VOTING RIGHTS

HEARINGS

BEFORE

SUBCOMMITTEE NO. 5

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 6400

AND OTHER PROPOSALS TO ENFORCE THE 15TH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

MARCH 18, 19, 23, 24, 25, 29, 30, 31; AND APRIL 1, 1965

Serial No. 2

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
46-535 WASHINGTON : 1965

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VOTING RIGHTS

THURSDAY, MARCH 18, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, in room 2141, Rayburn House Office Building, at 10:05 o'clock a.m., Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Brooks, Kastenmeier, Corman, McCulloch, Cramer, and Mathias.

Also present: Representatives Feighan, Willis, Tuck, Ashmore, Gilbert, Edwards, Tenzer, Grider, and MacGregor.

Staff members present: William R. Foley, general counsel; Benjamin L. Zelenko, counsel; William H. Copenhaver, associate counsel; and Allan D. Cors, associate counsel.

The CHAIRMAN. The subcommittee will be in order.

We are here this morning to consider H.R. 6400, a bill offered by the chairman, and also H.R. 4427, a bill offered by the gentleman from New York, Mr. Gilbert; H.R. 4552, a bill offered by the gentleman from New York, Mr. Lindsay; H.R. 4553, a bill offered by the gentleman from Maryland, Mr. Mathias; H.R. 6086, offered by the gentleman from Minnesota, Mr. MacGregor; H.R. 5409, offered by the gentleman from Illinois, Mr. McClory; H.R. 5276, a bill offered by the gentleman from New Jersey, Mr. Cahill.

Without objection, the above bills will be included in the record.

(The text of these and other measures designed to enforce the guarantees of the 15th amendment to the Constitution appears at pp. 782–1125.)

The CHAIRMAN. The time is here for action. This committee will consider a strong bill that will guarantee to Negroes the inalienable right to vote, and to safeguard that vote as guaranteed by the Constitution.

Recent events in Alabama, involving murder, savage brutality, and violence by local police, State troopers, and posses have so aroused the Nation as make action by this Congress necessary and speedy.

Freedom to vote must be made meaningful. The legalisms, stratagems, trickery, and coercion that now stand in the path of the Southern Negro when he seeks to vote must be smashed and banished.

Swift enactment of the bipartisan voting bill before us is indispensable.

The climate of public opinion throughout the Nation has so changed because of the Alabama outrages, as to make assured passage of this solid bill—a bill that would have been inconceivable a year ago. Nonetheless, I assert that even without these tragic events such a bill is essential because of the denial of the right to vote to a portion of our citizens.

Any filibuster, any undue delay, any stalling, any dragging of feet would be inexcusable. This bill must be passed quickly. For that purpose this committee starts hearings today and will continue into the

night, will be followed by sessions tomorrow and thereafter, so that as expeditiously as possible witnesses for and against may be heard.

We are unable to hold hearings in the afternoon while the House is in session. Despite the fact unanimous consent was asked for, objection was offered by certain persons and therefore we cannot hold hearings while the House is in session.

We cannot allow any longer officials, acting under color of law, to nullify the rights guaranteed by the 15th amendment of the Constitution, namely, that no one shall be denied the right to vote because of race or color—in any election, be it Federal, State, or local.

Nothing this committee can do shall have priority over consideration and approval of this bill.

Mr. McCulloch.

Mr. McCULLOCH. Mr. Chairman, I should like to say a few words. I am pleased that the chairman has called Subcommittee No. 5 of the Judiciary Committee together to hear the voting rights bills which are before the House of Representatives and now before this committee. The chairman has in detail set forth the persons who introduced those bills and who have given considerable time to the drafting thereof.

I should like to say, and make it unmistakably clear, that we shall be for legislation in accordance with the Constitution and effective unto the needs of these times.

I have long felt and have said many times that the untrammeled right of qualified citizens to vote is the very cornerstone of representative government. That right has been denied to many people in this country under color of law, and otherwise, too long. The time has come when such denial must cease, and it shall be our intent to enact legislation in accordance with the Constitution, which will do just that.

The CHAIRMAN. Our first witness this morning is the very distinguished Attorney General of the United States. I am pleased to call on Attorney General Nicholas Katzenbach.

Attorney General Katzenbach.

STATEMENT OF THE HONORABLE NICHOLAS deB. KATZENBACH, ATTORNEY GENERAL OF THE UNITED STATES

Mr. KATZENBACH. Thank you, Mr. Chairman. It is a great pleasure to be here in this beautiful hearing room.

The CHAIRMAN. I would also like to recognize your associates for the record.

Mr. KATZENBACH. I am accompanied by Mr. Burke Marshall, the distinguished head of the Civil Rights Division for 4 years. Mr. Doar, his successor, is presently in Montgomery, Ala. And I have on my right Mr. Glickstein, an attorney in the Civil Rights Division.

Mr. Chairman, I have a prepared statement here. I apologize for its length, but I think the importance of this occasion might warrant my reading it substantially in its entirety, if that is agreeable with the Chairman.

The CHAIRMAN. We will be glad to have that in the record.

Mr. KATZENBACH. Mr. Chairman and Members of the committee:

In our system of government, there is no right more central and no right more precious than the right to vote.

From our early history, the free and secret ballot has been the foundation of America. This Congress stands as imposing evidence of that truth. And, if we have needed reminding, Presidents in every generation have repeated that truth.

In a message to the 36th Congress, in 1860, President Buchanan observed that: "The ballot box is the surest arbiter of disputes among freemen."

In a message to the 51st Congress, in 1890, President Benjamin Harrison said: "If any intelligent and loyal company of American citizens were required to catalog the essential conditions of national life, I do not doubt that with absolute unanimity they would begin with 'free and honest elections.'"

In a message to the 66th Congress, in 1919, President Wilson said: "The instrument of all reform in America is the ballot."

In a message to the 88th Congress, just 2 years ago, President Kennedy said: "The right to vote in a free American election is the most powerful and precious right in the world—and it must not be denied on the grounds of race or color. It is a potent key to achieving other rights of citizenship."

And yet, just 3 days ago, it remained necessary for President Johnson, in an eloquent message to this Congress, to say:

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

The President called on the Congress and on the American people to meet that duty with the fullest power of heart, mind, and law. I appear before you today to support that commitment and tell you in detail why this administration believes the proposed Voting Rights Act of 1965 to be sound, effective and essential.

I. DENIALS OF THE PAST

The promise of a new life for Negro Americans was first expressed in the 13th, 14th, and 15th amendments to the Constitution. The promise of freedom for the slaves was kept; the promises of equal protection and the right to vote without racial discrimination are yet, a century later, still empty.

Soon after the adoption of the Civil War amendments, Congress did indeed enact a number of implementing laws. Promptly after the ratification of the 15th amendment, the Enforcement Act of May 31, 1870, was passed, declaring the right of all citizens to vote without racial discrimination. Under the 1870 law, officials were required to give all citizens the same, equal opportunity to perform any act prerequisite to voting. Violation and interference were made criminal offenses. In 1871, another law was passed to protect Negro voting rights. It made it a crime to prevent anyone from voting by threats or intimidation and established a system of Federal supervisors of elections.

But these protections were neither adequately enforced, nor of long duration. Attempts to strengthen the legislation, occasioned by rising Negro disenfranchisement in the South, were unsuccessful. Congres-

sional debates reflect the fear of disturbing the status quo of white supremacy. In 1894, most of the legislation dealing with the right to vote was repealed.

Meanwhile, some States had been busy enacting legislation to disenfranchise the Negro. They adopted a variety of devices, with no effort to disguise their real purpose—disenfranchisement of the Negro.

Whites unable to meet the new requirements were protected by the so-called "grandfather clause"—which could not possibly have applied to a Negro newly freed from slavery.

The Supreme Court struck down the grandfather clause in 1915, but discrimination and disenfranchisement continued. The Negro's theoretical right to vote was successfully thwarted by intimidation and fear of reprisal. The white primary long served to disenfranchise Negroes, until declared unconstitutional in 1944. During this long period America almost forgot, and certainly ignored, its commitment to voting equality.

Beginning with President Truman's 1948 recommendation to Congress, based on the report of his Committee on Civil Rights, bills to protect the right to vote were introduced in successive Congresses. Still, action did not come until the Civil Rights Act of 1957. That act authorizes the Attorney General to bring suits to correct discrimination in State and Federal elections, as well as intimidation of potential voters.

The Civil Rights Act of 1960 sought to make such law suits easier. It amended the 1957 Act to permit the Attorney General to inspect registration records and to permit Negroes rejected by State registration officials to apply to a Federal court or a voting referee.

The Civil Rights Act of 1964 sought to make voting rights suits faster. It amended the 1960 act to expedite cases, to facilitate proof of discrimination, and to require nondiscriminatory standards.

What has been the effect of these statutes? It is easy to measure. In Alabama, the number of Negroes registered to vote has increased by 5.2 percent between 1958 and 1964—to a total of 19.4 percent of those eligible by age and residence. This compares with 69.2 percent of the eligible whites.

In Mississippi, the number of Negroes registered to vote has increased at an even slower rate. In 1954, about 4.4 percent of the eligible Negroes were registered; today, we estimate the figure at about 6.4 percent. I mean eligible by age and residence within the State. Meanwhile, in areas for which we have statistics, the comparable figure for whites is that 80.5 percent of those eligible are registered.

And in Louisiana, Negro registration has not increased at all, or if at all, imperceptibly. In 1956, 31.7 percent of the eligible Negroes were registered. As of January 1, 1965, the figure was 31.8 percent. The white percentage, meanwhile is 80.2 percent—and I should add, Mr. Chairman, that registration in Louisiana is almost entirely in the southern district of the State and in the predominantly Catholic parishes.

The lesson is plain. The three present statutes have had only minimal effect. They have been too slow.

Thus, we have come to Congress three times in the past 8 years to ask for legislation to fulfill the promise our country made in the 15th amendment 95 years ago, the promise of the ballot.

Three times since 1956, the Congress has responded. Three times, it has adopted the alternative of litigation, of seeking solutions in our judicial system. But three times since 1956, we have seen that alternative tarnished by evasion, obstruction, delay, and disrespect. The alternative, in short, has already been tried and found wanting. "The time of justice," the President said on Monday "has now come."

II. DENIALS OF THE PRESENT

The discouraging figures I have cited do not represent lack of will by any administration in administering the voting rights laws. These laws have been administered by four Attorneys General serving under three Presidents and representing both parties.

Nor do these figures represent any lack of energy, ability, or dedication by the lawyers of the Civil Rights Division of the Department of Justice. I believe I have never, whether in government, in private practice, or in the academic world, seen any attorneys work so hard, so well and, often, under such difficult circumstances.

What these Negro voting figures do represent is the inadequacy of the judicial process to deal effectively and expeditiously with a problem so deep-seated and so complex.

My predecessors have, for a decade, given this committee example after example of how the registration process has been perverted to test not literacy, not ability, not understanding—but race. Like them, I could, today, give you numerous examples of such perversions.

I could cite numerous examples of the almost incredible amount of time our attorneys must devote to each of the 71 voting rights cases filed under the Civil Rights Acts of 1957, 1960, and 1964. It has become routine to spend as much as 6,000 man-hours only in analyzing the voting records in a single county—to say nothing of preparation for trial and the almost inevitable appeal.

I could cite numerous examples of how delay and evasion have made it necessary for us to gage judicial relief not in terms of months, but in terms of years. For the fact is that those who are determined to resist are able, even after apparent defeat in the courts, to devise whole new methods of discrimination. And often that means beginning the whole weary process all over again.

In short, I could cite example after example, but let me, at random, pick just one: Selma, Ala.

III. THE RIGHT TO VOTE IN DALLAS COUNTY, ALA.

The history of Negro voting rights in Dallas County, Ala., of which Selma is the seat, could—until February 4—be told in three words: "intimidation," "discouragement," and "delay."

There has been blatant discrimination against Negroes seeking to vote in Dallas County at least since 1952. How blatant is evident from simple statistics.

In 1961, Dallas County had a voting age population of 29,515, of whom 14,400 were white persons and 15,115 were Negroes. The number of whites registered to vote totaled 9,195—64 percent. The number of Negroes totaled 156—1.03 percent of the total.

Between 1954 and 1961, the number of Negroes registered had mushroomed; exactly 18 were registered in those 7 years.

If effective and prompt remedies were necessary in any county, they were necessary in Dallas County. And as a result the first voting case filed in the Kennedy-Johnson administration was brought against Dallas County on April 18, 1961. The case finally came to trial 13 months later. In an additional 6 months came the district court decision. The court decided that prior registrars had, in fact, discriminated against Negro applicants. But, the court concluded, the current board of registrars was not then discriminating and, therefore, refused to issue an injunction against discrimination by the registrars. We appealed.

The CHAIRMAN. May I interrupt you?

What judge was that?

Mr. KATZENBACH. That was Judge Thomas.

On September 30, 1963, 2½ years after the suit was originally filed, the Court of Appeals for the Fifth Circuit reversed the district court and ordered it to enter an injunction against discrimination.

Nevertheless, the Department also had urged the court of appeals to direct the registrars to judge Negro applicants by the same standards that had been applied to white applicants during the long period of discrimination—until effects of past discrimination had been dissipated. The court of appeals recognized that this type of relief might be needed in some cases, but did not order it in this case.

Our experience has shown that such relief is essential to any meaningful improvement in Negro voter registration in areas where there have been previous patterns of discrimination. Thus, after 2½ years, the first round of litigation against discrimination in Selma ended, substantially in failure.

Two months later, Department personnel inspected and photographed voter registration records at the Dallas County Courthouse. These records showed that the registrars were engaged in obvious discrimination. With a topheavy majority of whites already registered, the registrars had raised standards for applicants of both races. The percentage of rejections for both white and Negro applicants for registration had more than doubled since the original trial in May 1962. The impact, of course, was greatest on the Negroes, of whom hardly any were registered. Eighty-nine percent of the Negro applicants had been rejected between May 1962 and November 1963.

Of the 445 Negro applications rejected, 175 had been filed by Negroes with at least 12 years of education, including 21 with 16 years and 1 with a master's degree.

In addition to directly discriminatory practices, the registrars also were using one of their most effective indirect methods—delay. For example, on 11 of the 14 registration days in October 1963, 60 or more persons waited in line to register, but the average number of persons allowed to fill out forms was 36. In previous years—when the applicants were predominantly white—up to 148 applications had been processed in a single day.

For Negroes to register in Dallas County was thus extremely difficult. In February 1964, it became virtually impossible. Then, all Alabama county boards of registrars, including the Dallas County board in Selma, began using a new application form. This form included a complicated literacy and knowledge-of-government test. Since registration is permanent in Alabama, the great majority of

white voters in Selma and Dallas County, already registered under previous, easier standards, did not have to pass the test. But the great majority of voting-age Negroes, unregistered, now faced still another, still higher obstacle in voting.

Under the new test, the applicant had to demonstrate his ability to spell and understand by writing individual words from the dictation of the registrar. Applicants in Selma were required to spell such difficult and technical words as "emolument, capitation, impeachment, apportionment, and despotism." The Dallas County registrars also added a refinement not required by the terms of the State-prescribed form. Applicants were required to give a satisfactory interpretation of one of the excerpts of the constitution printed on the form.

As the result, we decided to go back to court. In March 1964, we filed a motion in Federal court initiating a second full-scale law suit against discriminatory practices in the registration process in Dallas County. It should be noted that in September 1964, pending trial of this second law suit, Alabama registrars, including those in Dallas County, began using a second, still more difficult test. In October 1964, our reopened Dallas County case came on for trial. We proved that between May 1962, the date of the first trial, and August 1964, 795 Negroes had applied for registration but that only 93 were accepted. During the same period, 1,232 white persons applied for registration, of whom 945 were registered. Thus, less than 12 percent of the Negro applicants, but more than 75 percent of the white applicants were accepted.

Finally, on February 4, 1965—nearly 4 years after we first brought suit—the district court entered its judgment. This time, the court substantially accepted our contentions and the relief requested by the Department was granted. Specifically, the court enjoined use of the complicated literacy test and knowledge-of-government tests and entered orders designed to deal with the serious problem of delay.

Whether this most recent decree will be effective only time will tell. We hope and expect it will be. But the Negroes of Dallas County have good reason to be skeptical. After 4 years of litigation, only 383 Negroes are registered to vote in Dallas County today. The recent events in Selma are indeed demonstrations—demonstrations of the fact that, understandably, the Negroes of Dallas County are tired of waiting.

The story of Selma illustrates a good deal more than voting discrimination and litigating delay. It also illustrates another obstacle, sometimes more subtle, certainly more damaging. I am talking about fear.

The Department thus has filed four separate suits against intimidation of Negro registration applicants by Sheriff James Clark and other local officials.

The first of these filed alleged that the defendants had intimidated Negroes from attempting to register by physical violence, baseless arrests, and prosecutions of Negro registration workers. We introduced proof that Sheriff Clark had deputies present at every civil rights mass meeting in Dallas County. They took notes and license tag numbers. They harassed, arrested, and assaulted young voter registration workers. The district court found, however, that the

Government had failed in its proof and denied injunctive relief. This decision is presently pending on appeal.

We filed a second intimidation suit in November 1963. This suit alleged that the local grand jury sought to interfere with the operation of the Civil Rights Division of the Department of Justice—and thus intimidated potential Negro voters who looked to the Department for assistance and action. The Department of Justice introduced substantial proof in support of these allegations at the hearing, but the district court rejected this evidence and found that the grand jury had acted in good faith. This decision is also pending on appeal.

Our third Dallas County intimidation suit, also filed in November 1963, illustrates still a different level of harassment and fear. The defendants in this case, now awaiting trial, are the Dallas County Citizens' Council and its officers.

The suit alleges that they have adopted and sought to execute a program to frustrate court voting orders and to intimidate Negroes so they will not attend voter registration rallies. We filed a startling overt example of this program together with our complaint. It was a full-page advertisement in the Selma Times-Journal on June 9, 1963, sponsored by the citizens council. It was headed: "Ask Yourself This Important Question: 'What Have I Personally Done to Maintain Segregation?'" And the text said, in part, "It is worth $4 to you to prevent sit-ins, mob marches, and wholesale Negro voter registration efforts in Selma?"

The fourth intimidation suit again was against Sheriff Clark and other local officials. It arose from events relating to voter registration and desegregation of places of public accommodation in Selma last summer. The case was tried before a three-judge district court in December 1964, and has not yet been decided, but I hope for a decision very soon.

At the trial, the Department introduced proof showing that the defendants had prosecuted, convicted, and punished Negroes discriminatorily, and had issued and enforced injunctions preventing Negroes from organizing and discussing their grievances. Proof was also introduced to show that the defendants used unreasonable force against Negroes who exercised their rights and had failed to provide Negroes with ordinary police protection.

Let me be quick to point out that such intimidation is hardly limited to Dallas County; on this aspect as in others, Selma is merely a symbol. In Rankin County, Miss., three young Negro registration applicants were beaten in the registrar's office by the sheriff and his deputy. In our consequent suit, we were unable to secure relief even on appeal. The court ruled that the assault was not the result of bigotry, but the deputy's and sheriff's vexation over crowded conditions in the registration office.

In Wilcox County, Ala., a Negro insurance agent became the first of his race to apply for registration in several years. Within weeks, 28 different landowners ordered him to stay off their property when he came to collect insurance premiums. To keep his job, the man had to accept a transfer and live away from his family, in a different county. Again we had an appeal. Today, two years later, the appeal is still pending.

There has been case after case of similar intimidation—beatings, arrests, lost jobs, lost credit, and other forms of pressure against Negroes who attempt to take the revolutionary step of registering to vote. And, despite our most vigorous efforts in the courts, there has been case after case of slow or ineffective relief.

We can draw only one conclusion from such instances. We can draw only one conclusion from the story of Selma. The 15th amendment expressly commanded that the right to vote should not be denied or abridged because of race. It was ratified 95 years ago. Yet, we are still forced to vindicate that right anew, in suit after suit, in county after county.

What is necessary, what is essential, is a new approach, an approach which goes beyond the tortuous, often-ineffective pace of litigation. What is required is a systematic, automatic method to deal with discriminatory tests, with discriminatory testers, and with discriminatory threats.

The bill President Johnson has now sent to Congress, the bill about which he spoke so eloquently to you Monday, presents us with such a method. It would not only, like past statutes, demonstrate our good intentions. It would allow us to translate those intentions into ballots.

IV. THE PROPOSED VOTING RIGHTS ACT OF 1965

This bill applies to every kind of election, Federal, State and local, including primaries. It is designed to deal with the two principal means of frustrating the 15th amendment: the use of onerous, vague, unfair tests and devices enacted for the purpose of disenfranchising Negroes, and the discriminatory administration of these and other kinds of registration requirements. The bill accomplishes its objectives first, by outlawing the use of these tests under certain circumstances, and second, by providing for registration by Federal officials where necessary to ensure the fair administration of the registration system.

The tests and devices with which the bill deals include the usual literacy, understanding, and interpretation tests that are easily susceptible to manipulation, as well as a variety of other repressive schemes. Experience demonstrates that the coincidence of such schemes and low electoral registration or participation is usually the result of racial discrimination in the administration of the election process. Hence, section 3(a) of the bill provides for a determination by the Attorney General whether any State, or a county separately considered, has on November 1, 1964, maintained a test or device as a qualification to vote.

In addition, the Director of the Census determines whether, in the States or counties where the Attorney General ascertains that tests or devices have been used, less than 50 percent of the residents of voting age were registered on November 1, 1964, or less than 50 percent of such persons voted in the presidential election of November 1964.

The bill provides that whenever positive determinations have been made by the Attorney General and the Director of the Census as to a State, or separately as to any county not located in such a State, no person shall be denied the right to vote in any election in such jurisdiction because of his failure to comply with a test or device. I shall

present at the end of my discussion of the bill the information we have as to the areas to be affected by these determinations.

The prohibition against tests may be ended in an affected area after it has been free of racial discrimination in the election process for 10 years, as found, upon its petition, by a three-judge court in the District of Columbia. This finding will also terminate the examiner procedure provided for in the bill.

However, the court may not make such a finding as to any State or separate county for 10 years after the entry of a final judgment, whether entered before or after passage of the bill, determining that denials of the right to vote by reason of race or color have occurred anywhere within such jurisdiction.

Because it is now beyond question that recalcitrance and intransigence on the part of State and local officials can defeat the operation of the most unequivocal civil rights legislation, the bill, in section 4, provides that the Attorney General may cause the appointment of examiners by the Civil Service Commission to carry out registration functions in any county where tests have been suspended by determinations of the Attorney General and the Director of the Census.

This result follows when the Attorney General certifies either that he has received meritorious complaints in writing from 20 or more residents of the county alleging denial of the right to vote by reason of race or color, or that, in his judgment, the appointment of registrars is necessary to enforce the guarantees of the 15th amendment.

After the certification by the Attorney General, the Commission is required to appoint as many examiners as necessary to examine applicants in such county concerning their qualifications to vote. Any person found qualified to vote is to be placed on a list of eligible voters for transmittal to the appropriate local election officials.

Any person whose name appears on the list must be allowed to vote in any subsequent election until such officials are notified that he has been removed from the list as the result of a successful challenge, a failure to vote for 3 consecutive years, or some other legal ground for loss of eligibility to vote.

The bill provides a procedure for the challenge of persons listed by the examiners, including a hearing by an independent hearing officer and judicial review. A challenged person would be allowed to vote pending final action on the challenge.

The times, places and procedures for application and listing, and for removal from the eligibility list, are to be prescribed by the Civil Service Commission. The Commission, after consultation with the Attorney General, will instruct examiners as to the qualifications applicants must possess. The principal qualifications will be age, citizenship, and residence, and obviously will not include those suspended by the operation of section 3.

If the State imposes a poll tax as a qualification for voting, the Federal examiner is to accept payment and remit it to the appropriate State official. State requirements for payment of cumulative poll taxes for previous years would not be recognized.

Civil injunctive remedies and criminal penalties are specified for violations of various provisions of the bill. Among these provisions is one requiring that no person whether a State official or otherwise, shall fail or refuse to permit a person whose name appears on the ex-

aminer's list to vote, or refuse to count his ballot, or "intimidate, threaten, or coerce" a person for voting or attempting to vote under the act.

An individual who violates this or other prohibitions of the bill may be fined up to $5,000 or imprisoned up to 5 years, or both.

It should be noted also that a person harmed by such acts of intimidation by State officials may also sue for damages under 42 U.S.C. 1983, a statute which was enacted in 1871. That statute provides for private civil suits against State officers who subject persons to the deprivation of any rights, privileges, and immunities secured by the Constitution and laws of the United States. Private individuals who act in concert with State officers could also be sued for damages under that statute, *Baldwin* v. *Morgan*, 251 F. 2d 780 (C.A. 5, 1958).

The litigated cases amply demonstrate the inadequacies of present statutes prohibiting voter intimidation. Under present law, voter intimidation is only punishable as a misdemeanor, unless a conspiracy is involved. But perhaps the most serious inadequacy results from the practice of district courts to require the Government to carry a very onerous burden of proof of "purpose". Since many types of intimidation, particularly economic intimidation, involve subtle forms of pressure, this treatment of the purpose requirement has rendered the statute largely ineffective.

In our view, section 7 of the bill, which prohibits intimidation of persons voting or attempting to vote under the bill represents a substantial improvement over 42 U.S.C. 1971(b). Violation of this section would be a felony and could result in the imposition of severe penalties which should prove a substantial deterrent to intimidation.

And under the language of section 7, no subjective "purpose" need be shown, in either civil or criminal proceedings, in order to prove intimidation under the proposed bill. Rather, defendants would be deemed to intend the natural consequences of their acts. This represents a deliberate and, in my judgment, constructive departure from the language and construction of the present law (42 U.S.C. 1971(b).

The bill provides that a person on an eligibility list may allege to an examiner within 24 hours after closing of the polls in an election that he was not permitted to vote, or that his vote was not counted. The examiner, if he believes the allegation well founded, would notify the U.S. attorney, who may apply to the district court for an order enjoining certification of the results of the election.

The court would be required to issue such an order pending a hearing. If it finds the charge to be true, the court would provide for the casting or counting of ballots and require their inclusion in the total vote before any candidate may be deemed elected.

The examiner procedure would be terminated in any county whenever the Attorney General notifies the Civil Service Commission that all persons listed have been placed on the county's registration rolls and that there is no longer reasonable cause to believe that persons will be denied the right to vote in such county on account of race or color.

The bill also contains a provision dealing with the problem of attempts by States within its scope to change present voting qualifications. No State or county for which such determinations have been made under section 3(a) will be able to enforce any law imposing qualifications or procedures for voting different from those in force

on November 1, 1964, until it obtains a declaratory judgment in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the 15th amendment.

I turn now to the information we have regarding the impact of section 3(a). Tests and devices would—according to our best present information—be prohibited in Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia and Alaska, 34 counties in North Carolina, and one county in Arizona. Elsewhere, the tests and devices would remain valid, and similarly, the registration system would remain exclusively in the control of State officials.

The premise of section 3(a), as I have said, is that the coincidence of low electoral participation and the use of tests and devices results from racial discrimination in the administration of the tests and devices. That this premise is generally valid is demonstrated by the fact that in six of the seven States in which tests and devices would be banned statewide by section 3(a), voting discrimination has unquestionably been widespread in all but South Carolina and Virginia, and other forms of racial discrimination, suggestive of voting discrimination, are general in both of these States.

The latter suggestion applies as well to North Carolina, where 34 counties are reached by section 3(a) and where, indeed, in at least one instance a Federal court has acted to correct registration practices which impeded Negro registration.

In view of the premise for section 3(a), Congress may give sufficient territorial scope to the section to provide a workable and objective system for the enforcement of the 15th amendment where it is being violated. Those jurisdictions placed within its scope which have not engaged in such violations—the States and counties affected by the formula in which it may be doubted that racial discrimination has been practiced—need only demonstrate in court that they are guiltless in order to lift the ban of section 3(a) from their registration systems.

