorily. The House version authorizes suspension only of such test or device found to have been used to discriminate. The conference report adopts the Senate version.

(*b*) The House bill, but not the Senate bill, provides for suspension of tests and devices where such tests or devices have been used for the purpose "or with the effect" of discriminating. The House version was adopted.

(*c*) The conference report adopts the House version which does not qualify, as the Senate bill does, the duration of suspension of tests or devices.

(*d*) The House version respecting the court-imposed moratorium on new voting laws was adopted in lieu of the Senate provision requiring that the court order the submission of new voting laws to the Attorney General.

(*e*) The conference report adopts the language of the Senate bill providing that a declaratory judgment approving the use of a new voting requirement will not bar a subsequent lawsuit to enjoin the use of such a requirement.

With these exceptions and a minor clarification, the conference report adopts the House version of section 3.

Section 4 of the House and Senate bills differed in two important respects, namely, the so-called escape provision (sec. 4(a)), and the formula for automatic suspension of tests and devices (sec. 4(b)). The Senate bill suspends tests and devices until (1) the effects of discrimination have been effectively corrected, and (2) there is no reasonable cause to believe that any test or device will be used for the purpose or with the effect of discriminating. The House bill establishes an absolute bar to the lifting of the suspension of tests and devices for 5 years after the entry of a judgment finding that discrimination had occurred within the territory of the State or subdivision. The Senate receded, and the conference report adopts the language of the House bill with a technical amendment.

The formula for suspending tests or devices contained in the House bill requires that there shall have been a test or device in use in November 1964 and that fewer than 50 percent of the voting age population voted or were registered in the presidential election of 1964. The Senate version adds the requirement that 20 percent of the population shall have been nonwhite according to the 1960 census. In addition, the Senate version alternatively provides that where less than 25 percent of the nonwhite population in any State or subdivision are registered to vote, tests or devices are suspended. The Senate receded, and the conference report adopts the language of the House bill with a minor technical change.

Section 4(c) of the House and Senate bills was not in disagreement.

Section 4(d) of the House and Senate bills is substantially identical except for a grammatical difference. The conference report adopts the House version.

Section 4(e) of the Senate bill has no equivalent in the House bill. It allows a prospective voter to qualify with respect to literacy, without taking a literacy test, by demonstrating that he has completed the sixth grade, or whatever grade the State requires, in a school under the American flag conducted in a language other than English. The conference report adopts this provision.

Section 5 of the House bill is similar to the Senate bill, except that the Senate version provides that a declaratory judgment approving the use of a new voting requirement will not bar a subsequent lawsuit to enjoin the use of such a requirement. The conference report adopts the House version with a clarifying amendment and with the Senate provision described above.

Section 6 of the House and Senate bills is substantially identical. The Senate bill requires, however, that examiners shall "to the extent practicable, be residents" of the State in which they are to serve. The Senate receded and the conference report adopts the language of the House version of section 6 with a clarifying amendment.

Section 7(a) of the House and Senate bills differs in that the Senate bill permits the Attorney General to require that an applicant for listing allege that he had applied for registration to the State registrar within the preceding 90 days. The conference report adopts the House version, omitting the Senate provision.

Section 7(b) of the House version is retained in the conference report except that the Senate provision requiring State or local officials to place the names of listed persons on the official voting list is adopted.

Additional clarifying language contained in the Senate version is added to sections 7 (a) and (b) in the conference report.

Sections 7 (c) and (d) of the House and Senate bills were not in disagreement.

Section 8 of the House bill and section 10 of the Senate bill relate to the appointment of election observers. The Senate version provides for both judicial, as well as administrative, appointments of observers. The House version provides only for administrative appointment. In addition, the Senate version provides for administrative appointment of observers by the Attorney General, while the House version empowers the Civil Service Commission to assign such persons. In the conference report, both the House and the Senate agree to language incorporating certain requirements of both bills. Thus, the Senate receded from the provision for judicial appointment of observers, and the House provision authorizing appointment of observers by the Civil Service Commission was adopted.

Except for technical differences, section 9 of the House bill and its equivalent, section 8 of the Senate bill, are identical. The conference report adopts the House version of section 9 with certain clarifying language contained in the Senate bill.

Section 10 of the House bill is the equivalent of section 9 of the Senate bill. The House bill contains a ban on poll taxes. The Senate bill directs the Attorney General to sue to invalidate the poll tax in States where the tax has the purpose or effect of denying or abridging the right to vote. Both the House and the Senate receded from the poll tax provision in their respective bills. The conference report adopts a substitute provision which rephrases the findings of Congress in subsection (a) and contains a congressional declaration that by the requirement of the payment of a poll tax the right of citizens to vote is denied or abridged, and makes clear, in subsection (b), that the Congress is acting under the authority of section 5 of the 14th amendment and section 2 of the 15th amendment to the Constitution. The remaining subsections (c) and (d) are practically identical to the Senate version.