That is, section 3(a) in reality reaches on a long-term basis only those areas where racial discrimination in voting in fact exists.

Mr. Chairman, as I said at the outset, I have a long statement. The next part of the statement is a defense of the constitutionality of the bill which I would like to submit for the record. However, I want very briefly to summarize it, and then I would be very happy to answer questions on it.

The CHAIRMAN. You might summarize it now and we will place the written portion of your statement in the record.

Mr. KATZENBACH.

V. THE CONSTITUTIONALITY OF THE BILL

I have shown why this legislation is necessary and have explained how it would work. It remains to determine whether it is constitutional. The answer is clear: the proposal is constitutional.

Far from impinging on constitutional rights—in purpose and effect, it implements the explicit command of the 15th amendment that "the right * * * to vote shall not be denied or abridged * * * by any State on account of race (or) color." The means chosen to achieve that end are appropriate, indeed, necessary. Nothing more is required.

Let me pursue the matter a little. This is not a case where the Congress would be invoking some "inherent," but unexpressed, power. The Constitution itself expressly says, with respect to the 15th article of amendment: "The Congress shall have power to enforce this article by appropriate legislation." Amend, XV, § 2.

Here, then, we draw on one of the powers expressly delegated by the people and by the States to the National Legislature. In this instance, it is the power to eradicate color discrimination affecting the right to vote. Accordingly, as Chief Justice Marshall said in *Gibbons* v. *Ogden*, 9 Wheat 1, 196, with respect to another express power—the power to regulate interstate commerce—(t)his power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution."

That was the constitutional rule in 1824 when those words were first spoken by Chief Justice Marshall. It remains the constitutional rule today; those same words were repeated by Mr. Justice Clark for a unanimous Court just recently in sustaining the public accommodation provisions of the Civil Rights Act of 1964. See *Atlanta Motel* v. *United States*, 379 U.S. 241, 255.

This is not a case where the subject matter was exclusively reserved to another branch of government—to the executive or to the courts. The 15th amendment left no doubt about the propriety of legislative action. And, of course, both immediately after the passage of the 15th amendment, and more recently, the Congress has acted to implement the right. See the very comprehensive act of May 31, 1870, 16 Stat. 140 and the voting provisions of the Civil Rights Act of 1957, 1960, and 1964.

Some of the early laws were voided as too broad and others were later repealed. But the Supreme Court has never voided a statute limited to enforcement of the 15th amendment's prohibition against discrimination in voting. On the contrary, in the old cases of *United States* v. *Reese*, 92 U.S. 214, 218, and *James* v. *Bowman*, 190 U.S. 127, 138–139, the Supreme Court, while invalidating certain statutory provisions, expressly pointed to the power of Congress to protect the right to:

> * * * exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. This, under the express provisions of the second section of the amendment, Congress may enforce by "appropriate legislation."

And with respect to congressional elections, shortly after the adoption of the 15th amendment, the Court sustained a system of Federal supervisors for registration, and voting not dissimilar to the system proposed here. See *Ex Parte Siebold*, 100 U.S. 371; *United States* v. *Gale*, 109 U.S. 65. Constitutional assaults on the more recent legislation have been uniformly rejected. See *United States* v. *Raines*, 362 U.S. 17 (1957 act); *United States* v. *Thomas*, 362 U.S. 58 (same); *Hannah* v. *Larche*, 362 U.S. 420 (Civil Rights Commission rules under 1957 act); *Alabama* v. *United States*, 371 U.S. 37 (1960 act); *United States* v. *Mississippi*, No. 73, this term, decided March 8, 1965 (same); *Louisiana* v. *United States*, No. 67 this term, decided March 8, 1965 (same).

This legislation has only one aim—to effectuate at long last the promise of the 15th amendment—that there shall be no discrimination on account of race or color with respect to the right to vote. That is the only purpose of the proposed bill. It is, therefore, truly legislation "designed to enforce" the amendment within the meaning of section 2. To meet the test of constitutionality, it remains only to demonstrate that the means suggested are appropriate.

The relevant constitutional rule, again, was established once and for all by Chief Justice Marshall. Speaking for the Court in *McCullough* v. *Maryland*, 4 Wheat., 316, 421, he said:

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adopted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution are constitutional.

The same rule applies to the powers conferred by the amendments to the Constitution. In the case of *Ex Parte Virginia*, 100 U.S. 339, 345–346, speaking of the 14th, 15th, and 16th amendments, the Court said:

> Whatever legislation is appropriate; that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights, and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power.

See also *Everard's Breweries* v. *Day*, 265 U.S. 545, 558–559, applying the same standard to the enforcement section of the prohibition (18th) amendment.

That is really the end of the matter. The means chosen are certainly not "prohibited" by the Constitution (as I shall show in a moment), and they are—as I have already outlined—"appropriate" and "plainly adapted" to the end of eliminating, in large part, racial discrimination in voting. It does not matter, constitutionally, that the same result might be achieved in some other way. That has been settled since the beginning and was expressly reaffirmed very recently in the cases upholding the Civil Rights Act of 1964. See *Atlanta Motel* v. *United States*, 379 U.S. 241, 261.

All workable legislation tends to set up categories—inevitably so. I have explained the premise for the classification made, and, with some possible exceptions, as I have said, the facts support the hypothesis. But the exceptional case is provided for in section 3(c) of the bill which I have already discussed. Given a valid factual premise—as we have it here—it is for Congress to set the boundaries. That is essentially a legislative function which the courts do not and cannot quibble about. Cf. *Boynton* v. *Virginia*, 364 U.S. 454; *Currin* v. *Wallace*, 306 U.S. 1; *United States* v. *Darby*, 312 U.S. 100, 121. See also *Purity Extract Co.* v. *Lynch*, 226 U.S. 192.

The President submits the present proposal only because he deems it imperative to deal in this way with the invidious discrimination that persists despite determined efforts to eradicate the evil by other means. It is only after long experience with lesser means and a discouraging record of obstruction and delay that we resort to more far-reaching solutions.

The Constitution, however, does not even require this much forbearance. When there is clear legislative power to act, the remedy chosen need not be absolutely necessary; it is enough if it be "appropriate." And I am certain that you all recall the Supreme Court—in sustaining the finding of the 88th Congress that racial discrimination by a local restaurant serving a substantial amount of out-of-State food adversely affects interstate commerce—made it clear that so long as there is a "rational basis" for the congressional finding, the finding itself need not be formally embodied in the statute (*Katzenbach* v. *McClung*, 379 U.S. 294, 303–305).

I turn now to the contention often heard that, whatever the power of Congress under the enforcement clause of the 15th amendment in other respects, it can never be used to infringe on the right of the States to fix qualifications for voting, at least for non-Federal elections. The short answer to this argument was given most emphatically by the late Mr. Justice Frankfurter, speaking for the Court in *Gomillion* v. *Lightfoot*, 364 U.S. 339, 347, a 15th amendment case:

> When a State exercises power wholly within the domain of State interest, it is insulated from Federal judicial review. But such insulation is not carried over when State power is used as an instrument for circumventing a federally protected right.

The constitutional rule is clear: So long as State laws or practices erecting voting qualifications for non-Federal elections do not run afoul of the 14th or 15th amendments, they stand undisturbed. But when State power is abused—as it plainly is in the areas affected by the present bill—there is no magic in the words "voting qualification."

The "grandfather clauses" of Oklahoma and Maryland were, of course, voting qualifications. Yet they had to bow before the 15th amendment. *Guinn* v. *United States*, 238 U.S. 347; *Myers* v. *Anderson*, 238 U.S. 368. Nor are only the most obvious devices reached. As the Court said in *Lane* v. *Wilson*, 307 U.S. 268, 275; "The amendment nullifies sophisticated as well as simple-minded modes of discrimination."

Nor do literacy tests and similar requirements enjoy special immunity. To be sure, in *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, the Court found no fault with a literacy requirement, as such, but it added: "Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the 15th amendment was designed to uproot." Id., at 53. See, also, *Gray* v. *Sanders*, 372 U.S. 368, 379.

Indeed, as the opinion in Lassiter noted, the Court had earlier affirmed a decision annulling Alabama's literacy test on the ground that it was "merely a device to make racial discrimination easy." 360 U.S. at 53. See *Davis* v. *Schnell*, 336 U.S. 933, affirming 81 F. Supp. 872. And, only the other day, the Supreme Court voided one of Louisiana's literacy tests. *Louisiana* v. *United States*, No. 67, this term, decided March 8, 1965. See, also, *United States* v. *Mississippi*, supra.

Thus, it is clear that the Constitution will not allow racially discriminatory voting practices to stand. But it is even clearer, as we have seen, that the Constitution invites Congress not merely to stand by and watch the courts invalidate State practices but to take a positive role by outlawing the use of any practices utilized to deny rights under the 15th amendment.

This bill accepts that invitation.

One may, I suppose, grant the constitutionality of the remedy proposed in this bill, but, nevertheless, oppose it on the ground that it places the ballot in the hands of the illiterate. On this theory, the remedy for existing discrimination would be to guarantee the fair administration of literacy tests rather than to abolish them. I suggest that this alternative is unrealistic.

In fact, the majority of the States—at least 30—find it possible to conduct their elections without any literacy test whatever. There is no evidence that the quality of government in these States falls below that of these States which impose—or purport to impose—such a requirement.

Whether there is really a valid basis for the use of literacy tests is, therefore, subject to legitimate question. But it is not for this reason that the proposed legislation seeks to abolish them in certain places.

Rather, we seek to abolish these tests because they have been used in those places as a device to discriminate against Negroes.

Highly literate Negroes have been refused the right to vote. Totally illiterate whites have been allowed to vote. In short, in these areas, the literacy test is demonstrably unrelated to intellectual capacity. It is directly related only to one factor: color.

It is not this bill—it is not the Federal Government—which undertakes to eliminate literacy as a requirement for voting in such States or counties. It is the States or counties themselves which have done so, and done so repeatedly, by registering illiterate or barely literate white persons.

The aim of this bill is, rather, to insure that the areas which have done so apply the same standard to all persons equally, to Negroes now just as to whites in the past.

It might be suggested that this kind of discrimination could be ended in a different way—by wiping the registration books clean and requiring all voters, white or Negro, to register anew under a uniformly applied literacy test.

For two reasons such an approach would not solve, but would compound our present problems.

To subject every citizen to a higher literacy standard would, inevitably, work unfairly against Negroes—Negroes who have for decades been systematically denied educational opportunity available to the white population.

Such an impact would produce a real constitutional irony—that years of violation of the 14th amendment right of equal protection through equal education would become the excuse for continuing violation of the 15th amendment right to vote.

The result would be something chillingly close to the mechanism once confidently described by the late Senator Theodore Bilbo of Mississippi:

> The poll tax won't keep 'em from voting. What keeps 'em from voting is section 244 of the constitution of 1890, that Senator George wrote. It says that a man to register must be able to read and explain the constitution when read to him * * * and then Senator George wrote a constitution that damn few white men and no niggers at all can explain * * *
>
> (See Collier's magazine, July 6, 1946; Hearings Before the Special Committee to Investigate Senatorial Campaign Expenditures, 1946, p. 205.)

The second argument against such a reregistration "solution" is even more basic—and even more ironic. Even the fair administration of a new literacy test in the relevant areas would, inevitably, disenfranchise not only many Negroes, but also thousands of illiterate whites who have voted throughout their adult lives.

Our concern today is to enlarge representative government. It is to solicit the consent of all the governed. It is to increase the number of citizens who can vote. What kind of consummate irony would it be for us to act on that concern—and in so doing reduce the ballot, to diminish democracy?

It would not only be ironic; it would be intolerable.

VI. CONCLUSION

I have come before you to describe the proposed Voting Rights Act of 1965, the need for this Act, and some of the questions raised about it, and to do so in considerable detail. I will be happy to respond to your questions as fully as possible. I am prepared certainly, to remain here this morning, this afternoon, this evening, tomorrow, and every day that the committee feels my presence would be helpful. This legislation must be enacted.

However detailed my presentation may be and however extensive your consideration may be, there remains, nevertheless, a single, uncomplicated and underlying truth. This legislation is not only necessary, but it is necessary now.

Democracy delayed is democracy denied.

Mr. Chairman, this bill is based on the 15th amendment which, in its own terms, prohibits discrimination on account of race or color in voting and which, in its own terms, gives Congress the power to enact legislation to secure that end.

I think the law is clear that where there is a specific grant of power to Congress, the Congress may adopt any appropriate means to secure that end. It is my judgment that in view of the record of the past, in particular, and in view of the demonstrations that can be made that these are areas which have indeed practiced voting discrimination, in view of the fact that it is these tests and devices which have been used to accomplish that end, that Congress may make its decision that a reasonable way, and perhaps the only effective way to effectuate the command of the 15th amendment is to enact steps substantially as this legislation does.

That is, simply to abolish the use of those tests which have been used for this purpose for many, many years, to suspend them until the mandate of the 15th amendment can be fulfilled.

I would like to point out that the formula under the proposed bill for suspending tests is objective, that I have and can continue to introduce material on which Congress can make the judgment that the formula is related to the problem of racial discrimination and violation of the 15th amendment; and, further, that there is a court procedure, if it can be demonstrated that there has been no racial discrimination, whereby a State or county covered may come out from under the provisions of this bill.

I should point out that these means are certainly not prohibited under the Constitution, that they are appropriate in the words of

the court decisions, and they are plainly adapted, again in the words of the court decisions, to the end of eliminating racial discrimination in voting.

It seems to me that that test has been settled really since the very beginning of our country as a right of Congress, and was reaffirmed recently in cases upholding the Civil Rights Act of 1964, which, as the Chairman will recall, was predicted by many to be unconstitutional—by many members of this House and the other body—but which was upheld by the Supreme Court unanimously.

Thus, Mr. Chairman, it is clear that the Constitution will not allow racially discriminatory voting practices to stand. It is even clearer the Constitution invites Congress not merely to stand by and watch the courts invalidate State practices, but by the terms of the 15th amendment itself, to take a positive role by outlawing the use of any practices utilized to deny the rights of the 15th amendment.

This bill accepts that invitation.

One may, I suppose, grant the constitutionality of the remedy proposed in this bill but nevertheless oppose it on the ground that it places the ballot in the hands of the illiterate. On this theory, the remedy for existing discrimination would be to guarantee the fair administration of literacy tests rather than to abolish them. I suggest that this alternative, Mr. Chairman, is unrealistic.

In fact, the majority of the States—at least 30—find it possible to conduct their elections without any literacy tests whatever. There is no evidence that the quality of government in these States falls below that of the States which impose, or purport to impose, such a requirement.

I doubt if there is any member of this Congress who would take the position that those 30 States have a poorer government than States which have a literacy test.

Whether there is really a valid basis for the use of literacy tests is, therefore, subject to legitimate question. It is not for this reason that the proposed legislation seeks to abolish them in certain places. Rather, we seek to abolish these tests because they have been used in those places as a device to discriminate against Negroes.

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It might be suggested that this kind of discrimination could be ended in a different way—by wiping the registration books clean and requiring all voters, white or Negro, to register anew under a uniformly applied literacy test.

For two reasons, such an approach would not solve, but would compound our present problems.

To subject every citizen to a higher literacy standard would, inevitably, work unfairly against Negroes—Negroes who have for decades been systematically denied educational opportunity available to the white population.

Such an impact would produce a real constitutional irony—that years of violation of the 14th amendment right of equal protection through equal education would become the excuse and the justification for continuing violation of the 15th amendment right to vote.

The result would be something chillingly close to the mechanism once confidently described by the late Senator Theodore Bilbo of Mississippi, and I quote:

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The second argument against such a reregistration "solution" is even more basic—and even more ironic. Even the fair administration of a new literacy test in the relevant areas would, inevitably, disenfranchise not only many Negroes but also thousands of illiterate whites who have voted throughout their adult lives.

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Mr. Chairman, I have come before you to describe the proposed Voting Rights Act of 1965, the need for this act, and some of the questions raised about it, and to do so in considerable detail. I would be happy to respond to your questions as fully as possible and I am prepared, certainly, to remain here this morning, this afternoon, this evening, tomorrow, and every day that the committee feels my presence would be helpful.

This legislation simply must be enacted.

However, detailed my presentation may be and however extensive your consideration may be, there remains, nevertheless, a single, uncomplicated and underlying truth: this legislation is not only necessary but it is necessary now.

Democracy delayed is democracy denied.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Katzenbach, Mr. McCulloch and I only received the bill yesterday. It was put on our desks this morning and we have had, of course, insufficient time to analyze it carefully. The questions to be directed to you this morning are the result of more or less superficial examination of the bill. Nonetheless, I think while you are here we would like to ask some questions of you.

Did I understand that the bill gives you, as the Attorney General, the power of appointing Federal examiners in some six States; that is, Alabama, Louisiana, Mississippi, Georgia, South Carolina, and Virginia? Am I correct in that?

Mr. KATZENBACH. The examiners are actually appointed by the Civil Service Commission, Mr. Chairman.

The CHAIRMAN. Why was the Civil Service Commission selected?

Mr. KATZENBACH. It was selected because the Civil Service Commission is a bipartisan body and because there are employees of Civil Service Commission in virtually every county of the country. It was hoped that if it became necessary to appoint Federal examiners, that the Civil Service Commission could, in a neutral, nonpolitical way, either name employees of the Commission in those counties or, if necessary, appoint somebody else.

I think it was the reputation of the Civil Service Commission for its bipartisan, fair, nonpolitical activities, that led to its choice as the appointing body.

Not that I would want to cast any reflections on the Attorney General.

The CHAIRMAN. Must these examiners be residents of the States in which they are to operate?

Mr. KATZENBACH. There is no requirement in the bill that they should or must be, Mr. Chairman. I would suppose that in ordinary circumstances they would be. I think that it is generally preferable to have a local resident perform those functions. He is familiar with the area. He knows the people and it seems to me it is easier for him to make the judgment.

So, I would assume the Civil Service Commission would, in general, appoint people from that area.

We have, however, had a problem with local residents—of the possibility of their being intimidated and having life within the community made very difficult for them. I think it was for that reason we gave the Civil Service Commission, in the proposal, the capacity to send somebody who would not have to bear the brunt of local public opinion in such areas, someone from outside the State, if the Commission's judgment should be that that was necessary.

The CHAIRMAN. In one of the previous drafts of the bill, there was a provision that the registrar must be a resident of the State in which he operates?

Mr. KATZENBACH. Yes; that was in a prior draft, Mr. Chairman, which you saw. It is not included in the bill as submitted by the President for the reason I just gave. I would hope that, in general, they would be local residents and I think they would be.

The CHAIRMAN. The bill also requires the Bureau of the Census to determine the number of persons, the percentage of persons, who voted or registered in 1964 elections?

Mr. KATZENBACH. Yes, sir.

The CHAIRMAN. You also bring in the Civil Rights Commission into the picture, do you not?

Mr. KATZENBACH. No; the Civil Rights Commission is not brought in.

The CHAIRMAN. That was in one of the earlier drafts, I believe?

Mr. KATZENBACH. One of the earlier drafts had the Civil Rights Commission. The bill as submitted did not.

I might say, as you know, the final version of this bill was arrived at at about 11:50 yesterday morning. I guess the signed letter of transmittal was signed by the President about 25 minutes later and submitted to Congress; so, charges were made right up until yesterday noon. It is understandable that members of this committee have not had a chance to see the later version of it.

The CHAIRMAN. The bill also refers to "political subdivisions." How far down the political scale does that go?

Mr. KATZENBACH. I believe that the term "political subdivision" used in this bill is intended to cover the registration area and that the whole bill really is aimed at getting people registered.

The CHAIRMAN. For example, in New York we have what is called an assembly district where the representatives of the lower house of the State legislature are elected. Such assembly districts are then broken down into election districts. I take it that an election district would be deemed a political subdivision?

Mr. KATZENBACH. I think that is possible, Mr. Chairman, but, frankly, you are more familiar with how registration is accomplished in New York than I am. I know how it is accomplished or not accomplished in Alabama.

The CHAIRMAN. What would be the lowest possible political unit in the scale?

Mr. KATZENBACH. What is the area in which registration is done in New York? I am not familiar with that, Mr. Chairman.

The CHAIRMAN. In New York, it is the so-called election district, but what would it be in some of the States that would be affected here?

Mr. KATZENBACH. Throughout the affected States, in the South, it is a county or parish under the present law; parish in Louisiana.

The CHAIRMAN. This bill covers Federal, State, and municipal elections. Would it cover an election for a school bond?

Mr. KATZENBACH. Yes; it would, Mr. Chairman. Every election in which registered electors are permitted to vote would be covered by this bill.

The CHAIRMAN. Would the Federal examiner be empowered to distinguish between citizens of good character and citizens of bad character, that is, would he be able to eliminate former criminals?

Mr. KATZENBACH. Yes; moral character tests would be abolished except insofar as people were convicted of felonies and were not permitted to vote. Subjective tests of moral character which have been used would be abolished because they have been used on a discriminatory basis.

The CHAIRMAN. You speak of felons. Complaints have been registered with me that in certain sections of the South, misdemeanors have been converted into felonies. Persons have been arrested and have been charged with felonies which should have been misdemeanors. They are asked to plead guilty, they say, and then they can go scot free and unmolested. In other words, they may be trapped into a plea of guilty of a felony. I understand there are scores and scores of such cases.

Would those persons be prevented from registration?

Mr. KATZENBACH. Under the bill as it is drafted, if they were guilty of a felony, they could be refused the right to vote.

The CHAIRMAN. Would be eliminated?

Mr. KATZENBACH. Yes, Mr. Chairman.

The CHAIRMAN. Would that be fair?

Mr. KATZENBACH. I can imagine circumstances under which it would be unfair, Mr. Chairman, if the facts as you described them are correct. I am not doubting the facts as you describe them, but I do not think large numbers would be disenfranchised by that device.

I do not think it would be possible to use it to disenfranchise large numbers. In general, conviction of a felony is an accepted State

standard. It is objective and can be established objectively, and for that reason we do not prohibit its use.

The CHAIRMAN. In other words, you do not think there are many cases of that kind?

Mr. KATZENBACH. I do not believe so; not for felonies, Mr. Chairman, but a good many more misdemeanors.

The CHAIRMAN. You speak of the payment of poll taxes and under H.R. 6400 any one applying can pay a poll tax to the Federal examiner?

Mr. KATZENBACH. Yes, sir.

The CHAIRMAN. But there would be no payment of a cumulative poll tax?

Mr. KATZENBACH. Yes.

The CHAIRMAN. As you know, we have a constitutional amendment which abolishes payment of poll taxes as a condition precedent in Federal elections?

Do you believe that poll taxes should be abolished even in State elections?

Mr. KATZENBACH. Do I?

The CHAIRMAN. Yes.

Mr. KATZENBACH. Yes; I would like to get rid of poll taxes.

The CHAIRMAN. Can we do this by statute without a constitutional amendment?

Mr. KATZENBACH. I think it is very difficult, Mr. Chairman, to do it by statute. There is presently pending in the Supreme Court a case which the Supreme Court will hear at its next session and may do that job.

A constitutional argument can be made that the poll tax, as a condition precedent to voting, is a restriction against voting which is unwaranted by the Constitution, whether applied discriminatorily or not.

That argument is being made to the Court. Of course, if the Court should come to the conclusion, as I think it might, then poll taxes would be eliminated at State elections.

At the moment, the laws as laid down by the Supreme Court are to the contrary. It holds that poll taxes can be used. This bill is based on the 15th amendment and to eliminate poll taxes on the basis they have been very often used to discriminate, I think, would be a difficult case constitutionally to prove and establish.

The reason for that is somewhat ironic, Mr. Chairman. The reason for that is that while you can find evidence they have had poll taxes in a number of the States that discriminate, and that they enacted them with discrimination in mind, they have, in fact, used the other tests and devices which I have described to eliminate Negroes from voting, to prevent them from voting.

It makes it difficult for us to establish in those areas, by evidence that we could present to Congress, that the poll tax has been very often used for that purpose.

What, in fact, happened is that Negroes who cannot register because of other tests have not had any incentive to pay their poll tax. It is for that reason we knock out the cumulative or the back poll taxes because I think there we can make the constitutional case, there being no incentive for a Negro to pay a poll tax since he could not register anyhow, and that should not now be used, nor in the future, to bar him from voting.

I have no doubt as to the intent of poll taxes. I think personally they are bad. I think one can make a 14th amendment argument and that is being made before the Court, but I think there is some difficulty on the present state of the evidence to make a 15th amendment argument.

What concerned people who worked on this bill, Mr. Chairman, was the fact that if the Supreme Court should determine, in accordance with the past law on this subject, that poll taxes or payment of poll taxes, can be a condition precedent to voting, and if we took care of the situation by eliminating the poll tax on the 15th amendment basis, and if we were then to lose that particular provision in court, we would not be able to get people registered to vote in the coming elections.

The problem would then go on while a new provision was introduced here. People who have been denied, for years, would be prevented the right from voting in the next election.

The difficult choice faces us because I think all of the people who really worked on this bill wanted to get rid of poll taxes and felt, as I did, and as I do, there was a constitutional difficulty to that. They felt if we had to make some sort of "Solomon-like decision" they would rather go through the distasteful process of collecting a State poll tax and making sure people voted than to take what we regarded as a substantial risk of unconstitutionality. I think the case presently before the Supreme Court is a stronger case for the abolition of the poll tax than the 15th amendment basis would be.

If that case should not abolish the poll taxes, I think we would have a difficult job of abolishing them on the 15th amendment basis.

That is the reason for what I regarded as a rather distasteful provision but it seemed to me that at least we were not ingenious enough to figure a way out of it.

If this committee can, I would welcome its suggestion.

The CHAIRMAN. Do you not, in essence, argue for abolishing the poll tax when you say there can be no demand for accumulated poll taxes?

Mr. KATZENBACH. Mr. Chairman, I think we make the argument that we can abolish the cumulative poll tax and the argument for abolishing that is on the basis of the 15th amendment; as to past poll taxes, there was no incentive for payment on the part of those who were being denied the right to vote in violation of the 15th amendment and on other grounds. That is, by literacy tests and so forth.

It would be unfair to require payment for past years when they were being denied their 15th amendment rights.

I think we can push the 15th amendment that far quite safely.

To go further—and I know there are those that disagree—I guess that every Member of this committee would agree that, at least, it is a close question, not a clear-cut question as to abolition under the 15th amendment.

The CHAIRMAN. Am I correct that today there are five States which have a poll box—Mississippi, Alabama, Virginia, Arkansas, and Texas?

Mr. KATZENBACH. Yes, I think that is correct. I think the poll tax really discourages voting by anyone. Take a State where there has not been any of these other tests and devices for some years; in my judgment Negroes have not been discriminated against and poll taxes

served to prevent many of them from voting, as well as it has prevented many whites from voting.

When you find the figures on poll taxes in the States that do not have these tests, the voting registration and numbers of people voting in the elections is quite low for that reason. It hurts your case on the 15th amendment because in those States there has not been any substantial amount of discrimination.

The CHAIRMAN. As I read the bill, any State can remove itself from the provisions of the act by appealing to a three-man court in the District of Columbia; am I correct?

Mr. KATZENBACH. That is correct, Mr. Chairman, with this caveat to it: Those States in which there is, or may be, a final judgment by a court that there has been discrimination in violation of the 15th amendment, in that State or in any part of that State, may not petition the court for removal until 10 years after the last such decision.

The CHAIRMAN. Under this portion of the bill, why was the District of Columbia selected?

Mr. KATZENBACH. The District of Columbia was selected as a convenient forum and for the reason that it was felt that since at least three circuits would be involved, in this determination, it would be desirable to take a three-judge court at the seat of government in order to establish uniformity of decision in this regard.

The CHAIRMAN. What State would be barred by this 10-year prohibition?

Mr. KATZENBACH. The States of Louisiana, Mississippi, and Alabama, would be barred for substantially 10 years from the enactment of this bill. The State of Georgia would be barred for approximately 5 years after the enactment of this bill on the basis of present court decisions.

If there were new court decisions in this respect, those periods might be extended.

The CHAIRMAN. What about Virginia?

Mr. KATZENBACH. Virginia would not be barred from coming in immediately.

The CHAIRMAN. South Carolina?

Mr. KATZENBACH. South Carolina could come in immediately.

The CHAIRMAN. You have mentioned Arizona?

Mr. KATZENBACH. One county in Arizona could come in immediately and Alaska could come in immediately.

The CHAIRMAN. How about North Carolina?

Mr. KATZENBACH. North Carolina is not within the provisions.

Counties of North Carolina could come in immediately. I think it is 34 counties in North Carolina. Mr. Glickstein says there is one other county in Maine and one in Idaho.

Mr. TUCK. Could I ask one question?

The CHAIRMAN. I first will permit members of the subcommittee to ask questions and the other members, who do not compose the subcommittee. However, I will make an exception in your case.

Mr. TUCK. Is it the policy of the Government now to interest people to come in and establish their innocence?

Mr. KATZENBACH. No, Congressman, that is not the theory. There is no guilt or innocence involved. The problem is to find an objective standard. We have found an objective standard here; we believe the great majority of cases of low voter participation relate to racial discrimination.

Mr. TUCK. Is that not the effect of your recommendation?

Mr. KATZENBACH. I am sorry. I did not hear your question.

Mr. TUCK. Is that not the effect of your recommendation?

Mr. KATZENBACH. I certainly would not put it that way, Congressman. I suppose what you are suggesting is that the State falls within the objective criteria and it has to come in and prove absence of discrimination. That is true, but if Virginia, for example, has not been discriminating, I do not see any great difficulty in their coming in and establishing that.

They have plenty of time to do so before there is any election in Virginia.

The CHAIRMAN. Mr. Attorney General, in addition to the required determination that less than 50 percent of the voting age population had not registered, or had not voted, this will empower you, as Attorney General, to certify after you received meritorious complaints from 20 persons that there has been a denial of the right to vote by reason of race or color? In other words, there are two conditions? One, the less than 50 percent determination and two, receipt of complaints from 20 persons?

Mr. KATZENBACH. No, Mr. Chairman, that is not quite right. The conditions that put a State or political subdivision within this law are: (1) That it has a literacy test or similar kind of test, and I certify that. That is a purely ministerial certification. It merely requires me, in my capacity, to read the law of the State and certify that they have such a test or did have such a test in November of 1964.

The second condition is that either less than 50 percent are registered or less than 50 percent voted in the November 1964 election.

If these conditions are met, then a State is within these provisions—or a political subdivision thereof—unless it can get out by establishing the absence of any discrimination.

The other provision gives the Attorney General the authority within those States, within those counties that are already covered by that section, the power to require of the Civil Service Commission the appointment of a Federal Examiner.

That is where the 20 complaints come in.

The CHAIRMAN. You have used the phrase a number of times—"tests and devices".

I take it the word "test" is clear. That is literacy tests?

Mr. KATZENBACH. Yes, sir.

The CHAIRMAN. What do you mean by "devices" and how broad is that?

Mr. KATZENBACH. The term is broadly defined in section 3(b) of the act on page 2. It means any requirement, no matter what form it may take, 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 voucher of registered voters or members of any other class.

The CHAIRMAN. Mr. Rodino?

Mr. RODINO. Mr. Attorney General, first, I wish to commend you on the very fine, strong statement which you have presented this morning. I am hopeful that this committee may, in a bipartisan spirit, seek to achieve that which we thought we achieved in the past many

years, and that we will favorably report this bill and that it will be enacted quickly so that the right to vote provided under the Constitution may be a reality.

In 1957, 1960, and 1964 the Congress attempted to eliminate the obstacles and abusive practices that have prevented many of our citizens from exercising their right to vote. These remedies, it is now clear, have been inadequate to cope with the deliberate refusal of those who are determined to deny their fellow Americans their right to vote because of race or color.

I concur with the statement of President Johnson in his Message to the Congress on March 15, in which he said:

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

Now, Mr. Attorney General, in your statement you have spoken of the history of the denial of this right to vote, the evasion, obstruction, and delay. You also cite various examples of how, when we have sought to remedy these problems, nonetheless certain devices have been used, and there has been obstruction.

Do you envisage, Mr. Attorney General, that with the enactment of this bill into law that that evasion and obstruction will pass away?

Mr. KATZENBACH. I do, Congressman, after what I am sure will be one test of the constitutionality of this bill. Then I think after that this bill provides the means necessary to protect the right to vote and to guarantee it within all of those areas where delay, frustration, and unfairness have so long denied it.

Mr. RODINO. Do you feel that it will require only one test, or do you envisage that there may be many tests? Is it not possible that there may be tests in various parts of the country because of the provisions of this bill?

Mr. KATZENBACH. I would think not, Congressman. I would think it would be essentially like the public accommodations law where there was one quite rapid constitutional test, and where the Court covered the subject in its opinion quite well and where there has been compliance.

Mr. RODINO. The bill refers to the Director of the Census making a determination respecting a 50 percent figure as to both the people of voting age who are registered as of November 1, 1964, and those who voted as of November 1964 in the presidential election. Why do you use the figure of 50 percent?

Mr. KATZENBACH. I use the 50 percent figure, Congressman, because looking at the problems statistically I find that the average number throughout the country who registered and who voted, with some exceptions, runs to an average of about 61 percent. There was quite a gap in the national average. There is quite a gap between the national average and the figure 50 which was selected. Obviously any particular figure selected is an arbitrary figure, that is, 49, 51, or 52: 50 is a good round number.

When you examine it further and you look at the States involved, and the counties involved, there would seem to be quite a direct relationship between the low registration and voting figures in those States as compared to the whole population, and the fact that a low number of Negroes are registered.

If you look further into that you will find that these are the areas in general in which complaints have been made about discrimination, in which the Department of Justice has filed under the existing laws voting suits, and in which we have won voting suits. These are the States in which we have filed suits against discrimination in voting. I think you can make a judgment, on the basis of that, that the reason for the low registration and the low voting figure, is the fact that Negroes are not registered, and a further judgment that the probability is that the Negroes in those States have been discriminated against.

Mr. RODINO. Would you conclude that if 51 percent of the people of voting age were registered as of November 1, 1964, and 51 percent of the people of voting age voted in the election of November of 1964, that there had been no discrimination in that area?

Mr. KATZENBACH. I would say, Congressman, that one could not say there had been no discrimination in those areas, nor was it necessary to say there had been no discrimination. There may well have been, but I would say that the higher the percentage of people who are registered and who vote the less the possibility of at least widespread discrimination.

With the enactment of this law we are trying to deal with those areas in which there has simply been massive resistance to the registration and voting of Negroes.

I don't think that all areas of the country are free of prejudice, and I think it is possible that in any State of this country Negroes may have been discriminated against from time to time. They may be discriminated against now.

I think the likelihood of that on any large scale is small, and I think you show the likelihood is small on a statistical basis.

Remember, we still have the power after the enactment of this bill, to single out a particular county and to go through the procedures of the prior Civil Rights Act which remain if there is a discrimination which we have not caught with the statistical judgment.

Mr. RODINO. In other words, even if more than 50 percent of the people in a particular area voted or were registered that in itself would not mean that cases of discrimination which might exist in such areas would not be studied and acted upon?

Mr. KATZENBACH. That is absolutely right, Congressman. I have some statistics here, Mr. Chairman, which I would like to submit for the record.

I believe these figures are correct. I can say that with confidence since I did not do the mathematical computations myself. Had I done so I would not dare submit them. I believe these are correct and I believe they would tend to support the general statement that I just made.

I have here an analysis of the States, voting age population, total vote cast in the 1964 presidential election, percentage of population which cast its vote; number of registered voters in 1964, and that is a figure which I do not regard as completely reliable but the best we can do; and the percentage of population of that State registered.

It varies from very high figures, 90 percent in Maine, 93 percent in Indiana, 94 percent in Idaho, down to the lowest figure which is 44

percent on those registered, 33 percent on those voting, and that State happens to be Mississippi.

The CHAIRMAN. We shall be glad to receive those in the record.

Mr. KATZENBACH. I also have for the record, Mr. Chairman, the list of States which use a test or device as defined in section 3(b) of the proposed Voting Rights Act of 1965. Again I believe this list to be correct. I would like the opportunity, if further research indicates we made errors, to correct it for the record, although I believe it is correct.

The CHAIRMAN. Without objection these tables may be placed in the record.

(The tables referred to are tables A–1, and A–2 of the following set of compilations which were supplied by the Department of Justice:)

INDEX TO TABLES

TABLE A–1.—*50-State compilation of voting and registration statistics*

	Voting age population [1]	Total vote cast, 1964 presidential election [2]	Percentage of population [3]	Numbers of registered voters in 1964 [4]		Percentage of population [3]
Alabama [6]	1,915,000	689,818	36	1,057,477	7/64	55
Alaska [6]	138,000	67,259	49	(5)		
Arizona [6]	879,000	480,770	55	584,284	11/64	66
Arkansas	1,124,000	560,427	49.9	633,005	1/64	56
California [6]	10,916,000	7,057,586	65	8,184,143	11/64	75
Colorado	1,142,000	776,986	68	933,312	11/64	81.7
Connecticut [6]	1,608,000	1,218,578	72	1,373,443	11/64	80.9
Delaware [6]	283,000	201,320	71	245,494	10/64	86.7
Florida	3,516,000	1,854,481	53	2,501,546	11/64	54
Georgia [6]	2,636,000	1,139,352	43	[7] 1,666,778	1964	63
Hawaii [6]	395,000	207,271	52	239,361	11/64	60.6
Idaho [6]	386,000	292,477	76	364,231	11/64	94
Illinois	6,358,000	4,702,841	74	5,534,676	11/64	87
Indiana	2,826,000	2,091,606	74	2,628,627	10/64	93
Iowa	1,638,000	1,184,539	72	(5)		
Kansas	1,323,000	857,901	65	(5)		
Kentucky	1,976,000	1,046,105	53	1,000,000	4/64	51
Louisiana [6]	1,893,000	896,293	47	1,105,395	1/65	63
Maine [6]	581,000	380,965	65	522,236	11/3/64	90
Maryland	1,995,000	1,116,457	56	1,410,281	10/64	70.6
Massachusetts [6]	3,290,000	2,344,798	71	2,721,466	11/64	82.7
Michigan	4,647,000	3,203,102	69	3,351,730	4/64	72
Minnesota	2,024,000	1,554,462	77	(5)		
Mississippi [6]	1,243,000	409,146	33	553,000	1/64	44
Missouri	2,696,000	1,709,879	67	(5)		
Montana	399,000	278,628	70	327,477	11/64	82
Nebraska	877,000	584,514	67	(5)		
Nevada	244,000	135,433	55	163,475	11/64	67.0
New Hampshire [6]	396,000	288,093	72	365,224	11/64	92.0
New Jersey	4,147,000	2,846,770	69	3,253,603	11/64	78.4
New Mexico	514,000	327,615	64	464,911	11/64	90.4
New York [6]	11,330,000	7,166,203	63	8,443,430	11/64	74.5
North Carolina [6]	2,753,000	1,424,983	52	2,200,000	3/65	76.0
North Dakota	358,000	258,389	72	(5)		
Ohio	5,960,000	3,969,196	67	(5)		
Oklahoma	1,493,000	932,499	62	1,189,026	1/65	82.0
Oregon [6]	1,130,000	785,289	69	932,461	11/64	75.0
Pennsylvania	7,080,000	4,818,668	68	(5)		
Rhode Island	568,000	390,078	69	472,659	11/64	83.0
South Carolina [6]	1,380,000	524,748	38	772,672	9/64	56.0
South Dakota	404,000	293,118	73	369,782	11/64	91.5
Tennessee	2,239,000	1,144,046	51	1,628,825	2/64	72.7
Texas	5,922,000	2,626,811	44	3,338,718	1/64	56.3
Utah	522,000	401,413	77	448,403	11/64	85.9
Vermont	240,000	163,069	68	209,225	11/64	87.0
Virginia [6]	2,541,000	1,042,267	41	1,311,023	10/64	51.6
Washington [6]	1,759,000	1,258,374	72	1,582,046	11/64	90.0
West Virginia	1,053,000	792,040	75	1,055,429	11/64	102.0
Wisconsin	2,391,000	1,696,815	71	(5)		
Wyoming [6]	195,000	142,716	73	(5)		
Nationwide total	113,931,000	70,642,496	62			

[1] This is an estimate by the Bureau of Census as of Nov. 1, 1964, taken from a memorandum issued by the Department of Commerce, dated Sept. 8, 1964, No. CB64-93.

[2] This column is based on figures supplied by official State sources to the Congressional Quarterly.

[3] These percentages are based on the voting age population as of Nov. 1, 1964.

[4] These figures are mostly based on the official reports of the various States, but in some cases do not represent the actual number of persons registered, due to the lack of effective purging of voters who have died or moved away or otherwise become ineligible.

[5] These States do not have statewide registration.

[6] These States use a test or device as defined by sec. 3(b) of the proposed Voting Rights Act of 1965. Idaho, which does not have a literacy test, has a "good moral character" requirement. Some of the literacy test States also have a "good moral character" requirement.

[7] This does not include Fayette County, which has approximately 2,400 registered voters.

TABLE A-2.—*States which use a test or device as defined by sec. 3(b) of the proposed Voting Rights Act of 1965*

State	Voting age population [1]	Total vote cast, 1964 presidential election [2]	Percentage of population
(Group A): [3]			
Alabama	1,915,000	689,818	36
Alaska	138,000	67,259	49
Georgia	2,638,000	1,139,352	43
Louisiana	1,893,000	896,293	47
Mississippi	1,243,000	409,146	33
South Carolina	1,380,000	524,748	38
Virginia	2,541,000	1,042,267	41
(Group B): [4]			
Arizona	879,000	480,770	55
California	10,916,000	7,057,586	65
Connecticut	1,698,000	1,216,578	72
Delaware	283,000	201,320	71
Hawaii	395,000	207,271	52
Idaho	386,000	292,477	76
Maine	581,000	380,965	65
Massachusetts	3,290,000	2,344,798	71
New Hampshire	396,000	288,093	72
New York	11,330,000	7,166,203	63
North Carolina	2,753,000	1,424,983	52
Oregon	1,130,000	785,289	69
Washington	1,759,000	1,268,374	72
Wyoming	195,000	142,716	73

[1] This is an estimate by the Bureau of Census as of Nov. 1, 1964, taken from a memo issued by the Department of Commerce, dated Sept. 8, 1964, No. CB64-93.
[2] This column is based on figures supplied by official State sources to the Congressional Quarterly.
[3] States in which less than 50 percent of the voting age population voted in the presidential election of 1964.
[4] States in which more than 50 percent of the voting age population voted in the presidential election of 1964.

TABLE A-3.—*States using tests or devices as defined by sec. 3(b) of the proposed Voting Rights Act of 1965*

	Read	Write	Understand	Interpret any matter	Knowledge	Good moral character	Voucher
Alabama	X [1]	X [1]	X [2]	X [2]	X [2]	X [1]	X [2]
Alaska [3]	X [4]						
Arizona [5]	X [6]	X [6]					
California	X [7]	X [7]					
Connecticut	X [8]					X [8]	
Delaware	X [9]	X [9]					
Georgia	X [10]	X [10]	X [11]	X [12]	X [12]	X [11]	
Hawaii	X [13]	X [13]					
Idaho						X [14]	
Louisiana	X [15]	X [15]	X [16]	X [16]	X [17]	X [16]	X [16]
Maine	X [20]	X [20]					
Massachusetts	X [21]	X [21]					
Mississippi	X [22]	X [22]	X [23]	X [23]	X [22]	X [23]	
New Hampshire	X [24]	X [24]					
New York	X [25]	X [25]					
North Carolina	X [26]	X [26]					
Oregon	X [27]	X [27]					
South Carolina	X [28]	X [28]					
Virginia		X [29]					
Washington	X [30]		X [30]				
Wyoming	X [31]						

[1] Code of Alabama, title 17, § 32:
"The following persons * * * shall be qualified to register * * * those who can read and write any article of the Constitution of the United States in the English language which may be submitted to them by the board of registrars and who are of good character. * * *"
[2] Order of Jan. 14, 1964, as amended, Aug. 26, 1964, by the Supreme Court of Alabama prescribing a new application form to be used by the board of registrars throughout the State, pt. VI (vouching), pt. III (acknowledge, interpret, understand).
[3] The U.S. attorney for the District of Alaska has stated that the secretary of state believes that anyone who can speak English can vote, even if he cannot sign his name except with an "X." (Hearings on S. 2750 before the House Judiciary Committee, 87th Cong., 2d sess., p. 315.)
[4] Alaska Statutes § 15.05.010:
"A person may vote at any election who * * * (5) can speak or read English unless prevented by physical disability, or voted in the general election of November 4, 1924."

Additional footnotes on following page

[6] The former U.S. attorney for the District of Arizona has stated that an applicant must only attest to the fact that he is able to read the Constitution of the United States in the English language, and if there is any question about his ability, the registrar usually asks him to read other printed papers. (Letter dated Mar. 8, 1962, to the Civil Rights Division from Hon. Carl Muecke. See, also, hearings on S. 2750, supra, p. 317.)

[7] Arizona Revised Statutes § 16-101(A):

"Every resident of the State is qualified to become an elector and may register to vote at all elections authorized by law if he * * *

"(4) Is able to read the Constitution of the United States in the English language. * * *

"(5) Is able to write his name * * *."

[8] Constitution of California, art. II, § 1:

"[N]o person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State. * * *"

See, also, California Election Code, § 100, implementing this provision.

[9] Constitution of Connecticut, art. VI, § 1:

"Every citizen of the United States * * * who is able to read in the English language any article of the Constitution or any section of the statutes of this State, and who sustains a good moral character, shall * * * be an elector."

See, also, Connecticut General Statutes, § 9-12 implementing this provision.

[10] Constitution of Delaware, art. V, § 2:

"[N]o person * * * shall have the right to vote unless he shall be able to read this Constitution in the English language and write his name. * * *"

See, also, Delaware Code Annotated, title 15, § 1701 implementing this provision.

[11] Georgia Code Ann. § 34-617(a):

"[The applicant] shall be required to read [the Constitution of Georgia or of the United States] aloud and write it in the English language."

[12] Georgia Code Ann. § 34-117(b):

"[The applicant may also] qualify on the basis of his good character and his understanding of the duties and obligations of citizenship. * * *"

[13] Georgia Code Ann. § 34-618 sets forth a standard list of questions for those who seek to qualify pursuant to § 34-617(b) (e.g., what are the names of the three branches of the U.S. Government?) See, also, Constitution of Georgia, § 2-704 which sets forth the above requirements.

See, also, Georgia Code Ann. § 34-617(a).

[14] Constitution of Hawaii, art. II, § 1:

"No person shall be qualified to vote unless he is * * * able * * * to speak, read and write the English or Hawaiian language."

[15] Idaho Code § 34-404:

"No common prostitute or person who keeps or maintains, or is interested in keeping or maintaining, or who resides in or is an inmate of, or frequents or habitually resorts to any house of prostitution or of ill fame, or any other house or place commonly used as a house of prostitution or of ill fame, or as a house or place of resort for lewd persons for the purpose of prostitution or lewdness, or who, being male or female, do lewdly and lasciviously cohabit together, shall be permitted to register as a voter or to vote at any election in this state."

See, also, Constitution of Idaho, Art. 6, § 5, which disqualifies from voting, inter alia, persons who are members of organizations which teach, advise, counsel, encourage or aid persons to enter into bigamy or polygamy.

[16] Louisiana Rev. Stat. Title 18 § 31(3):

"[H]e shall be able to read and write. * * *"

See, also, Louisiana Rev. Stat. Title 18 § 35.

[17] Constitution of Louisiana, Art. VIII, § 1(c):

"He shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government."

See, also, Art. VIII, §§ 1(d), 18; Title 18 §§ 31(2), 36. In addition, a requirement that an applicant "shall be able to understand and give a reasonable interpretation of any section of [the Louisiana or United States Constitution]," and related provisions (Title 18, §§ 35, 36) was enjoined by a Federal court, *United States* v. *Louisiana*, 225 F. Supp. 353 (1963), affirmed by the Supreme Court Mar. 8, 1965.

[18] Constitution of Louisiana, Art. VIII, § 18:

"The Board [of Registrars] shall * * * issue a uniform, objective written test or examination for citizenship to determine that applicants * * * understand the duties and obligations of citizenship. * * *"

See, also, Title 18 § 191(A).

[19] Louisiana Rev. Stat. Title 18 § 31(2):

"He shall be of good moral character. * * *"

[20] Louisiana Rev. Stat. Title 18 § 31(5):

"No registrar or deputy registrar shall register any applicant * * * unless the applicant brings with him two qualified electors of the precinct in which he resides to sign written affidavits attesting to the truth of the facts set forth in the application form. * * *"

[21] Constitution of Maine, Art. II, § 1:

"No person shall have the right to vote * * * who shall not be able to read the Constitution in the English language, and write his name. * * *"

See, also, Title 21 § 241, implementing this provision.

[22] Constitution of Massachusetts, Art. XX, § 122:

"No person shall have the right to vote * * * who shall not be able to read the Constitution in the English language, and write his name. * * *"

See, also, Massachusetts Laws Ch. 51, § 1, implementing this provision.

[23] Constitution of Mississippi, Art. 12, § 244:

"Every elector shall * * * be able to read and write any section of the Constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate * * * a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government."

See, also, Mississippi Code §§ 3209.6, 3213, implementing this provision.

[24] Constitution of Mississippi, Art. 12, § 241-A:

"In addition * * * such person shall be of good moral character."

See, also, Mississippi Code §§ 3209.6, 3213, 3212.7, implementing this provision.

[25] New Hampshire Rev. Stat. § 55: 10:

"[An applicant shall be required] to write and to read in such manner as to show that he is not being assisted in so doing and is not reciting from memory."

See, also, New Hampshire Rev. Stat. §§ 55.11, 55.12, implementing this provision.

[26] Constitution of New York, Art. 2, § 1:

Additional footnotes on following page

TABLE B–1.—*Voting age population and registered voters classified by race in those States where use of tests and devices is suspended by the proposed Voting Rights Act of 1965*

State	White voting age population 1964 [1]	White registration [2]	Percent	Nonwhite voting age population, 1964 [1]	Nonwhite registration [2]	Percent
Alabama	1,413,270	[3] 935,695	66.2	501,730	[3] 92,737	18.5
Alaska	112,470	(4)		25,530	(4)	
Georgia	1,960,456	[5] 1,124,415	57.2	669,544	[5] 167,663	25.0
Louisiana	1,353,495	[6] 1,037,184	76.6	539,505	[6] 164,601	30.5
Mississippi	794,277	[7] 525,000	66.1	448,723	[7] 28,500	6.4
South Carolina	975,660	[8] 677,914	69.5	404,340	[8] 138,544	34.3
Virginia	2,060,751	[9] 1,133,702	55.0	480,249	[9] 177,321	36.9

[1] The total voting age population for the respective States is taken from an estimate by the Bureau of Census as of Nov. 1, 1964, in a memorandum issued by the Department of Commerce, dated Sept. 8, 1964, No. CB64-93. The voting age population for white and nonwhite in 1964 was computed by taking the voting age population statistics for white and nonwhite as reported in the Census of Population: 1960, determining the ratio of each group to the total voting age population in 1960, and applying that ratio to the total voting age population as estimated by the Bureau of Census for Nov. 1, 1964.

[2] These statistics, excepting those for Virginia, are based on findings published in U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965. They are not based on official [State sources due to the lack of official State information regarding registration by race.

The registration data based on official State sources in the chart containing voting and registration statistics for all States (master chart) reflect registration as of a later date than the data published by the Commission. For this reason, the registration figures in this chart, when totaled, differ slightly from the registration figures in the master chart. The totals here are as follows: Alabama, 1,028,432; Georgia, 1,292,078; Louisiana, 1,201,785; Mississippi, 553,500; South Carolina, 816,458; Virginia, 1,311,023.

[3] U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965.

[4] Alaska does not have statewide registration.

[5] U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Obtained from official State sources.

"[N]o person shall become entitled to vote * * * unless such person is also able, except for physical disability, to read and write English."
See, also, New York Election Code, §§ 150, 168, implementing this provision.

[26] Constitution of North Carolina, Art. VI, § 4:
"Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language."
See, also, General Statutes of North Carolina, § 163-28, implementing this provision.

[27] Oregon Rev. Stat. § 247.131:
"[N]o elector shall be registered unless he is able, except for physical disability, to read and write English."

[28] Constitution of South Carolina, Art. II, § 4(d):
"Any person * * * shall be registered: *Provided*, That he can both read and write any Section of this Constitution submitted to him. * * *"
As an alternative to the reading and writing test, Art. II, 4(d) provides:
"Any person * * * shall be registered: *Provided*, That he * * * has paid all taxes collectible during the previous year on, property in this State assessed at $300 or more."
See, also, Code of South Carolina, § 23-62, implementing these provisions.

[29] Code of Virginia § 24.68:
"[The applicant must make application] in his own handwriting, without aids, suggestions, or memorandum. * * *"

[30] Washington Revised Code § 29.07.070(13):
"[An applicant must be] able to read and speak the English language so as to comprehend the meaning of ordinary English prose."

[31] Wyoming Statutes §§ 22-118.3:
"The term "qualified elector" includes every male and female citizen of the United States who * * * shall be able to read the constitution of Wyoming."

TABLE B-2(a).—*Discriminatory use of "tests or devices" challenged in Justice Department litigation in Alabama*

County	Court findings of racial discrimination and "pattern or practice" of discrimination		Tests and devices challenged			
	Discrimination	Pattern and practice	Read, write, understand, interpret (3(b)(1))	Knowledge (3(b)(2))	Good moral character (3(b)(3))	Voucher (3(b)(4))
Bullock (U.S. v. Alabama)	X	X	X	X		X
Choctaw (U.S. v. Ford)	X	X	X	X		X
Dallas (U.S. v. Atkins)	X	X	X	X	X	
Elmore (U.S. v. Strong, 230 F. Supp. 873)	X	X	X	X		
Hale (U.S. v. Tutweiler)	(1)	(1)	X	X		
Jefferson (U.S. v. Bellsynder)	(2)	(2)	X	X	X	
Macon (U.S. v. Alabama) [3]	X	X	X	X		
Montgomery (U.S. v. Parker, 212 F. Supp. 193)	X	X	X	X		
Perry (U.S. v. Mayton)	X	X	X	X		(4)
Sumter (U.S. v. Hines)	X	X	X	X		
Wilcox (U.S. v. Wall)	(5)	(5)	X	X		X
Statewide (U.S. v. Baggett)	(6)	(6)	X	X		

[1] Complaint filed Dec. 16, 1963, not yet decided.
[2] Complaint filed July 13, 1963, not yet decided.
[3] *U.S. v. Alabama*, 192 F. Supp. 677; affirmed 304 F. 2d 583; affirmed 371 U.S. 37.
[4] Issue in supplemental proceeding.
[5] Judgment for defendants, case now on appeal.
[6] Complaint filed Jan. 15, 1965, not yet decided.