Section 11(a) of the Senate and House bills prohibits denials of the right to vote with respect to those who are entitled to vote under the act. In addition, the House bill prohibits denials of the right to vote to persons who are "otherwise qualified to vote." The Senate receded and the conference report adopts the language of the House bill.

Section 11(b) of the House bill prohibits, whereas the Senate bill does not, intimidation of a person "for urging or aiding" any person to vote. The Senate receded and the conference report adopts the House version with the addition of certain clarifying language.

Section 11(c) of the House bill is the equivalent of section 14(d) of the Senate bill. The two versions are substantially identical. The conference report adopts section 11(c) in the House bill with an amendment to include the election of the Resident Commissioner of the Commonwealth of Puerto Rico within the scope of the section.

Section 11(d) of the conference report contains the language of section 14(d) of the House bill prohibiting false or fraudulent statements to an examiner or hearing officer. There was no equivalent provision in the Senate bill.

Sections 12 (a), (b), and (c) of the House and Senate bills, providing penalties for violations of the act, are identical except that in sections

12 (a) and (c) the Senate version applies to deprivations or conspiracies done "willfully and knowingly." In section 12(b), the Senate version applies to prohibited activities committed "fraudulently." The House version contains no similar qualifications. The Senate receded and the conference report adopts the House version of sections 12 (a), (b), and (c) together with certain technical and clarifying amendments.

Section 12 (d) in the House and Senate bills was not in disagreement.

Section 12(e) in the House and Senate bills differs in several respects:

(*a*) Under the Senate version the time limit for an allegation to an examiner of denial of the right to vote is 24 hours; under the House version it is 48 hours. The Senate receded, and the conference report adopts the House version.

(*b*) A report by the examiner (if the allegation is well founded) is to be made to the U.S. attorney under the Senate version; it is to be made to the Attorney General under the House version. The Senate receded, and the conference report adopts the House version.

(*c*) Under the Senate version, application to the court must be made within 72 hours by the Attorney General rather than "forthwith" as in the House version. The Senate receded, and the conference report adopts the House version.

(*b*) Under the House version, the court is required to issue an order temporarily restraining the issuance of any certificate of election prior to a hearing on the merits. The related Senate provision leaves the court discretion to stay election results. The House receded and in lieu of the two-step proceeding contained in the House version, the conference report adopts the Senate language providing for a single proceeding wherein a court would retain the discretionary power to hold election results in abeyance. The conference report also adopts certain grammatical differences contained in the Senate version of section 12(e).

Section 12(f) in the House and Senate bills was not in disagreement.

Section 13 of the House and Senate bills both provide for the removal of examiners and termination of listing procedures by petition to the Attorney General, or to the authorizing court with respect to examiners appointed under section 3(a). In addition, the Senate version permits a political subdivision to seek, through court action in the District Court for the District of Columbia, the termination of listing procedures when more than 50 percent of the nonwhite voting age population is registered, and (1) all persons listed have been placed on the appropriate voting list, and (2) there is no reasonable cause to believe that there will be denials of the right to vote. The conference report adopts the additional Senate provision with certain technical amendments.

Section 14 of the House and Senate bills was not in substantial disagreement. The conference report adopts certain clarifying language in sections 14 (b) and (c) contained in the Senate version. Section 14(c)(1) of the House bill includes as part of the definition of "vote," whereas the Senate bill does not, voting in elections for candidates for "party" office. The Senate receded and the conference report adopts the House version. In addition, section 14(e) of the Senate version, permitting the District Court for the District of

Columbia to issue subpenas beyond the 100-mile limit, for which there was no equivalent provision in the House bill, was adopted in the confernece report. Except for these additions from the Senate version, the conference report adopts the House version of section 14.

There is no equivalent in the Senate bill to the House version of section 15. This section amends title I of the Civil Rights Act of 1964 by striking out all limiting references therein to "Federal" elections. The Senate receded and the conference report adopts the House provision.

There is no equivalent in the House bill to the Senate version of section 16. This section provides for a joint study by the Attorney General and the Secretary of Defense of voting discrimination against members of the Armed Forces. The House receded and the conference report adopts the Senate provision.

Section 16 of the House bill which provides that nothing in the act should be construed to impair the right to vote of any person registered under the law of any State or political subdivision has no equivalent in the Senate bill. The conference report adopts this provision, renumbered as section 17.

Section 17 of the House bill is the equivalent of section 15 of the Senate bill. They provide for appropriations. Section 18 of the House bill is equivalent to section 17 of the Senate bill and they provide for severability. These provisions were not in disagreement. They have been renumbered sections 18 and 19, respectively, in the conference report.

Section 18 of the Senate bill provides a temporary exemption from the appointment of examiners and is related to the alternative formula contained in section 4(b) of the Senate bill which the conference report does not adopt. It has no equivalent in the House bill. The Senate receded and the conference report omits this provision.

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