TABLE B-2(b).—*Voting age population and registered voters classified by race in those Alabama counties in which racial voting suits have been brought under 42 U.S.C. 1971A*

County	Percent [1]	White voting age population, 1960	White registration	Percent	Nonwhite voting age population, 1960	Nonwhite registration	Percent
Bullock	38.5	2,387	2,631 (10/64)	110	4,450	1,386	31
Choctaw	31.7	5,192	3,697 (2/63)	71	3,982	176	4
Dallas	22.6	14,400	9,542 (8/64)	66	15,115	335	2.2
Elmore	43.7	12,510	12,022 (11/64)	96	4,808	592	12.3
Hale	25.5	3,600	3,074 (12/63)	100	6,000	200	3.3
Jefferson	37.3	256,319	134,939 (10/64)	52.6	116,160	27,013	23.2
Macon	32.6	2,818	2,946 (10/64)	100	8,493	4,188	49
Montgomery	31.6	62,911	40,234 (11/64)	64	33,056	7,250	22
Perry	29.6	3,441	3,260 (8/64)	94	5,200	364	7
Sumter	20.8	3,001	3,297 (11/64)	107	6,814	358	5.2
Wilcox	22.3	2,647	2,974 (5/64)	100	0,085	0	0

[1] This is the percentage of those of voting age who voted in the presidential election of 1964

TABLE B-3(a).—*Discriminatory use of "tests or devices" challenged in Justice Department litigation in Louisiana*

Parish (county)	Court findings of racial discrimination and "pattern or practice" of discrimination		Tests and devices challenged			
	Discrimination	Pattern and practice	Read, write, understand, interpret (3(b)(1))	Knowledge (3(b)(2))	Good moral character (3(b)(3))	Voucher (3(b)(4))
Bienville (U.S. v. Ass'n of Citizens Councils, 196 F. Supp. 908)	X	X	X			
East Carroll (U.S. v. Manning, 205 F. Supp. 172)	X	X				X
East Feliciana (U.S. v. Palmer)	(1)	(1)	X			
Jackson (U.S. v. Wilder, 222 F. Supp. 749)	X	X	X	X		
Madison (U.S. v. Ward, 222 F. Supp. 617)	X	X		X [2]		
Ouachita (U.S. v. Lucky)	(3)	(3)	X			X
Plaquemines (U.S. v. Fox, 211 F. Supp. 25)	X	(4)	X			
Red River (U.S. v. Crawford, 229 F. Supp. 898)	X	X	X			
St. Helena (U.S. v. Crouch)	(5)	(5)	X			
Washington (U.S. v. McElveen, 180 F. Supp. 10; aff'd 302 U.S. 58 (1961))	X	(6)	X			
Webster (U.S. v. Clement, 231 F. Supp. 913)	X	X	X			
West Feliciana (U.S. v. Harvey)	(7)	(7)	X			X
U.S. v. Louisiana (225 F. Supp. 353) (Statewide) [8]	X	X	X	X		
U.S. v. Board of Registration (Statewide) [10]	(9)	(9)	X			

[1] Complaint filed Mar. 26, 1964; has not yet been decided.
[2] Decided against Government by district court; being urged on appeal.
[3] Case tried February 1964; has not yet been decided.
[4] No permanent injunction yet; pattern and practice issue to be decided on permanent injunction.
[5] Complaint filed Oct. 22, 1963; has not yet been decided.
[6] Case decided prior to Civil Rights Act of 1960; no pattern or practice relief available at that time.
[7] Complaint filed Oct. 29, 1963; has not yet been decided.
[8] In addition to the State, the defendants included the Parishes of:

Bienville (Waggonner)
Claiborne (Waggonner)
De Soto (Waggonner)
East Carroll (Waggonner)
East Carroll
East Feliciana (Morrison)
Franklin (Passman)
Jackson (Passman)
La Salle (Long)
Lincoln (Passman)
Morehouse (Passman)
Ouachita (Passman)
Plaquemines (Hébert)
Rapides (Long)
Red River (Waggonner)
Richland (Passman)
St. Helena (Morrison)
Union (Passman)
Webster (Waggonner)
West Carroll (Passman)
West Feliciana (Morrison)
Winn (Long)

[9] Complaint was filed on October 8, 1963, but the case has not yet been decided.
[10] In addition to the State Board of Registration, the defendants included the Parishes of:

Caddo (Waggonner)
Madison (Passman)
Orleans
Tangipahoa (Morrison)
East Feliciana (Morrison)

TABLE B-3(b).—*Voting age population and registered voters classified by race in those Louisiana parishes (counties) in which racial voting suits have been brought under 42 U.S.C. 1971A*

Parish	Percent [1]	White voting age population, 1960	White registration	Percent	Nonwhite voting age population, 1960	Nonwhite registration	Percent
Bienville	47.4	5,617	5,007 (10/64)	89	4,077	584	14
East Carroll	24.3	2,990	1,939 (10/64)	64	4,183	179	4.5
East Feliciana	18.1	4,200	2,728 (10/64)	65	4,102	180	4.4
Jackson	66.4	6,607	6,082 (10/64)	91	2,535	1,244	49
Madison	29.1	3,334	2,467 (10/64)	74	5,181	294	6
Ouachita	44.5	40,185	29,575 (10/64)	73	16,377	1,746	11
Plaquemines	49.2	8,633	7,627 (10/64)	88	2,897	96	3.3
Red River	46.9	3,204	3,530 (10/64)	100	2,181	96	4.3
St. Helena	45.5	2,303	2,059 (10/64)	86	2,082	560	27
Washington	51.0	16,804	15,795 (10/64)	94	6,821	1,634	23.9
Webster	43.6	15,713	12,002 (10/64)	77	7,045	803	11
West Feliciana	15.2	1,032	1,345 (10/64)	82	2,235	85	3

[1] This is the percentage of those of voting age who voted in the Presential election of 1964.

TABLE B-4(a).—*Discriminatory use of "tests or devices" challenged in Justice Department litigation in Mississippi*

County	Court findings of racial discrimination and "pattern or practice" of discrimination		Tests and devices challenged			
	Discrimination	Pattern and practice	Read, write, understand, interpret (3(b)(1))	Knowledge (3(b)(2))	Good moral character (3(b)(3))	Voucher (3(b)(4))
Benton (U.S. v. Mathis)	X [1]	X [1]	X	X		
Chickasaw (U.S. v. Allen)	[2]	[2]	X	X		
Clarke (U.S. v. Ramsey, 331 F. 2d 824)	X	X [3]	X	X		
Copiah (U.S. v. Weeks)	[4]	[4]	X	X		
Forrest (U.S. v. Lynd, 301 F. 2d 818, 321 F. 2d 26)	X	[5]	X	X		
George (U.S. v. Ward)	X	[6]	X	X	X	
Hinds (U.S. v. Ashford)	[7]	[7]	X	X		
Holmes (U.S. v. McClellan)	[8]	[8]	X	X		
Issaquena (U.S. v. Vandevender)	[9]	[9]	X	X		
Jasper (U.S. v. Hosey)	[10]	[10]	X	X		
Jefferson Davis (U.S. v. Daniel)	[11]	[11]	X	X	X	
Jones County (U.S. v. Caves)	[11A]	[11A]	X	X		
Lauderdale (U.S. v. Coleman)	[12]	[12]	X	X		
Madison (U.S. v. L.F. Campbell)	[13]	[13]	X	X		
Marion (U.S. v. Miksell)	X	X	X	X		
Marshall (U.S. v. Clayton)	X [1]	X [1]	X	X		
Oktibbeha (U.S. v. Henry)	[14]	[14]	X	X		
Panola (U.S. v. Duke, 332 F. 2d 759)	X	X	X	X		
Sunflower (U.S. v. C.C. Campbell)	[15]	[15]	X	X		
Tallahatchie (U.S. v. Cox)	X	X	X	X		
Walthall (U.S. v. Mississippi, 339 F. 2d 679)	X	X	X	X		
Statewide (U.S. v. Mississippi, 229 F. Supp. 925)	[16]	[16]	X	X	X	

[1] Defendants have admitted a pattern and practice of discrimination.
[2] Complaint filed Sept. 3, 1964; not yet decided.
[3] The Court of Appeals for the 5th Circuit held that the trial court was clearly erroneous in finding that there had been no pattern and practice of discrimination.
[4] Complaint filed Dec. 17, 1963; not yet decided.
[5] Judgment for defendants; appeal being considered.
[6] Judgment for defendants, case on appeal.
[7] Complaint filed July 13, 1963; not yet decided.
[8] Case tried in November 1964; not yet decided.
[9] Complaint filed in January 1965; not yet decided.
[10] Complaint filed Sept. 3, 1964; not yet decided.
[11] Case tried February 1965; not yet decided.
[11A] Complaint filed Feb. 19, 1965; not yet decided.
[12] Complaint filed Dec. 17, 1963; not yet decided.
[13] Case tried August 1964; not yet decided.
[14] Complaint filed Dec. 16, 1963; not yet decided.
[15] Case tried October 1964; not yet decided.
[16] Complaint dismissed, but Supreme Court remanded case for trial. In addition to the State, the registrars of the following counties are also defendants: Amite, Coahoma, Claiborne, Lowndes, Leflore, and Pike.

TABLE B-4(b).—*Voting age population and registered voters classified by race in those Mississippi counties in which racial voting suits have been brought under 42 U.S.C. 1971A*

County	Percent [1]	White voting age population, 1960	White registration	Percent [1]	Nonwhite voting age population, 1960	Nonwhite registration	Percent
Benton	30	2,514	2,266 (9/64)	92	1,419	55	3.0
Chickasaw	36	6,388	4,607 (8/64)	72	3,054	1	.03
Clarke	42	6,072	4,829 (9/64)	80	2,998	64	2.2
Copiah	33	8,153	8,047 (10/64)	98.6	6,407	34	.5
Forrest	35	22,431	13,253 (6/64)	59	7,495	236	3.14
George	52	5,276	4,200 (4/64)	79	580	14	2.4
Hinds	40	67,836	62,410 (10/64)	92	30,183	5,616	15.5
Holmes	24	4,733	4,800 (8/64)	100	8,757	20	.23
Issaquena	28	640	640 (3/65)	100	1,081	12	1.1
Jasper	36	5,327	4,200 (9/64)	79	3,675	8	.22
Jefferson Davis	38	3,629	3,236 (12/64)	89	3,222	126	3.9
Jones	42	25,943	[2] 22,000 (9/63)	85	7,427	[2] 700–800	10
Lauderdale	37	27,200	20,000 (9/64)	74	11,924	1,700	14.3
Madison	22	5,622	6,256 (7/64)	100	10,366	218	2.0
Marion	47	8,997	10,123 (7/63)	100	3,630	383	11.0
Marshall	23	4,342	4,229 (12/64)	97	7,108	177	2.5
Oktibbeha	31	8,423	8,000 (12/63)	95	4,952	128	2.6
Panola	30	7,639	5,922 (11/64)	77	7,250	878	12.0
Sunflower	20	8,785	7,082 (10/64)	80	13,524	185	1.4
Tallahatchie	29	5,099	4,464 (11/64)	88	6,481	17	.26
Walthall	45	4,736	4,736 (11/63)	100	2,490	4	.12

[1] This is the percentage of those of voting age who voted in the presidential election of 1964.
[2] Estimated.

TABLE C-1.—*Statutes in effect within the past 10 years requiring segregated facilities in those States which use a test or device as defined by sec. 3(b) of the proposed Voting Rights Act of 1965*

State	Travel	Recreation	Schools	Hospitals
(Group A): [1]				
Alabama	X		X	X
Alaska				
Georgia	X	X	X	X
Louisiana	X	X	X	X
Mississippi	X	X	X	X
South Carolina	X	X	X	
Virginia	X	X	X	X
(Group B): [2]				
Arizona				
California				
Connecticut				
Delaware			X	X
Hawaii				
Idaho				
Maine				
Massachusetts				
New Hampshire				
New York				
North Carolina	X		X	X
Oregon				
Washington				
Wyoming				

[1] States in which less than 50 percent of the voting age population voted in the presidential election of 1964.
[2] States in which more than 50 percent of the voting age population voted in the presidential election of 1964.

EXPLANATORY NOTES

Alabama

Travel: Ala. Code Ann. (1940), Title 48 (1958 Recomp.) § 186 (declared unconstitutional in *Baldwin* v. *Morgan*, 287 F. 2d 750 (C.A. 5, 1961) (1964 Supp.); §§ 196-197; §§ 301 (31a)-(31c) (declared unconstitutional in *Browder* v. *Gayle*, 142 F. Supp. 707 (M.D. Ala. 1956)) (1964 Supp.); § 464.

Schools: Ala. Const., Art. XIV, Sec. 256 (amended, Amendment CXI, adopted Sept. 7, 1956); Ala. Code Ann. (1940) Title 52 (1960 Recomp.) §§ 56, 93 (both repealed, Acts 1957, p. 487, § 11, amending Acts 1955, p. 495 (§ 10). See also Ibid., § 438, § 443, §§ 452-455, § 466, §§ 613(1)-613(15).

Hospitals: Ala. Code Ann. (1940), Title 45 (1960 Recomp.) § 4, § 248. See also Title 46 (1958 Recomp.) § 189(19).

Georgia

Travel: Code of Georgia Ann., Title 18 (1936) §§ 205-210, §§ 223-224 (1963 Supp.), § 600, §§ 9901-9902, §§ 9904-9906, §§ 9918-9919 (1963 Supp.); Title 68 (1957) § 513, § 616.
Recreation: Code of Georgia Ann., Title 84 (1955) §§ 1603-1604.
Schools: Georgia Constitution (1948), Art. VIII, § 1(6576) (declared unconstitutional in *Holmes* v. *Danner* 191 Fed. Supp. 385 (M.D. Ga., 1960) (1963 Supp.). See also Art. VII, § 2-5404 (1963 Supp.). Code of Georgia Ann., Title 32 (1952) § 909, § 937 (superseded by Acts 1961, pp. 35-38) (1963 Supp.). See also Title 52 (1952) § 123.
Hospitals: Code of Georgia Ann., Title 35 (1962) § 225, § 308.

Louisiana

Travel: La. Rev. Stats. Ann. (1951), §§ 45: 194-196 (repealed by Acts 1958, No. 261, sec. 1); §§ 45: 522-534; §§ 45: 1301-1305.
Recreation: La. Rev. Stats. Ann. (1951), § 4: 5; §§ 4: 451-464 (1964 Supp.).
Schools: La. Const., Art. XII, Sec. 1 (1955) (amended Acts 1958 No. 557, adopted Nov. 4, 1958); La. Rev Stats (1963 Recomp.) §§ 17: 331-334 (declared unconstitutional in *Bush* v. *Orleans Parish School Board*, 188 F. Supp. 916 (E.D. La., 1960) affirmed 365 U.S. 569; repealed Acts 1960, 1st Ex. Sess., No. 9 § 1); §§ 17: 341-344 (declared unconstitutional in *Bush* v. *Orleans Parish School Board*, *supra;* repealed, Acts 1960, 1st Ex. Sess., No. 3, § 1). See also §§ 17: 336-337 (repealed Acts 1960, 1st Ex. Sess., No. 8).
Hospitals: La. Rev. Stats. Ann. (1951), § 46: 181.

Mississippi

Travel: Miss. Code Ann., § 7784-7787, 7787.5 (1956 Supp.).
Recreation: Miss. Code Ann., § 4065.3 (1956 Supp.); Miss. H.B. 1058, No. 1134.
Schools: Miss. Code Ann., §§ 4065.3, 6220.5, 6334-01 et seq. (1956 Supp.).
Hospitals: Miss. Code Ann., §§ 6883, 6927, 6973, 6974 (1952).

South Carolina

Travel: S.C. Code Ann., Title 58, §§ 714-720 (1952).
Recreation: S.C. Code Ann., Title 51, § 2.4 (1962).
Schools: S.C. Code Ann., Title 21, § 751 (1962).

Virginia

Travel: Va. Code Ann., § 56-325-330, 390-404 (1950), declared unconstitutional as applied to interstate travel in *Morgan* v. *Virginia*, 328 U.S. 373 (1946), but declared valid as applied to intrastate travel in *New* v. *Atlantic Greyhound*, 186 Va. 720 (1947).
Recreation: Va. Code Ann., § 18-350-357, declared unconstitutional in *Brown* v. *Richmond*, 204 Va. 471 (1963).
Schools: Va. Code § 22-188.3-6; § 22-188.30-31; § 22-189.41 et seq. (1958 Supp.), § 37.5-6 (1950), declared unconstitutional in *Harrison* v. *Day*, 200 Va. 439 (1959). See also *James* v. *Almond*, 170 F. Supp. 331 (E.D. Va., 1959), later repealed by Acts 1959, Ex. Sess., c. 74-77.
Hospitals: Va. Code §§ 37-5 to 6 (1964 Supp.).

Delaware

Schools: Del. Code Ann., Title 14, § 141, declared unconstitutional in *Evans* v. *Buchanan*, 256 F. 2d 688 (1958), *cert. denied*, 358 U.S. 836.
Hospitals: Del. Code Ann., Title 16, § 155, repealed by 51 Del. Laws, Ch. 186 (1957).

North Carolina

Travel: N.C. Gen. Stats., §§ 60-94 to 98, 135-137, repealed by N.C. Sess. Laws of 1963, c. 1165, s. 1 (1964).
Schools: N.C. Gen. Stats., § 115-274 (1960); N.C. Gen. Stats., § 115-176 et seq. (1960).
Hospitals: N.C. Gen. Stats., § 122-3 (1957 Supp.), amended by N.C. Sess. Laws of 1963, c. 451 (1963).

TABLE C-2.—*State antidiscrimination laws in force in those States which use a test or device as defined by sec. 3(b) of the proposed Voting Rights Act of 1965*

State	Education	Public accommodations	Employment	Public	Housing	
					Publicly assisted	Private
(Group A): [1]						
Alabama						
Alaska	X	X	X	X	X	X
Georgia						
Louisiana						
Mississippi						
South Carolina						
Virginia						
(Group B): [2]						
Arizona						
California		X	X	X	X	
Connecticut	X	X	X	X	X	X
Delaware		X	X			
Hawaii			X			
Idaho	X	X	X			
Maine		X				
Massachusetts	X	X	X	X	X	
New Hampshire		X		X	X	X
New York	X	X	X	X	X	
North Carolina						
Oregon	X	X	X	X	X	X
Washington		X	X	X	X	
Wyoming		X				

[1] States in which less than 50 percent of the voting age population voted in the presidential election of 1964.
[2] States in which more than 50 percent of the voting age population voted in the presidential election of 1964.

EXPLANATORY NOTES

Alaska

Public accommodations and public and private housing: Alaska Stat. Ann., secs. 11.60.230-11.60.240 (1962).
Employment: Alaska Stat. Ann., sec. 23.10.200 (1962).
Education: Alaska Stat. Ann., sec. 14.40.050 (1962).

California

Public accommodations: Cal. Civ. Code, sec. 51 (1964 Cum. Pocket Supp.).
Employment: Cal. Lab. Code, sec. 1412 (1964 Cum. Pocket Supp.).
Public and publicly assisted housing: Cal. Health and Safety Code, sec. 35700 (1964 Cum. Pocket Supp.).

Connecticut

Public accommodations and public and private housing: Conn. Gen. Stat. Rev., sec. 53-35 (1963 Cum. Pocket Supp.).
Employment: Conn. Gen. Stat. Rev., sec. 34-126 (1963 Cum. Pocket Supp.).
Education: Conn. Gen. Stat. Rev., sec 10-15 (1958).

Delaware

Employment: Del. Code Ann., sec. 19-710 (1964 Cum. Pocket Supp.).
Public accommodations: Del. Code Ann., Title 6, c. 45 (1963).

Hawaii

Employment: Hawaii Rev. Laws, ch. 90A, sec. 1 (1963 Supp.).

Idaho

Public accommodations and employment: Idaho Sess. Laws, ch. 309 (1961).
Education: Idaho Const., art. 9, sec. 6.

Maine

Public accommodations: Me. Rev. Stat. Ann., ch. 137, sec. 50 (1954).

Massachusetts

Public accommodations: Mass. Ann. Laws, ch. 272, secs. 92A, 98 (1956).
Employment and housing: Mass. Ann. Laws, ch. 151 B, secs. 1-10 (1964 Cum. Pocket Supp.).
Education: Mass. Ann. Laws, ch. 151 C, secs. 1-5 (1957).

New Hampshire

Public accommodations and public and private housing (rental): N.H. Rev. Stat. Ann., ch. 354 (1963 Supp.).

New York

Public accommodations and education: N.Y. Civ. Rights Law, sec. 40.
Employment: N.Y. Executive Law, sec. 296.
Housing: N.Y. Executive Law, sec. 291.

Oregon

Public accommodations: Ore. Rev. Stat., secs. 30.670, 659.010 (1959).
Employment and housing: Ore. Rev. Stat., sec. 659.010 (1959).
Education: Ore. Rev. Stat., sec. 345.240 (1959), proscribes discrimination in "vocational, professional or trade schools."

Washington

Public accommodations: Wash. Rev. Code Ann., secs. 49.60.030, 49.60.215 (1965).
Employment: Wash. Rev. Code Ann., secs. 49.60.030, 49.60.180, 49.60.190, 49.60.200, 49.60.210 (1965).
Housing: Wash. Rev. Code Ann., secs. 49.60.030, 49.60.217 (1965).

Wyoming

Public accommodations: Wyo. Stat. Ann., sec. 6-83.1 (1963 Cum. Supp.).

TABLE D.—*State voting qualifications unaffected by the proposed Voting Rights Act of 1965 in States and separate counties where use of tests and devices would be suspended*

	Age	Residence	Oath or affirmation	Poll tax	Citizenship	No conviction of crime	No mental disability
Alabama	X	X	X	X	X	X	X
Alaska	X	X	X		X	X	X
Arizona (Apache County)	X	X	X		X	X	X
Georgia	X	X	X		X	X	X
Idaho (Elmore County)	X	X	X		X	X	X
Louisiana	X	X	X		X	X	X
Maine (Aroostook County)	X	X	X		X	X	X
Mississippi	X	X	X	X	X	X	X
North Carolina (34 counties)	X	X	X		X	X	X
South Carolina	X	X	X		X	X	X
Virginia	X	X	X	X	X	X	X

EXPLANATORY NOTES

1. *Alabama.*—Code of Alabama, Title 17 § 12 (age, residence, poll tax, citizenship); Title 17 § 15 (no conviction of crime, no mental disability); order of Jan. 14, 1964, as amended, Aug. 26, 1964, by the Supreme Court of Alabama prescribing a new application form to be used by the board of registrars throughout the State (residence, citizenship, oath, no mental disability).

2. *Alaska.*—Alaska Statutes, § 15.0510 (age, residence, citizenship); § 15.05.040 (no mental disability); § 15.05.030 (no conviction of crime); §§ 15.15.210 to 15.15.220 (oath or affirmation). See also Constitution of Alaska, Art. V, §§ 1, 2 (age, residence, citizenship, no crime, no mental disability).

3. *Arizona.*—Arizona Revised Statutes, § 16-101 (age, residence, no conviction of crime, no mental disability, citizenship); § 16-143 et seq. (oath or affirmation). See also Constitution of Arizona, Art. 7, § 2 (age, residence, citizenship, no conviction of crime, no mental disability).

4. *Georgia.*—Georgia Code, § 34-602 (age, residence, citizenship); §§ 34-609, 621 (oath or affirmation, no conviction of crime); § 34-621 (no mental disability).

5. *Idaho.*—Idaho Code, Title 34, § 401 (age, residence, citizenship); title 34, § 402 (no conviction of crime, no mental disability); Title 34, § 409 (oath or affirmation. See also Constitution of Idaho Art. 6, §§ 2, 3 (citizenship, age, residence, no mental disability, no conviction of crime).

6. *Louisiana.*—Louisiana Rev. Stat. Title 18, 18, § 31 (age, residence, citizenship); Title 18, § 32 (oath or affirmation); Title 18, § 42 (no conviction of crime). See also Constitution of Louisiana, Art. 8, § 6.

7. *Maine.*—Constitution of Maine, Art. II, § 1 (age, residence, no mental disability, citizenship); Art IX, § 13 (no conviction of crime); Maine Rev. Stat. Ann., Title 21, § 101 (oath or affirmation).

8. *Mississippi.*—Constitution of Mississippi, Art. 12, § 240 (age, residence, no mental disability, citizenship); Art. 12, § 241 (oath or affirmation), Mississippi Code, § 3214 (no conviction of crime); Senate Bill No. 1783, Miss. Laws 1964 (poll tax, declared unconstitutional in *Gray* v. *Johnson*, 234 F. Supp. 743 (S.D. Miss. 1964)) for Federal offices.

9. *North Carolina.*—Constitution of North Carolina, Art. VI, § 1 (age, citizenship); Art. VI, § 2 (residence, no conviction of crime); General Statutes of North Carolina, Vol. 3D, §§ 163-24 (no mental disability); 163-29 (oath or affirmation). See also §§ 163-24 and 163-25, implementing constitutional provisions.

10. *South Carolina.*—Constitution of South Carolina, Art. 2, § 3 (citizenship, age); Art. 2, § 4 (residence); Art. 2, § 6 (no conviction of crime, no mental disability); Code of South Carolina, § 23-68 (oath or affirmation). See also Code of South Carolina §§ 23-62 et seq., implementing constitutional provisions.

11. *Virginia.*—Constitution of Virginia, Art. II, § 18 (age, residence, citizenship); Art. II, § 23 (poll tax, challenged in *Harper* v. *Virginia State Board of Elections*, prob. jurisd. noted, 33 U.S.L.W. 3295); Art. II, § 23 (no conviction of crime, no mental disability). See also Code of Virginia, §§ 24-17 to 24-23, implementing these provisions.

VOTING STATISTICS BY COUNTIES FOR STATES HAVING "TESTS OR DEVICES" WHICH ARE NOT SUSPENDED ON A STATEWIDE BASIS BY THE PROPOSED VOTING RIGHTS ACT OF 1965

TABLE E-1.—*Arizona*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Apache [3]	13,045	3,892	29.8	Mohave	4,592	4,353	94.8
Cochise	30,913	16,697	54.0	Navajo	17,647	9,649	54.7
Coconino	21,108	11,037	52 3	Pima	153,736	102,144	66.4
Gila	14,164	10,537	74.4	Pinal	32,294	16,872	52.2
Graham	7,126	5,438	76.3	Santa Cruz	5,973	3,460	57.9
Greenlee	5,951	4,279	71.9	Yavapai	18,210	13,550	74.4
Maricopa	380,637	265,326	69.7	Yuma	26,286	14,410	54.8

[1] *Census of Population: 1960*, vol. 1, pt. 4, table 27, pp. 38-41.
[2] Report of the Secretary of State for the State of Arizona on file at the Government Affairs Institute, Washington, D.C.
[3] County in which less than 50 percent of the voting age population voted in the 1964 presidential election.

TABLE E–2.—*California*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Alameda	569,183	427,340	75.1	Orange	400,046	401,157	100.3
Alpine	228	220	96.5	Placer	36,196	27,676	76.5
Amador	5,801	5,100	86.6	Plumas	7,149	5,713	79.9
Butte	51,235	40,419	78.9	Riverside	185,468	144,788	76.4
Calaveras	6,714	5,397	80.4	Sacramento	297,301	227,871	76.6
Colusa	7,304	4,606	63.1	San Benito	9,073	6,237	68.7
Contra Costa	232,243	178,245	76.7	San Bernardino	297,092	215,400	72.5
Del Norte	9,072	5,727	57.4	San Diego	601,616	426,286	70.9
El Dorado	18,330	14,610	79.7	San Francisco	531,774	323,908	60.9
Fresno	208,646	136,308	65.3	San Joaquin	152,042	95,839	63.0
Glenn	10,399	7,290	70.1	San Luis Obispo	50,831	37,186	73.2
Humboldt	60,036	38,499	64.1	San Mateo	270,895	219,191	80.9
Imperial	41,215	21,492	52.1	Santa Barbara	103,084	86,401	83.8
Inyo	7,402	5,919	80.0	Santa Clara	371,064	320,527	86.4
Kern	163,963	109,808	66.8	Santa Cruz	56,635	45,744	80.6
Kings	27,677	18,846	68.1	Shasta	34,846	28,350	81.4
Lake	9,622	8,302	86.3	Sierra	1,437	1,241	86.3
Lassen	8,206	6,201	75.6	Siskiyou	20,413	14,335	70.2
Los Angeles	3,830,926	2,730,898	71.3	Solano	79,132	50,245	63.5
Madera	22,729	13,862	61.0	Sonoma	91,136	72,136	79.2
Marin	91,574	75,364	82.3	Stanislaus	94,311	65,128	69.1
Mariposa	3,512	2,968	84.5	Sutter	19,301	14,044	72.4
Mendocino	30,952	18,227	58.9	Tehama	15,103	11,407	75.9
Merced	50,282	28,269	56.2	Trinity	5,818	3,439	59.1
Modoc	4,998	3,358	67.2	Tulare	95,540	56,552	59.2
Mono	1,498	1,516	101.2	Tuolumne	9,464	7,820	82.6
Monterey	116,686	64,672	55.4	Ventura	116,970	98,238	84.0
Napa	43,244	31,210	72.2	Yolo	38,508	26,274	68.1
Nevada	13,741	11,318	82.4	Yuba	19,374	11,739	60.6

[1] *Census of Population: 1960*, vol. 1, pt. 6, table 27, pp. 179–194.
[2] Report of the Secretary of State for the State of California on file at the Government Affairs Institute, Washington, D.C.

TABLE E–3.—*Connecticut*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Fairfield	414,664	320,358	77.3	New Haven	417,135	316,399	75.9
Hartford	433,144	328,882	75.9	New London	112,641	78,942	64.4
Litchfield	75,173	61,006	81.2	Tolland	39,592	32,146	81.2
Middlesex	56,229	45,134	80.3	Windham	42,883	34,318	80.0

[1] *Census of Population: 1960*, vol. 1, pt. 8, table 27, pp. 65–66.
[2] Report of the Secretary of State for the State of Connecticut on file at the Government Affairs Institute, Washington, D.C.

TABLE E–4.—*Delaware*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Kent	38,234	22,054	57.7	Sussex	43,887	32,373	73.8
New Castle	185,128	146,893	79.3				

[1] *Census of Population: 1960*, vol. 1, pt. 9, table 27, p. 32.
[2] Report of the Secretary of State for the State of Delaware on file at the Government Affairs Institute, Washington, D.C.

TABLE E–5.—*Hawaii*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Hawaii	34,594	24,973	72.2	Kauzi	16,351	10,634	65.3
Honolulu (Oahu)	284,901	155,395	54.5	Maui	24,070	16,219	67.4

[1] *Census of Population: 1960*, vol. 1, pt. 13, table 27, pp. 36–37.
[2] Report of the Secretary of State for the State of Hawaii on file at the Government Affairs Institute, Washington, D.C.

TABLE E–6.—*Idaho*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Ada	53,996	45,043	83.4	Gem	5,135	5,307	103.3
Adams	1,793	1,439	80.3	Gooding	5,530	4,375	79.1
Bannock	26,303	21,308	81.0	Idaho	7,541	5,168	68.5
Bear Lake	3,823	3,266	85.4	Jefferson	5,730	4,811	84.0
Benewah	3,637	2,777	76.4	Jerome	6,320	4,941	78.2
Bingham	14,310	10,595	74.0	Kootenai	17,638	14,347	81.3
Blaine	2,806	2,454	87.5	Latah	12,325	8,724	70.8
Boise	957	863	90.2	Lemhi	3,374	2,563	76.0
Bonner	9,167	7,303	79.7	Lewis	2,601	2,054	79.0
Bonneville	24,288	20,373	83 9	Lincoln	2,066	1,586	76.8
Boundary	3,323	2,483	76.8	Madison	4,512	4,050	90 0
Butte	1,838	1,493	81.2	Minidoka	7,324	5,938	81.1
Camas	529	574	108.5	Nez Perce	15,945	13,147	82.5
Canyon	33,338	24,067	72.2	Oneida	1,982	1,812	91.4
Caribou	3,068	2,725	88.8	Owyhee	3,618	2,392	66.1
Cassia	8,297	6,620	79.7	Payette	7,331	5,267	71.8
Clark	489	448	91.6	Power	2,214	2,127	96.1
Clearwater	5,104	3,213	63.0	Shoshone	11,967	8,079	67.5
Custer	1,682	1,434	85.3	Teton	1,290	1,273	98.7
Elmore [3]	8,909	4,167	46.8	Twin Falls	24,196	19,166	79.2
Franklin	4,317	3,983	92.3	Valley	2,127	2,106	99.0
Fremont	4,509	3,915	86.8	Washington	5,055	3,682	72.8

[1] *Census of Population: 1960*, vol. 1, pt. 14, table 27, pp. 49–59.
[2] Report of the Secretary of State for the State of Idaho on file at the Government Affairs Institute, Washington, D.C.
[3] County in which less than 50 percent of the voting age population voted in the 1964 presidential election.

TABLE E–7.—*Maine*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Androscoggin	52,787	37,521	71.1	Oxford	26,486	18,956	71.6
Aroostook [3]	55,787	27,546	49.4	Penobscot	73,715	43,215	58.6
Cumberland	112,100	73,209	65.1	Piscataquis	10,640	7,254	68.2
Franklin	11,842	8,671	73.2	Sagadahoc	13,934	9,739	69.9
Hancock	20,291	13,719	67.6	Somerset	23,809	15,235	64.0
Kennebec	54,406	36,120	66.4	Waldo	13,349	8,721	65.3
Knox	18,418	11,426	62.0	Washington	20,560	13,128	63.9
Lincoln	11,736	9,083	77.4	York	61,045	47,422	77.7

[1] *Census of Population: 1960*, vol. 1, pt. 21, table 27, pp. 56–59.
[2] Report of the Secretary of State for the State of Maine on file at the Government Affairs Institute, Washington, D.C.
[3] County in which less than 50 percent of the voting age population voted in the 1964 presidential election.

TABLE E–8.—*Massachusetts*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Barnstable	44,244	35,355	79.9	Hampshire	62,624	43,645	69.7
Berkshire	88,834	64,331	72.4	Middlesex	770,246	576,810	74.9
Bristol	254,693	186,657	73.3	Nantucket	2,424	1,787	73.7
Dukes	3,869	3,214	83.1	Norfolk	313,071	256,012	81.8
Essex	361,671	282,945	78.2	Plymouth	151,138	120,335	79.6
Franklin	34,280	25,624	74.7	Suffolk	522,395	298,254	57.1
Hampden	268,284	178,219	66.4	Worcester	367,293	273,331	74.4

[1] *Census of Population: 1960*, vol. 1, pt. 23, table 27, pp. 103–106.
[2] Report of the Secretary of State for the State of Massachusetts on file at the Government Affairs Institute, Washington, D.C.

TABLE E–9.—*New Hampshire*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Belknap	18,019	13,932	77.3	Hillsborough	110,431	89,739	81.3
Carroll	10,232	9,015	88.1	Merrimac	43,048	32,382	75.2
Cheshire	26,685	19,584	73.4	Rockingham	59,557	46,754	78.5
Coos	22,410	16,819	75.1	Stafford	35,849	26,079	72.7
Grafton	29,305	21,027	71.8	Sullivan	17,189	12,762	74.2

[1] *Census of Population: 1960*, vol. 1, pt. 31, table 27, pp. 39–41.
[2] Report of the Secretary of State for the State of New Hampshire on file at the Government Affairs Institute, Washington, D.C.

TABLE E–10.—*New York*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Albany	174,414	149,926	86.0	Niagara	144,912	97,280	67.1
Allegany	25,264	18,365	72.7	Oneida	164,395	115,354	70.2
Bronx	965,315	555,309	57.5	Onondaga	258,516	194,538	75.3
Broome	132,408	92,254	69.7	Ontario	41,599	31,359	75.4
Cattaraugus	48,299	33,514	69.4	Orange	116,324	80,106	68.9
Cayuga	45,196	36,218	80.1	Orleans	20,872	15,177	72.7
Chautauqua	90,925	62,937	69.2	Oswego	50,021	37,831	75.6
Chemung	59,614	41,773	70.1	Otsego	31,953	24,287	76.0
Chenango	25,743	19,276	74.9	Putnam	19,748	22,205	112.4
Clinton	41,713	24,914	59.7	Queens	1,240,073	838,769	67.6
Columbia	30,401	24,126	79.4	Rensselaer	88,542	72,983	82.4
Cortland	24,233	17,577	72.5	Richmond	137,401	95,028	69.1
Delaware	26,445	20,442	77.3	Rockland	83,365	73,424	88.1
Dutchess	116,036	80,995	69.8	St. Lawrence	62,555	42,421	67.8
Erie	660,623	477,528	72.3	Saratoga	53,805	43,553	80.9
Essex	21,075	17,023	80.8	Schenectady	99,183	74,980	75.6
Franklin	25,951	17,673	68.1	Schoharie	13,831	11,615	84.0
Fulton	33,011	23,685	71.7	Schuyler	8,851	7,414	83.8
Genesee	32,245	24,398	75.7	Seneca	20,232	13,591	67.2
Greene	20,188	18,204	90.2	Steuben	58,795	41,274	70.2
Hamilton	2,703	2,958	109.4	Suffolk	399,989	330,015	82.5
Herkimer	41,465	30,986	74.7	Sullivan	29,177	25,441	87.2
Jefferson	53,111	36,638	69.0	Tioga	21,754	17,847	82.0
Kings	1,745,408	941,567	53.9	Tompkins	38,397	25,666	66.8
Lewis	13,054	10,043	76.9	Ulster	75,551	60,423	80.0
Livingston	26,598	21,022	79.0	Warren	27,256	21,064	77.3
Madison	31,140	23,606	75.8	Washington	29,152	22,450	77.0
Monroe	369,189	290,326	78.6	Wayne	41,831	29,765	71.2
Montgomery	37,990	28,463	74.9	Westchester	526,518	399,626	75.9
Nassau	765,494	640,721	83.7	Wyoming	21,477	15,214	70.8
New York	1,257,867	645,557	51.3	Yates	11,339	8,862	78.2

[1] *Census of Population: 1960*, vol. 1, pt. 34, table 27, pp. 155–173.
[2] Report of the Secretary of State for the State of New York on file at the Government Affairs Institute, Washington, D.C. These figures include ballots which were spoiled.

TABLE E–11.—*North Carolina*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
(Group A) [3]							
Anson	13,005	5,865	44.9	Cleveland	36,830	18,710	50.8
Beaufort	19,033	9,685	48.6	Columbus	25,212	13,475	53.4
Bertie	12,417	4,203	43.3	Currituck	3,921	2,106	56.0
Bladen	14,320	6,685	46.7	Dare	3,704	2,343	63.3
Camden	3,042	1,404	46.2	Davidson	45,053	31,027	67.5
Caswell	10,155	4,306	42.4	Davie	9,078	7,540	75.6
Chowan	6,332	2,483	39.2	Duplin	21,432	10,990	51.3
Craven	31,236	12,113	38.8	Durham	66,573	38,138	57.3
Cumberland	77,068	22,957	29.8	Forsyth	112,171	61,891	55.2
Edgecombe	27,845	11,760	42.3	Gaston	72,510	37,320	51.5
Franklin	15,396	6,651	43.2	Graham	3,449	3,135	90.9
Gates	5,058	2,258	44.6	Guilford	144,040	75,604	52.5
Granville	18,580	7,220	38.9	Harnett	26,211	13,360	51.0
Greene	8,061	3,613	44.9	Haywood	23,555	16,239	69.0
Halifax	30,262	13,709	45.3	Henderson	22,232	14,846	66.8
Hertford	11,708	4,947	42.3	Iredell	30,611	24,123	65.9
Hoke	7,745	3,033	39.2	Jackson	10,068	8,088	80.3
Hyde	3,301	1,641	49.7	Johnston	34,654	17,849	51.5
Lenoir	29,553	13,234	44.7	Jones	5,499	2,905	52.8
Martin	13,735	6,332	46.1	Lee	14,844	7,483	50.4
Nash	32,334	15,559	48.1	Lincoln	16,439	13,173	80.1
Northampton	13,482	6,233	46.2	McDowell	15,448	10,488	67.9
Onslow	39,003	9,726	24.9	Macon	8,753	6,674	76.2
Pasquotank	14,345	6,649	46.4	Madison	9,649	7,105	74.3
Perquimans	5,110	2,399	46.9	Mecklenburg	157,037	96,171	60.9
Person	14,221	6,902	48.5	Mitchell	8,006	4,999	62.4
Pitt	36,196	16,466	45.5	Montgomery	10,194	7,318	71.8
Robeson	42,275	17,387	41.1	Moore	20,536	11,546	56.2
Scotland	12,498	5,073	40.6	New Hanover	42,210	24,724	58.6
Union	24,467	11,437	46.7	Orange	24,363	14,991	61.5
Vance	17,525	8,638	49.3	Pamlico	5,301	2,900	54.7
Warren	9,929	4,758	47.9	Pender	9,716	5,166	53.2
Wayne	45,103	14,346	38.5	Polk	6,870	5,782	84.2
Wilson	31,336	12,240	39.1	Randolph	36,008	24,377	67.6
(Group B) [4]				Richmond	21,533	11,639	54.1
				Rockingham	40,836	20,495	50.2
Alamance	50,184	30,574	60.9	Rowan	50,075	29,738	59.4
Alexander	8,876	7,482	84.3	Rutherford	26,592	16,650	62.6
Alleghany	4,707	3,941	83.7	Sampson	25,581	15,701	61.4
Ashe	11,391	9,156	80.4	Stanly	24,220	16,855	69.6
Avery	6,631	4,161	62.8	Stokes	12,811	9,502	74.6
Brunswick	10,772	7,961	73.9	Surry	28,219	17,780	63.0
Buncombe	80,759	50,995	63.1	Swain	4,634	3,828	82.6
Burke	31,427	22,896	72.9	Transylvania	9,092	8,030	88.3
Cabarrus	40,545	25,099	61.9	Tyrrell	2,446	1,370	56.0
Caldwell	27,243	19,579	71.9	Wake	99,655	54,105	54.4
Carteret	17,962	10,520	58.6	Washington	7,008	3,649	52.1
Catawba	41,838	32,930	78.7	Watauga	9,765	7,963	81.5
Chatham	15,253	9,406	61.7	Wilkes	25,223	20,190	80.0
Cherokee	9,328	6,929	74.3	Yadkin	13,615	9,498	69.8
Clay	3,149	2,743	87.1	Yancey	7,932	5,718	72.1

[1] *Census of Population: 1960*, vol. 1, pt. 35, table 27, pp. 98–122.
[2] Report of the Secretary of State for the State of North Carolina on file at the Government Affairs Institute, Washington, D.C.
[3] Counties in which less than 50 percent of the voting age population voted in the 1964 presidential election.
[4] Counties in which more than 50 percent of the voting age population voted in the 1964 presidential election

TABLE E-12.—*Oregon*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Baker	10,509	6,585	62.70	Lake	4,289	2,723	63.40
Benton	22,093	16,486	74.60	Lane	94,003	74,200	78.90
Clackamas	67,145	57,043	84.90	Lincoln	15,278	10,323	67.50
Clatsop	17,602	12,303	70.10	Linn	33,882	23,308	68.70
Columbia	13,335	10,268	77.00	Malheur	12,894	7,983	61.90
Coos	31,910	21,149	66.27	Marion	73,925	51,209	69.20
Crook	5,451	3,580	65.70	Morrow	2,889	2,097	72.50
Curry	8,132	4,686	57.60	Multnomah	335,281	243,749	72.60
Deschutes	13,928	10,095	72.47	Polk	15,742	11,629	73.80
Douglas	38,870	25,717	66.10	Sherman	1,492	1,353	90.60
Gilliam	1,832	1,220	66.59	Tillamook	10,971	7,573	69.00
Grant	4,559	3,032	66.50	Umatilla	20,822	16,859	62.50
Harney	3,992	2,759	69.10	Union	10,992	7,489	68.10
Hood River	8,146	5,472	67.10	Wallowa	4,308	2,848	66.10
Jackson	45,348	34,084	75.10	Wasco	12,258	8,597	70.10
Jefferson	3,868	2,938	75.90	Washington	53,916	50,181	93.00
Josephine	18,504	13,801	74.50	Wheeler	1,506	798	50.90
Klamath	28,047	17,599	62.70	Yamhill	19,592	14,463	73.80

[1] *Census of Population: 1960*, vol. 1, pt. 39, table 27, pp. 57-65.
[2] Report of the Secretary of State for the State of Oregon on file at the Government Affairs Institute, Washington, D.C.

TABLE E-13.—*Washington*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Adams	5,553	4,273	76.9	Lewis	25,692	19,022	74.0
Asotin	7,746	5,436	70.1	Lincoln	6,738	5,213	77.3
Benton	34,063	28,372	83.2	Mason	9,841	8,071	82.0
Chelan	24,696	17,822	72.1	Okanogan	14,922	10,495	70.3
Clallam	17,902	13,455	75.1	Pacific	9,302	6,860	73.7
Clark	55,815	41,700	74.8	Pend Oreille	4,117	2,965	72.0
Columbia	2,875	2,187	76.0	Pierce	195,195	125,973	64.5
Cowitz	33,746	24,501	72.6	San Juan	1,992	1,750	87.8
Douglas	8,335	6,376	76.4	Skagit	31,650	22,308	70.5
Ferry	2,155	1,459	68.9	Skamania	3,079	2,414	78.4
Franklin	12,837	10,058	78.3	Snohomish	99,911	81,405	81.4
Garfield	1,797	1,532	85.2	Spokane	168,083	111,581	66.3
Grant	25,080	14,427	57.5	Stevens	10,478	7,528	71.8
Grays Harbor	33,377	23,027	68.9	Thurston	32,790	27,021	82.4
Island	10,974	6,999	63.7	Wahkiakum	2,091	1,624	77.6
Jefferson	5,042	4,456	78.9	Walla Walla	26,406	17,594	66.6
King	578,897	450,640	77.8	Whatcom	42,700	31,422	73.5
Kitsap	50,495	37,714	74.6	Whitman	17,925	13,538	75.5
Kittitas	12,267	8,592	70.0	Yakima	82,641	52,730	63.8
Klickitat	7,793	5,674	72.8				

[1] *Census of Population: 1960*, vol. 1, pt. 49, table 27, pp. 65-74.
[2] Report of the Secretary of State for the State of Washington on file at the Government Affairs Institute, Washington, D.C.

TABLE E–14.—*Wyoming*

County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population	County	Voting age population [1]	Votes cast, 1964 presidential election [2]	Percentage of population
Albany	12,166	8,942	73.5	Natrona	28,239	21,302	75.79
Big Horn	6,591	5,358	81.29	Niobrara	2,372	1,965	82.84
Campbell	3,380	2,802	85.89	Park	9,282	7,443	80.20
Carbon	8,881	6,482	72.99	Platte	4,300	3,360	78.14
Converse	3,752	2,809	74.86	Sheridan	11,989	9,238	77.06
Crook	2,099	1,994	73.88	Sublette	2,160	1,691	78.29
Fremont	14,321	10,794	75.37	Sweetwater	10,030	7,913	74.44
Goshen	6,924	5,353	77.31	Teton	1,807	2,049	113.38
Hot Springs	3,804	2,608	68.56	Uinta	4,443	3,115	72.68
Johnson	3,204	2,492	76.35	Washakie	4,760	3,408	73.87
Laramie	35,110	24,622	70.13	Weston	4,384	2,892	65.96
Lincoln	4,700	4,084	85.26				

[1] *Census of Population: 1960*, vol. 1, pt. 52, table 27, pp. 35–40.
[2] Report of the Secretary of State for the State of Wyoming on file at the Government Affairs Institute, Washington, D.C.

Mr. WILLIS. Would the gentleman yield for one question?

The CHAIRMAN. I don't want to make too many exceptions.

Mr. WILLIS. These figures which are in the tabulation you offer, do they cover percentage of registrations by counties as well as states?

Mr. KATZENBACH. No; there are two reasons for that. The registration figures I do not have tremendous confidence in because in one instance, I believe it is in the State of Virginia, if I am not mistaken, we have——

Mr. WILLIS. I want the facts.

Mr. KATZENBACH. It is not in Virginia. I have forgotten the State. There is one State where it appears from the figures more people voted than were registered. It is West Virginia. I think the figures on registration are not reliable.

Furthermore, Congressman, the States do not keep, all States do not keep, tabulations.

Mr. WILLIS. I disagree with your conclusions when you talk about Louisiana. I thought you had the figures before you because I wanted to talk to you about them.

Mr. KATZENBACH. The voting situation in southern Louisiana is quite different, Congressman, from the voting situation in northern Louisiana.

Mr. WILLIS. I want that to be made part of the record.

Mr. KATZENBACH. Yes, sir.

The CHAIRMAN. Mr. Rodino?

Mr. RODINO. Mr. Attorney General, when you refer to Census figures, are you referring to the decennial census figures?

Mr. KATZENBACH. The decennial census figures of 1960 projected in accordance with the best practices for 1964. That is the best and most objective figure it is possible to get.

Mr. RODINO. Would it be necessary that a special census be taken since you make reference to a 50 percent figure as of November 1964? If a suit were started in and the question of the percentage had to be proven, do you believe that a projection in accordance with the best practices would be sufficient for the courts?

Mr. KATZENBACH. Yes, I believe that would be sufficient in the court, Congressman. I see no reason to delay this by a new census. We have provided here a perfectly adequate system for any State or any county to come into court, say it has not been discriminating, and get out from under.

Mr. RODINO. In your statement, at page 18, you speak of the possible suggestion that this kind of discrimination could be ended in a different way by wiping the registration books clean and requiring all voters, white and Negro, to register anew under a uniformly applied literacy test. You say that approach would not solve the problem.

Yet, would that not meet the test of equality of treatment?

Mr. KATZENBACH. I think it would not, Congressman. I think where a State has enacted literacy tests for the purpose of discriminating against Negroes, as has been done for some 95 years, and where white people who do not meet those tests have been voting, voting, and voting at elections, that the only purpose now of enacting a fairly administered literacy test and wiping the rolls clean would be because the assumption would be made—as the result of violations of the 14th amendment, since at least 1890, and the inferior educational opportunities provided for Negroes—the assumption would be made that the result of this would be to maintain white supremacy and to disenfranchise a large number of Negroes.

Had there been a genuine feeling about literacy tests within these States, then I assume they would have applied them and administered them fairly. They have not done so.

I think in addition to that, the very fact that they have deprived Negroes in those States of equal education should not now be the enduring basis for continuing white supremacy.

Mr. RODINO. One final question, Mr. Attorney General. Do you believe that this bill, with the provisions which have been written into it, is the surest way of guaranteeing that the right to vote will not be denied to any citizen regardless of race or color?

Mr. KATZENBACH. I believe so, Congressman. If this committee can come up with a better way of doing it and a surer way of doing it, I am sure the administration would support that way of doing it. This is the best we have been able to accomplish.

Mr. RODINO. You are inviting a lot, Mr. Attorney General, but nonetheless thank you very much.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. Mr. Attorney General, as you recognize, this committee in 1957, 1960, and again in 1964 has considered civil rights legislation. Most of the time we have not dealt specifically with the 15th amendment as you approach it here.

I predicate this question on H.R. 6400, which has as its title "To enforce the 15th amendment to the Constitution of the United States."

Incidentally, that is the only place I find in the bill which makes any reference to the 15th amendment. Do you feel that the recital in the title is sufficient to assure the Court that the legislation enacted here will be to enforce and carry out the provisions of the 15th amendment?

Mr. KATZENBACH. Yes, Mr. Chairman, I do. The 15th amendment actually is mentioned in the bill on page 8, line 8, and it may be mentioned elsewhere. I see it is mentioned, also, at the bottom line of

page 3. I would think it would be pretty clear to the Court from that and from the argument we would make that this was to enforce the 15th amendment.

Mr. ROGERS. And it has no relation whatsoever to the 14th amendment as it relates to actions we have taken in the other civil rights legislation?

Mr. KATZENBACH. As drafted this is based entirely on the legislative provision of the 15th amendment which empowers Congress to enact legislation in order to effectuate the substantive prohibitions against discrimination on the ground of race or color.

Mr. ROGERS. Section 3 of the bill provides that no person shall be denied the right to vote in Federal, State, or local elections. You mean all elections?

Mr. KATZENBACH. Yes.

Mr. ROGERS. Be it county, municipal, school district?

Mr. KATZENBACH. Right.

Mr. ROGERS. And as outlined to the Chairman, in a school bond election if they were qualified to vote. Would you attempt to set aside those provisions of State law which provide that only property owners may vote in elections where bonds are issued? Would you attempt to nullify that provision of the State law?

Mr. KATZENBACH. That would be covered by section 8 of the bill, Congressman. It would not set aside any existing provisions of that kind, but should a State enact new provisions with respect to the qualifications or procedures for voting, then it would have to come into a three-judge court in the District of Columbia before those provisions could be effected, and it would have to establish to the satisfaction of the court that those qualifications and procedures would not have the effect of denying or abridging rights guaranteed by the 15th amendment.

Mr. ROGERS. Mr. Attorney General, do you mean to say that if the State of Alabama should want to change its laws as they relate to elections, particularly as to the school bond issues we were discussing, that before they could do it they would be compelled to come and file a declaratory judgment in the District of Columbia before they could change that law? Is that what you say?

Mr. KATZENBACH. Yes.

Mr. ROGERS. Now let us go to the question where you define "test and device," page 2, line 8. You define this as including "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."

Do you mean by that that no State registrars or Federal examiners who may be appointed, could determine whether an applicant could read and write?

Mr. KATZENBACH. Yes.

Mr. ROGERS. Then the applicant would not be required to read and write according to section 3(b) of the bill?

Mr. KATZENBACH. That is correct, Congressman. I might add that in those States there are a number of examples where despite the existing law no such requirement has ever been used by the registrar. In fact, I have heard sworn testimony in court, and I can remember one instance of a registrar whose practice was to let somebody come in and register all the members of his family.

Mr. ROGERS. I think you will agree, Mr. Attorney General, that in the Civil Rights Acts of 1957, 1960, and 1964 we did not attempt to disturb the qualifications of voters as prescribed by State law. However, in the 1964 act we did say there was a rebuttable presumption of literacy if a man has a sixth-grade education.

Mr. KATZENBACH. Yes. And as a result of that the States of Mississippi, Louisiana, and Alabama enacted a long and difficult test of comprehension and understanding, which they were going to apply prospectively, which we had to litigate.

The CHAIRMAN. New York State has a literacy test. Would this act abolish the literacy test in New York?

Mr. KATZENBACH. New York had a sufficient number of people registered and voting in 1964 so as not to come within its prohibitions.

The CHAIRMAN. So if they do not come within that 50-percent provision they still could have the literacy test?

Mr. KATZENBACH. Yes.

Mr. MCCULLOCH. May I interrupt to particularize the question and answer a bit? On line 11 of the very first page of the bill, we have the phrase "political subdivision." I understand that phrase to mean any school district, borough, township, county, or any other political subdivision within the meaning of the State law.

If in the State of New York in 1964 there was a political subdivision where less than 50 percent of the people voted or were registered to vote, wouldn't that trigger this bill in that political subdivision in the State of New York?

Mr. KATZENBACH. I think it could, Congressman. I think the only way in which we can gather valid statistics here is really—we are aiming at voter registration and I think the term "political subdivision" is used here aimed primarily at the area in which the registration process takes place.

Mr. KATZENBACH. That may be a point which should be clarified.

Mr. MCCULLOCH. If there were registration within a school district, and less than 50 percent of the people were registered to vote, or less than 50 percent of the people did vote, then it could possibly trigger this legislation when it becomes law?

Mr. KATZENBACH. Yes.

Mr. MCCULLOCH. And particularly if the test were applied for a particular purpose and the result were that. In certain sections of this country and in New York there are certain classes of people who are prevented from registering or voting by reason of literacy tests.

Mr. KATZENBACH. That is particularly true in New York because of the New York State constitution having an English language requirement which cannot be met by a great number of Puerto Ricans.

Mr. MCCULLOCH. I asked that question at this time, Mr. Chairman, because I wanted to know whether this bill would trigger such authority when it became law in any one of several States.

The CHAIRMAN. If the 50-percent provision were to apply to a political subdivision, would that have the effect of abolishing the literacy test in the entire State or only in that political subdivision?

Mr. KATZENBACH. Only in that political subdivision.

Mr. ROGERS. Under section 3(b) of the bill, would the determinations of the Attorney General follow the determinations made by the Director of Census?

Mr. KATZENBACH. Congressman, I feel that the way this is drafted that I would review the laws of the 50 States and determine which had tests and devices, and then within those States I would ask the Director of the Census to certify to me the voting statistics, the voting and registration statistics within those States and within those subdivisions. If he found them to be less than 50 percent in either one of the two tests he would so certify and then this would become the trigger to action.

Mr. ROGERS. Would it not be rather difficult to rely upon a census of 1960, if the election commission should change the boundaries of an election precinct or other political subdivision? Would it not become extremely difficult?

Mr. KATZENBACH. It would become extremely difficult, Congressman. It is for that reason that we froze it in 1964, so as to make that job possible.

Mr. ROGERS. Then by using the November 1964 date you believe that that problem will be adequately covered?

Mr. KATZENBACH. Yes. We know what they are and the people cannot keep changing them.

Mr. ROGERS. Since you said you were eliminating literacy tests and other devices, I direct your attention to section 5(b) which provides: "Any person whom the examiner finds to have the qualifications prescribed by state law in accordance with instructions received under 6(b), shall promptly be placed on a list of eligible voters."

Mr. KATZENBACH. Right.

Mr. ROGERS. Do I understand that the persons who will be selected by the Civil Service Commission to determine whether applicants are qualified must look at the State law in order to determine the qualifications?

Mr. KATZENBACH. No; they simply have to look at the regulations of the Civil Service Commission which have been put out after consultation with the Attorney General and the Attorney General has certified what those provisions are.

The CHAIRMAN. The Chair must announce that the committee is not privileged to sit. The House is now in session. I say that most reluctantly.

To insure expeditious consideration of the bill, and in view of the fact we cannot sit while the House is in session, we will resume these sessions tonight at 8 o'clock.

Mr. Attorney General, can you possibly return here? I hope you can.

Mr. KATZENBACH. I certainly will. As I said at the outset, Mr. Chairman, I will be here at any time of the day or night that this committee wishes to hear me.

Mr. MCCULLOCH. I want to take this opportunity to say that I think this is one of the best statements I have heard in 17 years of service on this committee. I think mention should be made of the tireless service the Attorney General has given to this troublesome problem since he has become head of the Department.

Mr. KATZENBACH. Thank you very much, Congressman. You are very kind.

(Whereupon, at 12, the subcommittee recessed, to reconvene at 8 p.m., the same day.)

VOTING RIGHTS

THURSDAY, MARCH 18, 1965—Resumed

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 8 p.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Brooks, Kastenmeier, Corman, McCulloch, Cramer, Lindsay, and Mathias.

Also present: Representatives Willis, Ashmore, Gilbert, Tenzer, Grider, Jacobs, and MacGregor.

Staff members present: William R. Foley, general counsel; Benjamin L. Zelenko, counsel; William H. Copenhaver, associate counsel.

The CHAIRMAN. The committee will resume. We will proceed with the questioning by Mr. Rogers. The Chair wishes to announce that it will endeavor to terminate the session tonight at 10 o'clock. I hope that the members will govern themselves accordingly.

Mr. Rogers.

Mr. ROGERS. Mr. Attorney General, do I understand that under section 3(a) of your bill that in order for the Federal examiners to be appointed there must first be determination by the Attorney General whether tests or devices as to qualification for voting were used in a State or in a political subdivision. That is the first determination that must be made.

FURTHER TESTIMONY OF NICHOLAS deB. KATZENBACH, THE ATTORNEY GENERAL

Mr. KATZENBACH. That is right.

Mr. ROGERS. Following through, the Census Bureau must determine whether less than 50 percent of the people of voting age either had registered on November 1, 1964, voted in the presidential election of 1964.

In other words, the two things must be present in order for the appointment of the Federal examiners to register people.

Mr. KATZENBACH. Yes, at least those two things.

Mr. ROGERS. At least those two things in section 3(a)?

Mr. KATZENBACH. Yes, sir.

Mr. ROGERS. Section 4(a), provides that when the Attorney General certifies that he has received the complaints in writing from 20 or more residents of a political subdivision * * * what do you interpret as a political subdivision in that case?

Mr. KATZENBACH. I believe the political subdivision there means the same thing as it means in section 3, Congressman.

Mr. ROGERS. I now direct your attention to section 4(a), line 23. Do I understand from that that if in the judgment of the Attorney General, the guarantees of the 15th amendment are being violated, that regardless of any complaints, the Attorney General has the right to ask that an examiner be appointed?

Mr. KATZENBACH. Yes, Congressman, that is correct.

Mr. ROGERS. What then is the necessity of 20 complaints from anybody or 20 residents of a political subdivision? Why don't you just eliminate that and place it entirely within the discretion of the Attorney General?

Mr. KATZENBACH. I think, Congressman, it is true that it is completely within the discretion of the Attorney General under section 2, and the purpose of section 1 was simply to indicate the kind of circumstances under which the Attorney General's discretion might be justified in being exercised, and that is to provide at least a rough guide as to the circumstances which might justify the appointment of Federal examiners.

I agree that as a matter of law on this, you could eliminate section 1 and simply leave it at the discretion of the Attorney General.

Mr. ROGERS. Would that not be more effective and help you carry out the objectives that you have outlined in the first eight pages of your statement here?

Mr. KATZENBACH. It could not be more effective, Congressman, since that discretion is vested in the Attorney General in any event, but I think putting in the first section gives some assurance to people who are being denied their rights—could I be excused for a minute, Mr. Chairman?

The CHAIRMAN. The Chair wants to announce that Mr. Foley, our counsel, who had difficulties a few moments ago, is suffering from complete exhaustion. He has been working most arduously and we members of the committee have been taxing his strength because we have been on the floor with the various bills, particularly the bill yesterday and the congressional reapportionment bill the day before.

Yesterday morning, the committee reported out the Presidential disability bill. He has been working on all these bills and I know of no more faithful and energetic, efficient and dedicated counsel than Bill Foley. I am sure we are all sorry for what has happened. He is greatly improved.

Mr. ROGERS. Mr. Attorney General, I believe we were discussing the discretion given to the Attorney General under section 4(a)(2).

Mr. KATZENBACH. Yes; and I believe I was saying, or had said, or was about to say, that the reason for having the section 1 of that section 4 about the 20 complaints was to give some assurance to people that if 20 people were turned down that this would be the sort of thing as to which the Attorney General would exercise his discretion. If the discretion is left simply in his judgment, then it seems to me that potential voters have no kind of indication as to when this would be done. The purpose of putting that section in was to give notice to them and to give notice to State registrars that if they turned down 20 people, this might be cause, although not necessarily, for the appointment of a Federal examiner.

Mr. ROGERS. You refer to the political subdivisions in section 4(a)(1), but in section 4(a)(2) there is no reference to a political

subdivision. Would that section apply to a political subdivision or to a State?

Mr. KATZENBACH. Section 4(a)(2), I believe, does refer to a subdivision in line 2 on page 4—"It shall appoint as many examiners in such subdivisions."

Mr. ROGERS. That would mean anything less than a State. By a subdivision you would not intend to exclude the possibility that if 20 people in the State of Alabama wrote in and said they had been denied the right to register, that you could, under this, appoint registrars in every political subdivision in the State of Alabama on the basis of those 20 letters.

Mr. KATZENBACH. No, sir, not under section 1.

Mr. ROGERS. But under section 2, you could whether you had one complaint or none.

Mr. KATZENBACH. That is correct.

Mr. ROGERS. You outlined that under section 3(c) that with respect to determinations made under section 3(a), that is the determination that the Attorney General makes and that the Bureau of Census certifies that less than 50 percent have registered to vote or less than 50 percent did vote once that determination is made, then the political subdivision about which such determinations have been made has the right to come to the District of Columbia and ask for a declaratory judgment; is that correct?

Mr. KATZENBACH. That is correct.

Mr. ROGERS. May I inquire whether if a determination has not been made under section 3(a), but a determination is made under section 4(a) (1) or (2), that latter subdivision could make the same case in court in the District of Columbia as under section 3(c)?

Mr. KATZENBACH. If I understand your question correctly, Congressman, I believe that is not correct.

Mr. ROGERS. Then, I assume it would be correct to state that if a determination were made by the Attorney General under section 4, that political subdivision would not have the right to come to the District of Columbia and get a declaratory judgment; is that correct?

Mr. KATZENBACH. That is correct, but the determinations under section 4 can apply only to political subdivisions that are included under section 3. No Federal examiners can be appointed in any State or any political subdivision that are not included under section 3.

Mr. ROGERS. Do you mean that there is a limitation in section 4 that before the Attorney General can request the appointment of examiners and to otherwise enforce and guarantee the 15th amendment, before you can do it under section 4, that there must be a determination by the Bureau of Census that 50 percent were not registered or did not vote in the 1964 election?

Mr. KATZENBACH. Yes, Congressman, that is what it says.

Mr. ROGERS. Where is that in section 4?

Mr. KATZENBACH. Perhaps I can read it to you, Congressman: "Whenever the Attorney General certifies (1) that he has received complaints in writing from 20 or more residents of a political subdivision with respect to which determinations have been made under section 3(a)"—and then it says, "Or that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment, the Civil Service Commission shall appoint

as many examiners in such subdivision"—and in such subdivision can only refer, I believe, Congressman, to a political subdivision with respect to which determinations have been made under section 3(a).

Mr. ROGERS. Then the subdivision would have the right, would it not, under section 3(c) to come and file a suit and seek a declaratory judgment.

Mr. KATZENBACH. He would at the time it was put under section 3(a).

Mr. ROGERS. But you say it has to come under section 3(a).

Mr. KATZENBACH. That is right, Congressman.

Mr. ROGERS. Then he would have the right to file for a declaratory judgment.

Mr. KATZENBACH. He certainly would to avoid coming under section 3(a) but once he comes under section 3(a) he would also be under section 4.

Mr. ROGERS. As I understand it, you have no intention of setting up one division where an individual cannot go to court and another where he can, and that, as far as you are concerned, the declaratory judgment could be used by any of them whether it is under section 3(a) or section 4.

Mr. KATZENBACH. No; I do not think we are quite in agreement on that, Congressman. I have not made myself clear.

Section 4 applies only—only to political subdivisions which are already under section 3(a). There is an opportunity to question that judgment of listing under section 3(a). You cannot question it every time an examiner is appointed. You can question it once. If you are under there, an examiner may be appointed under section 4.

Mr. ROGERS. Directing your attention to page 4, line 4——

Mr. KATZENBACH. Mr. Chairman, could I be excused for just 1 minute?

The CHAIRMAN. Certainly.

Mr. KATZENBACH. Perhaps Mr. Marshall could answer any of these questions if you want to continue.

The CHAIRMAN. Mr. Rogers, may I ask that you do not prolong your questions. We have quite a lot of Members who would like to ask questions.

Mr. ROGERS. I could withdraw asking any questions.

The CHAIRMAN. You may go ahead.

Mr. ROGERS. Mr. Marshall, directing your attention to page 4, line 4, where the bill reads: "Such appointment shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time," does that place any qualification or direction to the Civil Service Commission as to what the qualifications of these examiners may be?

Mr. MARSHALL. It is not a direction to the Commission, Congressman. It is an exemption from all of the provisions that are applicable to civil servants in connection with their determinations, and so forth. That is its purpose. I think Chairman Macy is going to testify before the committee. Maybe he can go into that more fully.

Mr. ROGERS. We will depend upon Chairman Macy for that then.

Directing your attention to the page 4, line 11, section 4(b): "A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon pub-

lication in the Federal Register." Does that contemplate that before these examiners can go to work that they must await this publication in the Federal Register?

Mr. MARSHALL. That is right, Congressman. There must be a publication in the Federal Register before the provisions of those sections of the act become effective as to any particular State or subdivision.

Mr. ROGERS. As to any particular State or subdivision?

Mr. MARSHALL. That is right. It is a notice to the State or subdivision that the provisions of section 3 or 4 or both are applicable to it.

Mr. ROGERS. If a State or political subdivision with respect to which a determination has been made has filed for a declaratory judgment before a three-judge court in the District of Columbia, and that court should find that the facts certified by the Attorney General and the Bureau of Census were not correct, would the examiner still be authorized to proceed in this matter?

Mr. MARSHALL. The application for declaratory judgment which is provided in section 3(c) is only to make the determination which is set forth in 3(c) and that is to find out whether or not the petitioner has engaged during the 10 years preceding the filing of the action in acts or practices abridging the right to vote by reason of race, creed, or color.

It is not to question the validity of the Attorney General or by the Director of the Bureau of Census.

Mr. ROGERS. Is there any method by which the determinations by the Attorney General or the Bureau of the Census can be tested in the courts if they cannot be tested under this section providing for declaratory judgment.

Mr. MARSHALL. No, sir; it is not; it is not reviewable.

Mr. ROGERS. Directing your attention to section 5 on page 4, the bill provides that the examiners for each political subdivision shall examine applicants concerning their qualifications for voting, and 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, and that, within 90 days preceding his application he has been denied under color of law the opportunity to register or to vote.

Now must he, in order to be examined by the examiner, make those allegations?

Mr. MARSHALL. Unless the Attorney General waives the requirement under the proviso clause that is on lines 23 and 24; yes, he must.

The CHAIRMAN. The bill says "*Provided*, That the requirement of the latter allegation" in line 24. What is meant by "the latter allegation"?

Mr. MARSHALL. That is the allegation, Mr. Chairman, that he has applied within 90 days. The reason for that is that although it is desirable to give the States a chance, in some instances it is just slightly futile if there is no registrar—we have had that happen in some counties in the past—there is no point in trying to make people go to places like that where there is reason to believe they will not be registered.

The CHAIRMAN. You are sure that the language there is clear when you use the words "latter allegation" you are not merely limiting it to

the words in line 22 as being "found not qualified to vote." That is the latter allegation, is it not?

Mr. MARSHALL. The intention, Mr. Chairman, is what I stated. Perhaps the committee will want to clarify the language.

Mr. ROGERS. The bill provides that any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. Now, when you turn to section 6(b) you find that it reads:

> The times, places, and procedures for application and listing pursuant to this act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for a listing.

It is not the intention that the Attorney General and the Civil Service Commission are to instruct these examiners according to the State law of, say, Alabama or according to the State law of Mississippi or any other States involved here?

Mr. KATZENBACH. Yes, Congressman, of course; as modified by this act.

Mr. ROGERS. The modification, then, goes back to the test or device——

Mr. KATZENBACH. That is correct.

Mr. ROGERS. As defined in section 3(b). Section 3(b) states: "Possesses good moral character." Now, if a State, for example, says that a convicted felon is not qualified to vote, would he be eligible to vote under this provisions?

Mr. KATZENBACH. No, Congressman; he would not.

Mr. ROGERS. What do the words "Possess good moral character" entail in this instance?

Mr. KATZENBACH. It has entailed a lot of things in some States of the South and it is that that we are getting rid of.

Mr. ROGERS. But you would get rid of it if the State had such laws.

Mr. KATZENBACH. If the State merely says that a convicted felon cannot vote, that is an objective test and that test would be honored. But the tests of good moral character as they are used in some places and in some States are completely subjective tests and it is those subjective tests that we wish to dispense with because we believe that the evidence is overwhelming that they have been used for discriminatory purposes.

Mr. ROGERS. Do you believe that under section 6(b) that the Civil Service Commission and the Attorney General could properly instruct the examiners as to the respective laws in the respective States and their application?

Mr. KATZENBACH. I would hope so, Congressman.

Mr. ROGERS. And thereby adhere as near as possible to the State law.

Mr. KATZENBACH. To the State laws except as suspended by the statute.

Mr. ROGERS. And provide an opportunity to go ahead and register?

Mr. KATZENBACH. Yes, Congressman.

Mr. ROGERS. Section 5(b) also provides that the list of eligible voters shall be available for public inspection and that the examiners shall certify and transmit such lists, at the end of each month to the offices

of the appropriate election officials with copies to the Attorney General and the attorney general of the State.

Suppose a State official refused to accept it. Could you prosecute him for a crime under this law?

Mr. KATZENBACH. No; I believe, Congressman, if an official refused to accept the list we would have two remedies: One, the United States could go into court and compel him to accept that list if sufficient time remained. If it were too close to the election to do so, then we would use the provisions of section 9(e). That is, if a person on the list was not accepted by the officials for voting in the next election, the court would hold up the voting returns and permit such a person to vote.

Mr. ROGERS. While we are on that section, if an examiner had certified this to the proper official and the official made it appear that he did not receive it when the man appeared to vote, then, as I understand it, if within 24 hours he and any others in that political subdivision were not permitted to vote, the Court would then take over the question, issue an injunction and require the registrars of the State to permit these people to vote and have the vote counted in connection with that election?

Mr. KATZENBACH. I would think so; yes, Congressman.

Mr. ROGERS. That is the intent and purpose of 9(e).

Mr. KATZENBACH. Yes.

The CHAIRMAN. Mr. Katzenbach, is it true that an individual registered by a Federal examiner can vote and have his vote counted even if after the election, (a) this act is found to be inapplicable to the State or political subdivision in an action instituted under section 3(c), page 2, or (b) the individual is found to be ineligible to vote under section 6(a)?

Mr. KATZENBACH. Yes.

The CHAIRMAN. In other words, the vote could be counted although it may be found later that he did not have the right to vote.

Mr. KATZENBACH. Yes, that is true. This follows in that respect the normal State procedures. If there is a challenge and the challenge is heard and disposed of by a hearing officer as it can be under the act and the hearing examiner decides the person offering to vote is properly on the voting lists, then if the court should fail to make a decision by the time of the election—which is an unlikely event, the hearing examiner having made the decision of eligiblity to vote—the person would vote and his vote would be counted.

The CHAIRMAN. Of course, I see the practical problem. The alternative would be to deny the applicant the right to vote and involve him in legal proceedings. And even if the court found he could vote thereafter the election would have passed.

Mr. KATZENBACH. Yes.

The CHAIRMAN. What is the justification for the provision in this bill for the Federal courts to determine the validity of any State voting qualification in an act subsequent to November 1, 1964? I am referring to section 8, page 7, which reads:

Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought

against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the 15th amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

Before a State changes a statute, must it get a court order?

Mr. KATZENBACH. Yes.

The CHAIRMAN. What is the justification for that?

Mr. KATZENBACH. The justification for that is simply this: Our experience in the areas that would be covered by this bill has been such as to indicate frequently on the part of State legislatures a desire in a sense to outguess the courts of the United States or even to outguess the Congress of the United States. I refer, for example, to the new voter qualifications that have been put into the statutes of Louisiana, Mississippi, and Alabama following the enactment of the 1964 act which made things more difficult for people to vote and which were put in, I believe—and we have established in one case and I believe we will establish in the other cases—for no other purpose than to perpetuate racial discrimination.

The same thing was true, as the Chairman may recall, in Louisiana at the time of the initial school desegregation, where the legislature passed I don't now how many laws in the shortest period of time. Every time the judge issued a decree, the legislature, which was sitting in special session, passed a law to frustrate that decree.

If I recollect correctly, the school board was ordered to do something and the legislature immediately took away all authority of the school boards. They withdrew all funds from them to accomplish the purposes of the act.

If you look at the past history on this, it seemed to us that the State which had been discriminating in the past should be subjected to some kind of limitations as to any new legislation that it might propose. Certainly, there could be appropriate changes of legislation. A State could raise the voting age from 18 to 21 or drop the age from 21 to 18 or change the residence requirements from 12 months to 6 months, or something of that kind, and there would be no objection to it. That kind of matter could be very quickly disposed of. It would not interfere with any election or registration proceeding at all because clearly——

The CHAIRMAN. You say it could easily be disposed of, but if they changed the age, would they still have to go to the District of Columbia court?

Mr. KATZENBACH. They would still have to go to the District of Columbia court, but I do not believe the United States would, or indeed, could oppose that, unless the United States were capable of making a case with respect to the effect of the proposed change of law. The effect would have to be one of denying the rights guaranteed by the 15th amendment.

The CHAIRMAN. In other words, your language on page 7, line 25 is all-sweeping and covers the enactment of any law on voter qualifications.

Mr. KATZENBACH. That is correct, Mr. Chairman. You can go ahead and look at the test which is stated in lines 6, 7, and 8, and the test of that law is that the court has to find that the laws won't have

the effect of denying or abridging rights guaranteed by the 15th amendment. If they do have those effects or the court decides they might have those effects, then it seems to me proper, under a law to enforce the 15th amendment, to deny the State the right to endorse those provisions.

Mr. McCULLOCH. Would the gentleman from Colorado yield in view of this line of questioning?

Mr. ROGERS. The gentleman from Colorado yields.

Mr. McCULLOCH. As I recall, it was the statement of the Attorney General that possibly Alaska could be affected by this legislation.

Mr. KATZENBACH. Yes, it could.

Mr. McCULLOCH. There has been no intimation or no feeling that there has been discrimination against the people of Alaska by reason of race or color in voting or registering in the past, is there?

Mr. KATZENBACH. None that I know of in any kind of concrete way, Mr. McCulloch.

Mr. McCULLOCH. Suppose in Alaska they had been voting by paper ballots alone and they decided to change their laws to vote by machine. Would it be necessary for Alaska to come to the District of Columbia to seek a declaratory judgment for that change in voting procedures?

Mr. KATZENBACH. Yes, I believe that it would, Mr. McCulloch, but I believe Alaska would have gone into that court quite a long time before it did that. I think it would have been in there to get out from section 3(a). I think it would be in there to establish that there had never been any discrimination and, therefore, the State would not be bound by this proposed legislation. I would think a better example might be Mississippi.

Mr. McCULLOCH. Would you elaborate on that statement, please, sir?

Mr. KATZENBACH. I think Alaska probably would, if what you intimate—and I have no evidence to the contrary—is true, Alaska would get out under the procedures of section 3(c), and, therefore, get out from any prohibitions on future legislation.

I believe, Congressman, that it would be possible to set out in section 8, if this committee wanted to do so, certain changes that could be made in State law without requiring a State to comply with the declaratory judgment provisions of that section. I do not think it really makes any difference if a State wants to change the voting age. I don't think it makes any difference if they want to change the residence requirements. I think if they want to go from paper ballots to machines, it does not make any difference. If they want to go from machines to paper ballots, I think I would raise a question as to just why, but that sort of thing, I think, could be permitted as long as the type of excepted legislation could be stated clearly enough. The difficulty is that there will come a point where you are going to have to construe the exceptions also, and I think, probably, they do not go very much beyond the kind of example that I have given and that you have given.

Mr. McCULLOCH. Might we conclude, then, that of some of these examples you would suggest that the rule of reason would determine the question without the necessity for going to court?

Mr. KATZENBACH. I think it would be possible, but I suggest that they have to be pretty specific. For example, I can conceive of changes

in property requirements, for example, which I would be willing to contend would be in violation of the 15th amendment. I can conceive of other changes that might not be and it would seem to me to be very difficult to express that in precise terms without knowing in what State and under what circumstances and conditions these were put on.

Mr. McCULLOCH. Would you think that a procedure which changed the election laws from a nonregistering requirement in a political subdivision to one requiring registration would be one that would require a declaratory judgment?

Mr. KATZENBACH. From nonregistration to registration, yes, I should think it would.

The CHAIRMAN. Would the gentleman yield?

Mr. McCULLOCH. Yes, Mr. Chairman.

The CHAIRMAN. Must not the procedures have the effect of abridging the rights guaranteed by the 15th amendment? Is that not correct?

Mr. KATZENBACH. Excuse me, Mr. Chairman?

The CHAIRMAN. I say, is it not a fact that the keystone of this situation is that these changes in procedures that we are talking about, like changing from a paper ballot to a machine, may not likely have the effect of denying or abridging rights guaranteed by the 15th amendment?

Mr. KATZENBACH. Mr. Chairman, one would think so, but suppose that the change in procedures is simply to have the registrar office open 1 hour 1 day, every 2 months. There is very little opportunity under those circumstances for Negroes who have not been registered in the past to get registered. Even in a sense a most innocent kind of law, as our experiences have indicated time and time again, can be used. You change the place of registration, for instance. Granted, that sort of problem we can solve to a considerable extent, by the appointment of Federal examiners, but it has not been our desire in providing for Federal examiners to appoint them if the State registrars can be persuaded to do their job and to register under the laws as they should.

There is no sense to Federal functions here if the States will do their job. Indeed, if the States were willing to do their job there would not be any reason to have this law.

The CHAIRMAN. In other words, we are facing harsh conditions and we may have to have harsh laws?

Mr. KATZENBACH. I would not describe this law as harsh, Mr. Chairman. I would describe it as effective.

Mr. ROGERS. Mr. Attorney General, on page 9 of your statement this morning you said:

> In Wilcox County, Ala., a Negro insurance agent became the first of his race to apply for registration in several years. Within weeks, 28 different landowners ordered him to stay off their property when he came to collect insurance premiums. To keep his job, the man had to accept a transfer and live away from his family, in a different county.

Also, on page 12 of your statement, you say:

> In our view, section 7 of the bill, which prohibits intimidation of persons voting or attempting to vote under the bill represents a substantial improvement over 42 U.S.C. 1971(b). Violation of this section would be a felony and could result in the imposition of severe penalties which should prove a substantial deterrent to intimidation.

My question is: Would an individual be guilty of a crime under this bill in this Wilcox County case you have described where the man registered and then went out to carry on his business and the people he had been doing business with said:

No, if you are going to go down there and vote, I am not going to do business with you.

Would that constitute a crime?

Mr. KATZENBACH. I would think that it could, under appropriate circumstances, do so, particularly if this were part of a conspiracy by a number of people.

I do not know whether one person failing to give insurance premiums could be regarded as intimidating, threatening, or coercing. I think several acting together could be.

Mr. ROGERS. What I am trying to find out is: To what extent may the individual act and not be guilty of a crime under this bill? The bill is intended to protect an individual in his voting rights and not have persons to threaten him or intimidate him because he exercises those rights. That is what you are trying to get at and many are in sympathy with that goal. But as you and I know, being a criminal situation, the burden is upon the Government to prove it. What acts would constitute intimidation under this bill?

Suppose you say, "I am not going to speak to you anymore" or "I won't have anything to do with you because you went out and registered to vote." Would you explore that area with us as to how far we can go without committing a crime; do we commit a crime when we say we will have nothing to do with you because you did register or did vote?

Mr. KATZENBACH. Like all of the criminal statutes that I know and that you are familiar with, Congressman, some situations fall on one side of the line and some fall on the other side.

I would think that it would be pretty clear if an employer called together all of his employees and said, "All right, anybody who goes down there and attempts to register to vote or votes is going to lose his job and I am going to be down at the polls and see who is there to register or vote and you are going to go the next day," then every person that went down there and attempted to register or voted was fired the next day, I would think that would be a pretty good case.

I think I can state less good cases. In fact, I think you stated one, that, "I am not going to speak to you anymore." Of course, I guess—suppose it depends on who it is.

Mr. ROGERS. There has to be a line of demarcation some place in the law as to what constitutes a crime and what does not.

Mr. KATZENBACH. That is right.

Mr. ROGERS. You and I know that in order to constitute a crime the statute must be definite and certain and if it is not, then the Supreme Court is going to set it aside.

Mr. KATZENBACH. These are terms that have been used time and time again. These terms are very similar to those which appear in the present law. People have been prosecuted under those laws. I am sure that other people have been acquitted under them and it has never been declared unconstitutional for vagueness. If you can suggest, sir, language that makes it crystal clear what intimidation is, I would think that would represent a substantial improvement in the bill.

Mr. ROGERS. That is what I am trying to ascertain here. For example section 7 provides: "No person, whether acting under color of law or otherwise"—if he was acting under color of law, that is a certain violation and we understand that because the man was a registrar and he acted as such. But when you get to "otherwise" you get into this other area of private conduct.

Mr. KATZENBACH. Congressman, I stated in my statement that this is to provide a criminal counterpart to the existing civil statute which this Congress has enacted and the language of section 7 is based on the language of 1971(b). Section 1971(b) reads:

> No person, whether acting under color of law or otherwise shall intimidate, threaten, coerce or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote, or to vote as he may choose, or for causing such other person to vote for * * * various named officers in any election.

So they parallel the language fairly closely. That is language that has been construed by the courts in the past. What we are doing here is providing a criminal counterpart to that civil statute.

Mr. ROGERS. The statute to which you make reference to on page 12 of your statement, 42 U.S.C. 1971(b), as you point out, is a civil statute, which has been in force for sometime.

Mr. KATZENBACH. Yes.

Mr. ROGERS. Then I assume that that being true you did not feel that the example of the man in Wilcox, Ala., which you have described, constituted a violation of 1971(b).

Mr. KATZENBACH. Yes, we did. We have brought a suit against the landowners. It is pending an appeal.

Mr. BROOKS. Mr. Chairman, would the gentleman yield for an observation?

Mr. RODINO (presiding). Would the gentleman yield?

Mr. BROOKS. With respect to subject of poll taxes which was discussed earlier, I wanted to point out that in the State of Texas we do have a State poll tax. I have never been for it. The State has retained it but it has not been used as a test or device to discourage voting. We allow everybody to vote in the State and the problem has been to encourage them to register. We have two campaigns in Texas. One is to get everybody to register. This is followed by a campaign to get them to vote for us, whoever "us" happens to be. I just want to add that in my own particular district, where I have been very active in politics for some years, our basic problem for Republicans and Democrats, for leaders of the Negro, the white, and other people who live in my district, has been to communicate this message that voting is an obligation and a responsibility, not just a privilege. I would want to point out again that we have not used the poll tax as a test or a device.

I think, generally, in Texas, we make an effort not only to allow people to vote but to encourage them to register and participate in or local, State, and National elections.

Mr. ROGERS. Mr. Attorney General, I would like to inquire as to the extent of intimidation required, since the prosecution must be based on something definite and certain. When you say, "or otherwise", do you mean any form of intimidation?

Mr. KATZENBACH. Yes.

Mr. ROGERS. And anything that may cause the individual economic loss, or physical injury, any of those things, constitutes intimidation. That is what you mean by "otherwise" because you have the color of law in one instance, and in the other it is without the color of law.

Mr. KATZENBACH. Yes. It really means applying to a non-official, a private person who seeks to intimidate another person.

Mr. ROGERS. Then, of course, the burden is upon the Government, as usual, to prove all the elements of the crime?

Mr. KATZENBACH. Yes.

Mr. RODINO. Mr. Attorney General, before going on, I would like to invite your attention to a statement made by Mr. Marshall while you were absent from the room a while ago when he was questioned by the gentleman from Colorado regarding the determinations by the Director of the Census under section 3(a)(2). The provision referring specifically to 50 percent.

Mr. Marshall, in answer to a question by the gentleman from Colorado, stated that the determination by the Director of the Census would not be reviewable, citing section 4(b).

Mr. KATZENBACH. That is correct.

Mr. RODINO. Mr. Attorney General, I would want to suggest at least in my opinion, that this may raise a serious question. You testified this morning in answer to one of my questions that the Director of the Census, in order to reach the estimate at what the figures might be in November 1964, would have to make the best estimate possible, a projected estimate. Now, what if a situation arose where an individual wanted to test the figures projected by requesting that a Federal special census be ordered; who pays for a special Federal census?

Mr. KATZENBACH. About $100 million.

Mr. RODINO. But in any event, there is a question here. Would the courts not give serious consideration to the fact that the best estimates certainly would not be as good and could not possibly be as good as a special census which would be taken as of that time and which, undoubtedly, might prove considerably different because of the 4-year span.

Mr. KATZENBACH. Congressman, I doubt that the special census would be much better. By the time they got that done, the situation might be changed. I think the real answer to that question is a very, very simple one. If the State is offended by this or the political subdivision is offended by this, all they have to show is that they have not discriminated over the past 10 years.

Mr. RODINO. In other words, you are satisfied that this determination by the Director of the Census would stand up.

Mr. KATZENBACH. I think so. There is no one who has better figures on this than the Director of the Census. I think the projection realistically, Congressman, is pretty accurate. It is almost as accurate as the census figure, itself. I am sure of that because I did not get counted in the last census.

Mr. RODINO. Maybe they don't count Attorneys General.

Mr. Kastenmeier.

Mr. KASTENMEIER. Thank you, Mr. Chairman.

Although many hours have passed, I would like to take this opportunity to compliment the Attorney General on his presentatio this morning.

I would also like to ask him whether, mindful that there are number of other bills that are introduced and some of which go beyond the administration bill, some antibrutality, application of the 14th amendment, et cetera, whether you are disposed to oppose any broadening of the bill that you have introduced.

Mr. KATZENBACH. I think it is very hard to answer that in general terms, Congressman. We think that this bill, as drafted—and I am sure that there will be things that the committee will point out that could be improved—we think it is a pretty good bill and we would like to get it enacted as quickly as possible.

Mr. KASTENMEIER. May I say I think it is a pretty good bill, too, but I am wondering what your attitude might be about relying upon, say, the 14th amendment or anything other than solely the 15th amendment for purposes of this bill.

Mr. KATZENBACH. I think, for the purposes of this bill as drafted, the 15th amendment is the right and proper basis. I think it should be based on the 15th amendment entirely. I am inclined to think that, as it is drafted, the basis of the 14th amendment is not only unnecessary, but really makes the defense of the constitutionality more difficult.

Mr. KASTENMEIER. I think the Attorney General might agree that this committee and the Congress ought to be especially sensitive in passing a bill this year, not merely because of the obvious demand and need for it, but because we passed a bill in 1957, 1960, and in 1963-64. All of these bills dealt in whole or in part with voting and, yet, we failed, apparently legislatively, to meet the situation either then existing, or as it now exists.

Hearing the very good historical review in your statement on the South, I wonder if you could comment on our legislative failure to pass legislation which, in the past, has met this problem.

Mr. KATZENBACH. I would say this, Congressman. The 1957 Act, the 1960 Act and the 1964 Act really depended, as almost all our legislation does, on the fact that it is going to be accepted as the law of the land and is then going to be fairly administered in all of the areas to which it applies, by State officials who are just as bound as you and I by the Constitution of the United States and by Federal laws.

Our experience has been, unfortunately, that it has not been accepted in all areas of the country. In some areas, it has not really been accepted at all. Under any other circumstances I can think of, the enactment of a law, valid law, after its constitutionality has been tested, is simply accepted by State officials and applied fairly. Our whole Federal system really depends upon that. That has not been the case in these voting acts passed by Congress. I think, in some areas, it has become the theory that a voting registrar is not really required to do anything except what he has been doing until his records have been examined and he has been hauled into court and, at public expense, his case has been defended by the State, and all the delaying devices possible have been used, and then it has been taken on appeal, then appealed again with as much delay as possible. Then, when a decree is finally entered, that decree can be construed as narrowly as

possible and he can do as little as he can get away with under that decree. Then that decree—what it means—can be questioned again in court, new evidence can be introduced, and, meanwhile, election after election is going by.

So, I think the Congress should not be criticized nor should either of the Administrations which submitted the voting bills for first trying to do this in what is a moderate and traditional way, by trying to seek enforcement through the courts on the assumption that that enforcement would be required only in the rare case.

Mr. KASTENMEIER. In other words, you are satisfied that the bill that we have before us no longer relies on good faith and compliance, but rather on the sheer mechanics of achieving certain goals by virtue of the legislation passed.

Mr. KATZENBACH. Yes; in a sense, it says that we really can no longer rely on good faith. We are going to try to—we are going to try to rely on good faith. We are not going to appoint Federal examiners if we do not have to, but we are not going to be frustrated again by the long and tedious delays and resort to law as a delaying device.

Mr. KASTENMEIER. A couple more specific questions relating to legislation, and it was alluded to before as to your definition of the word "election" in section 3(a). There are a number of excellent bills apart from the administration bill, one which resembles it, which is the Douglas bill. That bill does use a definition for election. It says the term "election" means any general, special, primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting a candidate to public office, and any election held in any State or political subdivision thereof solely or partially to decide a proposition or issue of public law.

First, I am wondering if you would accept that definition.

Mr. KATZENBACH. Yes.

Mr. KASTENMEIER. Secondly, I am wondering if you feel it might aid to put a definition of that sort in the administration bill or whether it is unnecessary.

Mr. KATZENBACH. I don't think it is necessary, Congressman, but I cannot think of any objection that I would have to using that definition or something very similar to it.

Mr. KASTENMEIER. You will recall that the 1964 bill received a definition of election, unfortunately, albeit, for Federal elections only.

Going down to section 3(b), this I am not aware of at all, and I am asking for information. Are there any tests or devices used that the Civil Rights Commission has uncovered that would fall outside the bill's definition of "test or device" excepting, of course, the poll tax which is not included in this?

Is there any test or device presently used which might fall outside of this definition which would have the effect of discriminating on account of race or color?

Mr. KATZENBACH. None that I can presently think of that are in effect.

Mr. CRAMER. Will the gentleman yield on that point?

Mr. KASTENMEIER. I will.

Mr. CRAMER. I have the findings of the Civil Rights Commission in its report of January 1963, which describes techniques of discrimina-

tion, and I think an examination of them will clearly indicate that there are a number of those techniques outside of the tests in this bill. I quote:

> One technique was a discriminatory application of legal qualifications such as literacy tests, constitutional interpretation tests, calculation of age to the exact day, requirements of good moral character. Others involve plainly the use of arbitrary procedures. These included the requirement of vouchers, some unduly technical method of identification, rejection for insignificant errors in filling out form, failure to notify applicants of rejection, imposition of delaying tactics, and discrimination in giving assistance to applicants.

I think, obviously, a number of those are outside the definition contained in this bill. Would you not say so, Mr. Attorney General?

Mr. KATZENBACH. Yes, Congressman; but the ones that are outside that definition are those that can easily be coped with, if necessary, by the appointment of the Federal examiners. Instead of using a delaying technique, failure to inform somebody, and so forth—if those techniques are resorted to, then it would seem to me that the only answer in the voting district involved is the appointment of a Federal examiner.

Mr. CRAMER. Then you could have, in a given area, certain delaying tactics or failure to give proper assistance to applicants and they would not, in and of themselves, trigger this act. That type of activity would not trigger this bill?

Mr. KATZENBACH. No. The effort under section 3(a) or under the definition of what a test or device is under (b) was an effort to deal with the formal legal prerequisites to voting which had been used for discriminatory purposes. We did not make an effort to deal with, other than by the appointment of Federal examiners, such problems as a registrar not having the office open, not being there, or throwing somebody out. These are not things prescribed by laws.

These are arbitrary acts of registrars and if a registrar is going to act arbitrarily, whatever the restrictions given, I don't know what anyone else can do other than to appoint someone to perform the functon.

Mr. CRAMER. Even though these acts are committed by the registrar and the result is obvious discrimination, the test that is used in the bill, paragraph (b) would not give relief to that person denied the right to vote. It would not trigger any action under the bill.

Mr. KATZENBACH. I don't think we are having a complete meeting of the minds on this, Congressman. What triggers the bill is the 50-percent figures and the literacy tests as defined. Therefore, if, in a State which was registering more than 50 percent and did not have tests and devices as defined in this act and if there was discrimination in such a State, we would have to deal with it under the 1957, 1960, and 1964 acts.

Mr. CRAMER. The point I am making is that you could have all of the delaying tactics, you could have all of the technical methods used, you could have refusal to give assistance of any kind which results in obvious discrimination——

Mr. KATZENBACH. Yes.

Mr. CRAMER. And you could have less than 50 percent registered, but it is not "a test or device" and, therefore, this act does not apply.

Mr. KATZENBACH. That is correct.

Mr. RODINO. But it would apply as far as the political subdivisions are concerned. If the 50-percent formula is applicable to a political subdivision, then these devices would be unlawful.

Mr. KATZENBACH. No, Mr. Chairman; we only define that in terms of the formal devices. As I understood the question that the Congressman asked me, it was if, in a State that has any formal devices or literacy tests at all, a registrar somewhere in that State says, "I just won't register Negroes," and says flat out, "I don't care what the law requires, I won't do it," but over 50 percent of the people either voted or registered, they are not covered in this act—that is correct.

I should have perhaps added that I don't know of such places and instances, but if the Congressman does, we would be happy to bring a suit there.

Mr. CRAMER. Do you mean there are no places where discrimination takes place, to your knowledge, outside of States that have "tests or devices" as defined in paragraph (b), meaning no community in the State of Florida, Texas, Kentucky, or Tennessee. Do you mean that there are no other States where discrimination would deserve some type of relief?

Mr. KATZENBACH. If there is discrimination, it should deserve some kind of relief. Some kind of relief is presently available under the existing law. But I think you would agree with me, Congressman, those States that you mentioned and others which may exist do not really present the central problem we are trying to deal with, and which it seems to me is established by the statistics themselves.

Mr. CRAMER. While there was smaller attention to electorate voting in 1964 than in 1960, the statistics indicate that in the 1960 election, there were 902 counties in 25 States in which fewer than 50 percent of voting age population voted. At the same time, 187 counties in the State of Texas had a voter turnout below 50 percent; and in 35 Florida counties, a turnout below 50; in Tennessee, 38 counties.

Now, in each of those instances, if, in fact, discrimination took place, the most horrendous type of discrimination, this bill would not cover that situation or give those people discriminated against any type of relief. Is that not correct?

Mr. KATZENBACH. That is correct, Congressman. I do not believe those are the States where the major problem exists. There is a problem in northern Florida, I believe, of discrimination.

Mr. CRAMER. How can you justify excluding those good Americans who are just as much entitled to vote as those people who reside in States that do have the literacy tests?

Mr. KATZENBACH. We may not have covered every bit of discrimination in this bill, but I do not think it is an argument against this bill. If we can include other areas where there is discrimination and it is a problem, if it can be covered by legislation under the 15th amendment in a fair and effective way, I think we should do it. I have worked hard and I have not been able to do it.

Mr. CRAMER. Do you not think it is possible to devise legislation that will give expeditious relief to any citizen in America who arbitrarily or capriciously is denied his right to vote, no matter where he may reside?

Mr. KATZENBACH. Congress tried to do it in 1957, 1960, and 1964, and we are trying to do it now.

Mr. CRAMER. You would not object to any member of this committee making an exploration in that area?

Mr. KATZENBACH. Anything that will be in this direction and make it constitutional, I am all for it.

Mr. KASTENMEIER. Returning to a different subsection, section 3(c), the one on declaratory judgment, this is a procedural question and it may be obvious to some people, but I feel I should ask it. In the event that a State, such as Virginia, against whom a judgment is not pending, within the meaning of this subsection, applies for a declaratory judgment and the court fails or declines to declare that it has not engaged in the practice of denying or abridging the right to vote, would such a declaration or judgment constitute a finding that would thereafter bar that State for 10 years again seeking the relief.

Mr. KATZENBACH. Generally, I would say yes, Congressman, but if the evidence in that trial was to the effect that the only instances of discrimination had occurred 5 years before and that was the only evidence that was presented at that time, I would think that State would be free to come in after 5 years, rather than after 10. If the judgment was that they were presently discriminated against in any counties, then I think they would be barred for another 10 years.

Mr. KASTENMEIER. I am going on the assumption that there is no judgment presently existing against Virginia but that during such application the evidence is such that the court denies the declaratory judgment. My question is, does such a denial or finding in itself constitutes a judgment that would bar thereafter for a period of 10 years——

Mr. KATZENBACH. I would think not, Congressman, but I think there would be a collateral estoppel in bringing the suit where you had to re-do over the same evidence. This is the reason for my saying, if the evidence was only as to the discrimination that existed 5 years before, I would think that they would be free to come in 5 years later and see whether there had been any new discrimination over the 10-year period.

May I be excused a moment again?

Mr. KASTENMEIER. Under section 4(a), the Attorney General may act when he believes such complaints to be meritorious, talking about 20 or more residents. In this connection, similarly, the Douglas-Case bill, speaking of the President in similar actions says,

> If he has reason to believe such allegations are true

what I am wondering about here is how you define meritorious or how do you compare it with truth in this connection so that we may understand by what standards the Attorney General may act.

Mr. MARSHALL. I think they mean the same thing and I do not think there was any intention to mean that they were anything other than bona fide, valid complaints, whose allegations the Attorney General felt were valid.

Mr. KASTENMEIER. May I also inquire why the word "examiners" was used or "registrars"?

Mr. MARSHALL. It was just a choice.

Mr. KASTENMEIER. In section 7, in terms of voting, itself, or having one vote counted, there is no detailed explanation of procedure to be followed. I am wondering, one, how a person may know whether his

vote was counted in Mississippi; a casual Negro citizen, let's say, voting for the first time, registered and voted, how is he likely to find out or discover that his vote is not counted?

Mr. MARSHALL. Congressman, of course, I think that is always a problem in vote frauds unless they are on a rather substantial scale, I think that is always a problem. If there is substantial vote fraud and a substantial number of votes are not counted, I think one can tell, but there isn't any procedure set up here for having citizens inspect the voting machines or something like that. I think the problem is the same problem you have in voting frauds. I do not know quite how you would provide for it. There is not the inclination to get into the use of poll watchers and the mechanics as to how people protect themselves in being able to vote and in counting the ballots. So many States have specific procedures and it may be difficult in Federal legislation to deal with the problem uniformly.

Obviously, candidates and political parties are protected by law in these States, and as to whether we could protect voters who are discriminated against because of race or color maybe there is some suggestion that has not occurred to us. There is a special procedure set up in 9(e) that can be followed by persons who are listed by an examiner who have reason to believe their vote was not counted. I think you are right that it is awfully difficult for one person to know whether or not his vote was counted, but if, as I hope will turn out to be true, there are substantial numbers of people who are registered under this law and the vote total is still very low, I would think that then we could bring a proceeding to go into it very thoroughly. I do not have any other device that I could suggest to the committee.

The bill does not try to set up a whole Federal system of poll watchers and so forth.

Mr. KASTENMEIER. Going to section 9(e), it states that under certain circumstances, upon receipt of notification from the examiner, the U.S. attorney may, and I emphasize "may," apply forthwith to the district court for an order enjoining the certification of the election results. This seems to me to be important because—knowing the problem in terms of U.S. attorneys' offices throughout the country and the Justice Department generally—he may not in fact do this unless, let us say, the election outcome may be affected by the claim. Yet, if this be the test, after all "may" may mean many things, if this might be the intended test, I would suggest that it is also very important to the citizens who have been deprived of the right to vote or have not had their vote counted, that a specific procedure be followed and that some relief be obtained so that they may not, thereafter, be discouraged by virtue, ultimately, of a lack of encouragement to vote. The standard should not be in fact whether it will affect the election outcome but whether the case is substantial enough on other grounds to pursue it.

Mr. MARSHALL. I think it is the latter, rather than leaving some discretion. This 9(e) starts with a complaint from a single person and although there is an examiner between him and the Department of Justice, I think there are serious objections to creating a procedure whereby one citizen can force the United States to bring a lawsuit that it does not believe that it should bring.

I would agree with you that the vindication of the right to vot under this act should not be determined solely on whether or not i affects the outcome of an election, but I do think that the Departmen of Justice should have some discretion in view of the fact that it does start with just one citizen.

I think that the Attorney General and I think that the Unitec States is committed to this course of action, no matter who is Attorney General or who is President and can count on the vigorous enforcement of the act, but I think, myself, Congressman, it would be a mistake to remove from the Department of Justice the decision as to whether or not it thinks a case is a good case to bring.

Mr. KASTENMEIER. I appreciate the gentleman's comments. I realize you require some discretion. However, this language is quite open-ended as to what standards, in fact, the U.S. attorney may apply as to the decision to institute these cases.

Mr. RODINO. Mr. Corman?

Mr. CORMAN. Mr. Marshall, first of all, as to the matter of the poll tax—the poll tax is not a test or device in this bill; is that correct?

Mr. MARSHALL. That is correct.

Mr. CORMAN. I am wondering if the poll tax rate could be increased by a State after November 1, 1964, under this bill.

Mr. MARSHALL. I think that the State which did that, if it is covered by section 3(a) and as to which determinations have been made, would have to follow the procedures set forth in section 8 before it did that.

Mr. CORMAN. In other words, the changes that are envisioned in section 8 are not necessarily limited to tests or devices.

Mr. MARSHALL. No, they include others.

Mr. RODINO. Would the gentleman yield?

Mr. CORMAN. Yes, sir.

Mr. RODINO. Would that be so, despite the fact that you have a provision in the bill permitting a Federal examiner to collect the poll tax?

Mr. MARSHALL. I think so, Mr. Chairman. I think the way the bill is written, it is, but on the whole, I think if they wanted to change the poll tax that that would be covered by section 8 despite the provisions of section 5(e) providing for payment.

Mr. MCCULLOCH. Would the Chairman yield?

Mr. RODINO. The Chair yields.

Mr. MCCULLOCH. Do you believe that would be the case if the poll tax were increased purely for the purpose of securing additional revenues such as for education and there was no ulterior motive in the increase in the tax?

Mr. MARSHALL. It would still be true, Mr. McCulloch. I don't think there would be much to the proceeding under section 8. I think that would be a very technical thing. The procedure under section 8, really, in a way, is a method of bringing to the attention of the Government changes in State law. We have had a problem in enforcing the previous statutes of having the State legislatures and individual counties adopting new procedures and new qualifications or tests, and then you find out about them months later and you have to go to court and the procedure in section 8 reverses that. I think, on the basis of the experience of the last 95 years, that is justified, but in the case that you suggest, Mr. McCulloch, I don't think that they have to do anything more than file a lawsuit as provided for in section 8 and obtain a favorable decision, which can be easily accomplished.

Mr. CORMAN. On this point, even assume for the moment that there was a legitimate purpose, if it had the effect of denying Negroes their right to vote, then it would not be excused under section 8.

Mr. MARSHALL. That is correct.

Mr. CORMAN. For instance, a $100 poll tax to finance schools may be admiral but on the other hand, it would prevent a lot of Negroes from voting. That very probably would not be excused.

Mr. MARSHALL. That is correct. Mr. McCulloch said no ulterior motive and I was accepting his hypothesis, but it is possible to conceive of an increase in a poll tax which had the effect of denying or abridging the right to vote.

Mr. CORMAN. We look for the effect.

Mr. MARSHALL. That is right.

Mr. CORMAN. Section 3(c) is the provision allowing a State or subdivision to get outside of the effect of this act. If they are relieved under section 3(c), they are relieved under section 8?

Mr. KATZENBACH. That is correct.

Mr. CORMAN. Assume for the moment they do seek and obtain relief under 3(c) and, subsequently, and while they are still under 50 percent voting, the Attorney General determines that they are now engaged in racial discrimination, can you proceed? How do you undo the relief they got under 3(c)?

Mr. KATZENBACH. Cannot?

Mr. CORMAN. Yes; in other words, if a county and State get relief under 3(c), then they are from that point forever excused——

Mr. KATZENBACH. The old act has to be used.

Mr. CORMAN. You mentioned the definition of felony this morning. Are you satisfied with that? We apparently did not tie it down completely in that States may have different views on what acts may be felonious, at least up to 1964, which may prohibit a person from voting. Do you think we should consider this?

Mr. KATZENBACH. I think it might well be tied down. I think that is a good point.

Mr. CORMAN. Mr. Marshall, in deciding what kind of elections might be covered, it was suggested earlier that primary elections are. I understand that some States select their delegates to party conventions, national elections, by the mechanism of local conventions. Would a person who is entitled to vote under an examiner's roll be also protected in the participation at this kind of convention?

Mr. MARSHALL. That is a party convention?

Mr. CORMAN. I believe that is the way that some of the States select their delegates to national conventions.

Mr. MARSHALL. Congressman, I would have to know a little bit more about it. I would say that anything that is part of a primary system is covered. If it is a question of some less formal method of choosing delegates from a precinct by a precinct meaning—is that what you have in mind?

Mr. CORMAN. As I understood it, it was like delegates to the national convention. It includes a series of conventions with the first one starting at a very low, or small geographic level. Statutorily, the requirement is that you be registered to vote to participate in this convention, but your decision there will ultimately be deciding who goes to the national convention to select or nominate a President. I am wondering if a person who is registered under the Federal examiner's rules would

have the same power to participate in those conventions, as under the local law, a person registered to vote under the State registrar's roll would have.

Mr. MARSHALL. Congressman, I think I would not be able to answer that question until I knew more about the way the system worked. If it is a primary, it would be. If it is a question of who is a party member or party official or something of that kind, I do not want to imply that this permits Democrats to vote in Republican primaries, if the State law prohibits that. That is the kind of thing I don't want to mislead you on.

Mr. CORMAN. If the State law gives certain rights to a registered voter, then would it be fair to say a person registered on the Federal examiner's rolls would have all of the rights that are given to a voter registered by a State registrar?

Mr. MARSHALL. Yes.

Mr. CORMAN. If he goes to the convention which is called for the purpose of permitting all registered voters to make a selection he would have as much credence there.

Mr. MARSHALL. The answer to that would be yes.

Mr. CORMAN. We have not talked at all about whether we have to be concerned with not only who can vote, but who can run for public office and that has been an issue in some areas in the South in 1964. Have you given any consideration to whether or not this bill ought to address itself to the qualifications for running for public office as well as the problem of registration?

Mr. MARSHALL. The problem that the bill was aimed at was the problem of registration, Congressman. If there is a problem of another sort, I would like to see it corrected, but that is not what we were trying to deal with in the bill.

Mr. CORMAN. Just one other point. We had discussed various types of coercion that is subject to criminal penalty when employed to dissuade one from voting. It was stated that the same act may be a crime or not a crime, depending on the intent and the effect of the act.

For instance, if a uniformed police officer stands at the polling place and takes a picture of each Negro that comes to vote, if he does it with the intent of discouraging them, and he, in fact, discourages them, that could be a violation under this act.

Mr. MARSHALL. I think it would, but it would have to be presented to a jury and the jury would have to be convinced beyond a reasonable doubt. I think it is covered by it.

Mr. CORMAN. I think the committee is deeply indebted to the Department for presenting this bill. If we can improve on it, I would be greatly surprised.

Mr. RODINO. I think this is an appropriate time to adjourn until tomorrow morning at 10 o'clock. I wonder if Mr. Katzenbach and your colleague can be back at 10 o'clock tomorrow morning so other members of the full committee will have an opportunity to question you. Will Mr. Katzenbach be able to return?

Mr. MARSHALL. I am sure he will.

Mr. RODINO. In that event, we will recess at this time until 10 o'clock tomorrow morning.

(Whereupon, at 10:05 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, March 19, 1965.)

VOTING RIGHTS

FRIDAY, MARCH 19, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Brooks, Kastenmeier, Corman, McCulloch, Cramer, Lindsay, and Mathias.

Also present: Representatives Willis, Ashmore, Gilbert, Edwards, Hungate, Tenzer, MacGregor, King, and Hutchinson.

Staff members present: Benjamin L. Zelenko, counsel; and William H. Copenhaver, associate counsel.

The CHAIRMAN. The committee will come to order.

The interrogation of Mr. Katzenbach will continue.

FURTHER TESTIMONY OF NICHOLAS deB. KATZENBACH, THE ATTORNEY GENERAL

Mr. MCCULLOCH. Mr. Chairman, I would like to return, if I may, to the questions of our able colleague on the subcommittee, Mr. Cramer, concerning States where there has been found discrimination in some districts but which will not be covered by this bill: The State of Florida, for instance; the State of Tennessee, and possibly the States of Texas and Kentucky.

Has the Attorney General or the Department of Justice had time to thoroughly consider the possibility of legislation which could cover conditions in some of the counties of those respective States?

Mr. KATZENBACH. Yes, Congressman, I think that we have, and I think it has been our judgment that within those States, if discrimination exists—and we have cases in Tennessee, at least cases with respect to intimidation of potential voters—I would think that the situation in those States could be coped with under the 1964 legislation and that which came prior to it.

I think the problem in Tennessee has been pretty much coped with. There is a large Negro voting population there now. The problem may exist in isolated parts of the other States that you mention. We have no concrete evidence that it does, but I think, if it is an isolated situation, if there is no test or device, which there is not within those States, that it is a situation that we could cope with through the judicial process.

Mr. MCCULLOCH. Is it your opinion, Mr. Attorney General, if this type of legislation becomes law that much time now consumed other-

wise by Justice Department personnel will be free to consider these individual counties where it is alleged that there is discrimination, and if that be the case, would it be the purpose of the Justice Department to move promptly in those counties to enforce the Civil Rights Act of 1957, 1960, and 1964?

Mr. KATZENBACH. Yes. Yes to both parts of your question, Congressman.

Mr. MCCULLOCH. And, again, you feel that there will be a time where there is less discrimination in the States where you mentioned and you would pinpoint those places and proceed with all the resources at the command of the Justice Department to see that voting rights were assured?

Mr. KATZENBACH. Yes. I think I would add this, that where it is not widespread within the State and particularly where the State is not a party to the various schemes and devices to prevent Negroes from voting, the problem becomes much less acute and much easier to solve. It is often solved really through the political process.

Mr. MCCULLOCH. May I interrupt to ask this question?

Do you believe that if this bill becomes law that it will have the same effect on election officials everywhere?

Mr. KATZENBACH. It has been my observation, and I can't speak from experience, that elected officials often pay attention to the electorate.

Mr. CRAMER. Will the gentleman yield?

Mr. MCCULLOCH. Most certainly.

Mr. CRAMER. I believe you testified yesterday, Mr. Katzenbach, that the legislation of 1960 and 1964 was designed to be the most forward-looking and comprehensive act in the history of our Government——

Mr. KATZENBACH. And I think it was, Congressman.

Mr. CRAMER. Relating to voting rights, as well.

You suggested that the justification for this new procedure is largely that the existing legislation is cumbersome, foot-dragging, takes time, hard to get a determination, hard to prove that there is a pattern or practice. In other words, what you are suggesting, then, is that all people outside of these specific States in which there are literacy tests and 50 percent nonregistered and 50 percent nonvoting, that we have to suffer under the difficult, lengthy procedure. In effect, all those people will be discriminated against as compared to those that are covered by this new bill.

Mr. KATZENBACH. No, that is not what I am suggesting, Congressman.

Mr. CRAMER. I am suggesting that is the result that will occur.

Mr. KATZENBACH. No, it will not, Congressman.

Mr. CRAMER. Didn't you testify that is why you want new legislation?

Mr. KATZENBACH. I believe the record will show exactly what I testified to. I testified that I wanted to——

Mr. CRAMER. I ask you to repeat it then.

Mr. KATZENBACH. I wanted new legislation because I thought that this kind of legislation was necessary to deal with those hard-core areas where discrimination was widespread against Negroes and that the procedures under the 1957 and 1964 acts were ineffective within those areas where discrimination was supported by State action, where

the litigation took a long time, where it was cumbersome to accomplish and where we spent all our time in court and the Negroes were able to spend very little time at the voting booths.

I thought that that was a problem that we had to deal with.

I think that it is a problem that we have to deal with. I do not believe on the basis of what we know that discrimination against Negroes is very widespread or very significant in States other than those which would be covered by this act. I think this legislation deals with the heart of the problem. It deals with the major aspects of the problem, and I believe that if there is discrimination which exists elsewhere we can cope with it under the existing legislation.

I do not believe that in any sense it is a fair conclusion to state that in any sense I approve or am ignoring or don't want to deal with other kinds of discrimination if, indeed, they exist.

Mr. CRAMER. It is true to say, however, is it not, that you are willing to permit, by proposing the legislation in this form, that in areas where discrimination exists outside of literacy test States, and in that I include Tennessee and Kentucky, possibly Texas and Florida, that those people will have to use the present procedure which has been criticized as taking too long?

Mr. KATZENBACH. The 1964 act has taken too long in those areas which are covered by this legislation. I believe it would be effective in other areas of the country because there is not the same hard-core resistance and attitude. I don't think you would find the government of Tennessee or the officials of Tennessee, for example, are sympathetic with any kind of discrimination against Negroes; I think that you would find that they would be anxious to cope with that themselves.

I think, in general, this would be true in the other States; certainly it would be true in the State of Texas. I don't think there is any problem really in the State of Kentucky. I think there may be some problems in northern Florida, but I have no concrete evidence of that.

Mr. CRAMER. May I cite, if the gentleman will yield for just a minute, the Civil Rights Report of 1963, on page 17? I quote:

> Florida contained 5 of the 100 counties. No litigation has occurred in the State. Registration has increased in two counties and remained virtually unchanged in the other three. Though the number of votes in these counties has increased from 76 in 1956 to 512 in 1962, fewer than 5 percent of the voting-age Negroes are registered.

This is in the Civil Rights Commission Report.

Let me ask this question: Could you submit to this committee the figures on which you apparently have based your judgment relating to where you feel discrimination has occurred. You apparently have based your judgment somewhat on the tests that you have cited in the new proposal, meaning 50 percent of the people not registered or not voting? Can you submit figures relating to voting for "political subdivisions", which is the word you use in the legislation proposal, is it not?

Mr. KATZENBACH. Yes, it is.

Mr. CRAMER. Can you submit figures relating to those "political subdivisions" in the areas covered by the bill and in areas outside the bill that lead you to the conclusion that you have reached, so that this committee can examine them and make a determination for itself?

Mr. KATZENBACH. I believe I already did submit at least some figures in that respect, Congressman.

Mr. CRAMER. In your statment, but it is not a comprehensive breakdown.

Mr. KATZENBACH. I did submit, I think for the record, figures in that regard.

Mr. CRAMER. Relating to the States covered by this legislation?

Mr. KATZENBACH. Yes.

Mr. CRAMER. What I am interested in, additionally, are figures covering the rest of the States, county by county.

Mr. KATZENBACH. You want the figures on every county everywhere in the United States?

Mr. CRAMER. Yes, at least in the States covered by this legislation.

Mr. KATZENBACH. You want the figures on the counties of the States covered by this legislation?

Mr. CRAMER. No. 1, yes.

And, No. 2, whatever figures are available outside of the States covered by this legislation.

How else can it be properly judged?

I want to know how many counties there are where this 50 percent test is going to apply.

Mr. KATZENBACH. We have already submitted that for the States which have literacy tests. I said, it might be subject to some correction, but I believe it is substantially accurate and would be the basis for a judgment.

To my mind, it is significant that there are, for example, 34 counties in North Carolina and no counties in Alaska or Hawaii.

Mr. CRAMER. How about New York State, California, Alaska, Hawaii?

Mr. KATZENBACH. None.

Mr. CRAMER. All covered by literacy tests?

Mr. KATZENBACH. Yes.

Mr. CRAMER. In every county?

Mr. KATZENBACH. Yes.

Mr. CRAMER. Pardon?

Mr. KATZENBACH. Yes.

Mr. CRAMER. In every city or political subdivision in every county?

Mr. KATZENBACH. Political subdivision, as I attempted to say, in my judgment means that area for which people are registered and within which a registrar board operates. It is called different names in different States. That is the reason for using the term "political subdivisions," but it is meant to be coincidental with the area under the supervision of a board of registration or election.

We have examined them for all the literacy test States and we have submitted a list of those where registration falls under 50 percent.

Mr. CRAMER. I understand there are two counties in Kentucky where there is not a single Negro registered.

Mr. KATZENBACH. The figures that we have are based upon the total population and the number of people registered.

Mr. CRAMER. Of the State?

Mr. KATZENBACH. And within the political subdivisions. I don't have a breakdown because it is not possible to get an accurate breakdown in many instances of the number of whites registered and the number of Negroes registered. We cannot get the figures with respect to that in many, many areas; they are not kept that way. We don't know.

Mr. CRAMER. In those instances, as far as this legislation is concerned, we are pretty well operating in the dark relating to them?

Mr. KATZENBACH. Most respectfully, I don't believe that I am operating in the dark, and I don't believe this committee is operating in the dark. I believe you have substantial information on which to make this judgment.

Mr. CRAMER. But we would not cover the two counties, for instance, in this bill where there is not a single registered Negro?

Mr. KATZENBACH. No, and I probably would not cover counties in New Mexico where there is not a single registered Negro. I don't even know if there is a Negro in the county.

Mr. CRAMER. There are Negroes in these counties; you can take my word for it.

Mr. KATZENBACH. How do you attribute——

Mr. CRAMER. Secondly, in the State of Maine, there is Aroostook County, in which there is less than 50 percent of the people registered.

Mr. KATZENBACH. That may be true. We were checking that figure last night.

Mr. CRAMER. Those are the kinds of figures that I think the committee might like to have so we will know what the thrust of your proposal is: No. 1, the counties and political subdivisions that are covered. Then, No. 2, the areas in America where, based on the same test of 50 percent, there is a possibility of discrimination outside of the States with literacy tests.

Mr. KATZENBACH. Yes.

Congressman, if this Congress were able to eliminate discrimination where we know it exists, I think that would be a very major step. I think it is going to be very difficult to draft a law which eliminates the possibility of discrimination.

Mr. CRAMER. Should we not have the information to judge those areas where perhaps there is no discrimination in existence? In other words, the committee has to have information on which it can base its judgment as to whether this is the best approach or whether, perhaps, a different approach would be far superior in meeting discrimination. As the President said in his message, with which I agree, that discrimination in every community in America, wherever it exists, must be stamped out relating to voting. The bill does not do it.

Mr. KATZENBACH. Most respectfully, Congressman, I believe that the bill does it as well as we have been able to devise a system for doing it.

Now, if there are better ways of doing it, as I said before, I would certainly be strongly in support of those.

I might add that I think Aroostook County in Maine, according to your figures, did have only 49.4 percent voting in the 1964 election and there may be one county in Idaho, Elmore County, which would also fall within the definition here.

I said we were checking those figures when I submitted them and I believe there may be two additional counties.

Mr. GILBERT. Will the gentleman yield for a moment?

With respect to this county in Maine to which my colleague from Florida referred, does Maine have a literacy test?

Mr. KATZENBACH. Yes.

Mr. GILBERT. So, then, it would fall within the purview of this contemplated bill?

Mr. KATZENBACH. Yes. That is one of the northernmost counties in Maine and I do not believe it has a very substantial Negro population. I suspect that there may be other reasons why they happen to fall beneath 50 percent. They could come into the court and establish that.

Mr. MCCULLOCH. Has there come to the Department of Justice any information that there has been discrimination, for instance, in Maine or in any political subdivision thereof by reason of race or color?

Mr. KATZENBACH. No.

Mr. MCCULLOCH. I have forgotten if the Attorney General made a statement of the basis upon which the 50-percent figure was selected to trigger this bill. Did we have anything in the record on that question?

Mr. KATZENBACH. I hope we do, Congressman, but let me have the opportunity to repeat it as to why it was done.

Mr. MCCULLOCH. All right.

Mr. KATZENBACH. The theory behind the 50-percent figure is that the national average, taking the whole of the population, is far higher than 50 percent, a good 11 percentage points higher, of people voting and registering. If you examine the areas with literacy tests—and we know literacy tests have been used, we have established that in court; we have other court cases pending—we know that literacy tests have been used to discriminate against Negroes.

We also find when we examine the figures on the number of people voting in the 1964 election in the areas with literacy tests, that these are areas with substantial Negro population, yet they fall way below the national average on people voting or registered to vote.

It seems to us that one may draw an inference from all of this experience and from these statistics, and from the use of literacy tests, that literacy tests in those areas are being used to discriminate. Now, it is entirely possible that when you make an objective test of this kind that you pick up a scattered area, here, there, or the other place, like Aroostook County, Maine. For all I know, in 1964, in November, they may have had a snowstorm. It is one of the northernmost counties, and that might account for the fact that they didn't vote. They didn't have, however, a snowstorm in 34 counties of South Carolina; they didn't have a snowstorm in Mississippi.

Mr. ASHMORE. In South Carolina?

Mr. KATZENBACH. North Carolina, Congressman. I do apologize.

When you look at those statistics in that way, it seems to me when you find one in Arizona—and there may be discrimination in that county in Arizona, I would think that was possible—you find one in Idaho, one in Maine, and 34 in North Carolina, that it is possible to draw some inferences. These are not conclusive inferences that one has drawn. If there has been no discrimination there or there has been no discrimination in these States, all they have to do is to come into court, show that the inference that Congress has drawn from these statistics is not the proper inference and that it can be explained in other terms, and that they have not, in fact, discriminated. It seems to me that that is a perfectly proper legislative judgment to make based upon the best evidence available.

Now, another approach to this would have been to have taken the number of whites and the number of Negroes within the area and the number of whites registered and the number of Negroes registered and

the number of whites voting and the number of Negroes voting. The difficulty with that is we cannot get completely accurate figures in that respect, and in the absence of being able to get accurate figures, it seems to me Congress should make the judgment, as Mr. Cramer has said, on the best evidence available. That is what I have attempted to submit to this committee.

Mr. McCULLOCH. Is it the conclusion of the Attorney General that the inference from the figures which were cited would be a strong enough peg upon which to hang the constitutionality of this bill?

Mr. KATZENBACH. I would believe that that was true and I think it is the more true because an opportunity is given to each State and political subdivision caught within it to come in and establish that there are other reasons for their figures and that there is no discrimination within that State. I personally believe, even without that judicial review, Congress could draw this inference.

The case relating to the 15th amendment becomes much stronger by permitting a judicial review of what, in a sense, is a legislative presumption based on these figures.

Mr. McCULLOCH. Is this judicial review immediately available after the Attorney General has made this determination or certification, notwithstanding the paragraph (b) of section 4 which is page 4 of the bill?

Mr. KATZENBACH. Yes, it is immediately available except for those States in which we already have final judgments by Federal courts that discrimination has existed within the past 10 years.

Mr. McCULLOCH. So, it is not quite accurate for me to say that there is no judicial review available to question the determination or certification of the Attorney General except in those cases which the Attorney General has just mentioned where there has been a judgment or decree?

Mr. KATZENBACH. No, there is judicial review as to whether you ever get into section 4. There is no judicial review, further judicial review, after you are in there as to the determination that examiners are necessary within that State, nor do I think there needs to be.

I think Congress could say if it wanted to that once you are in under section 3(a), automatically Federal examiners will be appointed in every such political subdivision. Because we have been anxious to use the normal State registration process whenever it is possible to do so and whenever it is fairly done, we have recommended rather that that procedure only be used where the Attorney General believes that it is necessary in order to effectuate this legislation. So, it is not giving an additional power; it is really a much more moderate approach.

Mr. McCULLOCH. It has been suggested, Mr. Attorney General, that this 50-percent figure as described at the top of page 2 might be an unfair one because it does not take into consideration residence requirements for voting; in other words, if there would be built a tremendous military installation in some States that has a literacy test, and that 1,000 to 10,000 people might come in there who would not be eligible to vote by reason of residence requirements or who would be improperly measured against the 1964 voting record.

What comments do you have on that?

Mr. KATZENBACH. I would suppose that on probabilities it would be very unlikely that there could have been such an influx of people at a given time in 1960 so as to distort, by more than a fraction of a percentage point, those figures.

I think the answer really is that if a statistical approach is to be taken, and I believe that is the fairest approach, these are the best figures and the most accurate figures that we can come up with.

My answer, again, would be if, because of that kind of fluke such as you suggest, sufficient difference was made to move you just over 49, just under 50, that, after all, you could get out from under it completely by coming in and establishing the fact that you have not discriminated.

Mr. MCCULLOCH. That is under subsection (c)?

Mr. KATZENBACH. Yes. Actually, I believe on those statistics that there is no State so close to the line that that would be likely—except, conceivably, Alaska which, I think, is 49 point something.

Mr. MCCULLOCH. How about Arizona or certain polictical subdivisions in California?

Mr. KATZENBACH. There is only one county in Arizona under 50 percent.

The CHAIRMAN. Would the gentleman yield for a minute?

Mr. MCCULLOCH. Yes.

The CHAIRMAN. Is it true that the 50-percent figure is less burdensome in the State than the 40 percent or the 20 percent or the 15 percent?

Mr. KATZENBACH. That it is what?

The CHAIRMAN. Less burdensome, less harsh.

Mr. KATZENBACH. Oh, it is certainly less harsh than a lower figure and it is a figure that falls substantially below the national average and which is difficult to explain in terms of other than discrimination although there may be an exception here and there.

I believe that if the view taken by Congress is one that is rational, that is objective, that is defensible in terms of the problem, that is related to the problem, the fact that you are not cutting with absolute surgical skill and may pick up some other area is not of vital importance and is constitutionally irrelevant.

If, for example, the Congress feels that there is a major problem in the regulation of gun sales to certain groups of people and therefore they prohibit sales to all such people under 21, for example, it seems to me irrelevant that an 18-year old comes in and shows that he is more responsible, can use a gun in more responsible fashion, more expert fashion than a lot of people over 21.

I think Congress has to make, in legislating, that kind of judgment. I think it is not important, if the decision made is clearly related to the problem which Congress has tried to deal with, if, in the course of that relationship, it may pick up Aroostook County of Maine or the State of Alaska which are explicable perhaps for other reasons than discrimination. Now, if it picked up huge numbers of such places, then perhaps you would want to refine the test somewhat more. But I think it does not do that.

Mr. MCCULLOCH. Mr. Chairman, one more question at this time.

During the time when this bill was being fashioned, as I recall, it was tentatively agreed that the examiner should be from the State in

question, and this bill does not have that provision. It appears that the bill which was introduced in the Senate had such a requirement.

Would the Attorney General seriously object to that requirement being written into this bill and, if so, we would be glad to have the explanation for it.

Mr. KATZENBACH. I would believe it was preferable not to have it written in. I don't believe it is a cornerstone of the bill, Congressman.

As I stated I think earlier, I have no question that it is preferable to use people familiar with the areas, whether they are Federal or State officials. I think an easier, better job can be done and there is no desire to set up of some huge system of Federal examiners.

I do think in some areas it may be pretty tough to ask a local resident there who is working for the Federal Government to perform this function. I would go so far as to say in some rural counties of some States this would not merely be an unpopular assignment, but it could be one which would expose the Federal examiner to certainly all of the social ostracism that would accompany it and might even endanger his own physical safety to some extent and that of his wife and family. I hate to expose a career Federal Government employee to that kind of situation in the area where he lives. So there might be a few instances where, for that reasons, it would be preferable to send somebody in from another area that could not be subjected to the same kind of treatment.

The CHAIRMAN. Human nature being what it is, if the examiner is taken from the particular election district or precinct where he has to operate, he is bound in some way to take on the color of the surroundings, and there is the likelihood that his decision might be therefore tainted.

We had even a case of where in some case in the tested areas officials as high as the U.S. district judges have taken on the color of their surroundings and have given forth decisions which seem contrary to the Supreme Court decision and the Constitution. They have taken on the color of their surroundings.

Now, if this discretion is not there, the appointment may be of a person resident in the State or outside the State in an election district or outside the election district; is that correct?

Mr. KATZENBACH. Yes.

Mr. MCCULLOCH. Mr. Attorney General, I pursue this matter because it is a departure from the finest traditions in determining facts in America.

Based on article three of the Constitution of the United States which provides, in effect, that the trial of all crimes, with certain exceptions, shall be in the State where the offense shall have been committed. In the absence of inability to get examiners from such State, I would hope that we could limit the examiners to residence of the State. I would prefer if justice can be done that the examiners come from the State where the offense has been committed, and if it finally be determined that we cannot safely limit the examiners to such State, would it be the purpose of the present Attorney General to have examiners, or recommend that examiners be appointed out of such State only when no examiners could be found within such State who would do the work prescribed by this legislation?

Mr. KATZENBACH. Yes, it would. I believe Mr. Macy would testify, as Chairman of the Civil Service Commission, that that would be his hope and intention as well. But I can underline the point that I made somewhat by pointing out that in at least one instance, when a Federal judge has had an opportunity to appoint registrars, he has not done so but has named himself as registrar. I believe that the reason for that was simply unwillingness to expose another member of the community to the same kind of vilification that the judge, himself, has been exposed to, and I know that to be the instance in at least one case.

Mr. MCCULLOCH. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Cramer.

Mr. CRAMER. Mr. Attorney General, I want to follow up on a couple of these questions that were just asked by Mr. McCulloch.

In relation to the large influx of people, of course, California has an influx of 1,000 people a day; Florida has a very substantial influx; of course it is outside; California is inside the scope of the bill. Is that not correct?

Mr. KATZENBACH. No, Congressman. It has a literacy requirement but it does not fall within the statistical formula.

Mr. CRAMER. Alaska, according to the 1964 provision, had 49 percent of the people voting. They would then be subject to the thrust of the bill?

Mr. KATZENBACH. Yes.

Mr. CRAMER. Arizona, however, had 52 per cent, so they would just happen to be outside of it?

Mr. KATZENBACH. Yes.

Mr. CRAMER. So far as the State as a whole is concerned?

Mr. KATZENBACH. Yes.

Mr. CRAMER. However, any political subdivision therein falling below the 50 percent figure would be within it?

Mr. KATZENBACH. Yes.

Mr. CRAMER. Hawaii has 52 percent, so, as a State, it would be outside?

Mr. KATZENBACH. Fifty what?

Mr. CRAMER. Fifty-two percent, Hawaii.

Mr. KATZENBACH. Our figures on Arizona, Congressman, are 55 rather than 52.

Mr. CRAMER. Fifty-five?

Mr. KATZENBACH. Yes.

Mr. CRAMER. All right.

Texas has 44 percent?

Mr. KATZENBACH. Yes.

Mr. CRAMER. It just happens to be a 50-percent State relating to population percentage registered versus percentage of voting age; is that the figure you got?

Mr. KATZENBACH. On Texas, yes; I think it is 44 or 45, isn't it? On number of voting in 1964 elections?

Mr. CRAMER. Forty-four percent voting, 50 percent registered.

Mr. KATZENBACH. Fifty percent registered, yes.

Our figures show 44 on the voting in 1964, but 56.3 percent registered as of January 1, 1964. But Texas is not covered because it has no "test or device" within the meaning of the bill.

Mr. CRAMER. Could you submit the figures that you have for our records?

Mr. KATZENBACH. I already have, Congressman; yes.

Mr. CRAMER. Have they been made a part of the record, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. KATZENBACH. I might add, Congressman, that, as far as the six Southern States here are concerned, in view of Congressman McCulloch's hypothetical question, we calculated those figures to see what would happen if we excluded any military personnel at all. They all fall below 50 percent even with the military population excluded.

Mr. CRAMER. Now let us take individual political subdivisions.

Louisiana is a State within the scope of the bill, is that not correct?

Mr. KATZENBACH. Yes.

Mr. CRAMER. St. Martin County turned out 48.9 percent of the voting age, for instance, in 1960; this is an example. The residents of Lafayette County turned out 50.4 percent. Both of these are subject to literacy tests, but under the voting and registration tests, St. Martin County, where you can assume there is some discrimination, is in. Lafayette County, where you can assume there is discrimination, according to the civil rights report, is out.

Mr. KATZENBACH. Yes. Both counties are covered.

Mr. WILLIS. Will the gentleman yield?

Mr. CRAMER. Your answer to that is yes?

Mr. KATZENBACH. That they are both in, yes. That is the answer, yes. The whole State is in, so all counties are covered; both Lafayette and St. Martin are covered.

Mr. CRAMER. Let us take Carolina, for instance.

Mr. KATZENBACH. Which one?

Mr. CRAMER. North Carolina.

Mr. KATZENBACH. North Carolina.

Mr. CRAMER. Where the whole State would not be in.

Mr. KATZENBACH. That is right.

Mr. CRAMER. Then you have a similar situation. One county is in and one is out, solely because they didn't vote a large percentage of people, in the 1964 election, is that correct?

Mr. KATZENBACH. The situation—perhaps if I just state it, with those two States, it would help to clarify the point.

Mr. CRAMER. Will you answer my question first and then clarify? Equal discrimination in two counties, the 1 percent differential means one is in and one is out, under your proposal. That is the point I am making.

Mr. KATZENBACH. Under the test that we propose, that is correct. The counties in North Carolina that fall below the 50 percent figure would be in, the counties that fall above it would be out. The obverse would be true in Louisiana because the whole State would be in it; therefore, all counties would be within it.

I ought to add that it is certainly true that in the southern counties of Louisiana there has been more fairness as far as we can determine and the statistics would bear us out in the use of the tests that Louisiana has. There has been at least no significant discrimination, no discrimination that I am aware of, in several of the parishes of Louisiana. I think it is a great credit to those parishes, and that includes your parish, Congressman Willis, where there has not been discrimination.

In the northern counties of Louisiana, in my judgment, there has been gross discrimination against Negro voters, which is comparable to that of the bordering State.

Mr. WILLIS. Will the gentleman yield?

Mr. CRAMER. I will yield in a second.

Then, in effect, what you are saying is that you are bringing within the scope of this bill by using your 50 percent voting figure, some counties that may have conformed to the nondiscriminatory standards which you think should be observed?

Mr. KATZENBACH. Yes; I think that is true in the case of Louisiana. I believe that is true, but I do not regard it as very serious because if they had not been discriminating and they continue not to discriminate, it does not seem to me it raises any great big problem.

Mr. CRAMER. Let's see what the further thrust of it is, though.

Under section (a) where a political subdivision or State is passing voter qualifications and they are not doing so with the intention of discriminating, they have the burden of coming to Washington and proving that that is the case?

Mr. KATZENBACH. That is correct.

Mr. CRAMER. Then, in addition to that, under section 3, even though there is no proof of discrimination, and you, yourself, say there is none, you at the same time strike down whatever literacy tests there may be even though they are not being administered in a discriminatory fashion, and, in fact, have not resulted in denying the right to Negroes to register and vote?

Mr. KATZENBACH. That is true and that is done where a State as a whole has significant areas of discrimination and those are sufficiently persuasive to bring it below that figure and strike down for the whole State. I don't think we are striking down anything very serious in that respect because I don't think that those tests have been administered in the areas where they have not been discriminating in any very repressive fashion. If you look at the numbers registered in those areas, I would say they were not losing much when they lose the ability to use the tests. They are not taking them very seriously anyhow, Congressman.

The CHAIRMAN. Would the gentleman yield?

Mr. CRAMER. Yes. I will yield to the gentleman from Louisiana; certainly.

The CHAIRMAN. That would be subject to the conditions of the bill, although in the South the conditions are good. It need not follow, does it, that the examiners will be appointed to those parishes where there is no discrimination?

Mr. KATZENBACH. I would assume there would be no examiners appointed there where there is no discrimination. In some places in the South they have been administering it fairly and I see no reason why they would not continue to.

Mr. MCCULLOCH. Would the gentleman yield?

Mr. Attorney General, if those parishes were covered, they would still have the remedy in paragraph 3, section (c), would they not?

Mr. KATZENBACH. They could not petition separately. Where the whole State is in, the whole State is in, and they could not petition to get out separately, the way it is drafted.

Mr. McCULLOCH. Would there be objection, if that is not the purport of that language, to such authority or such right?

Mr. KATZENBACH. I believe that I would object to it, Congressman.

Mr. McCULLOCH. Would that be the case if there had been a judgment or decree of the court finding that there had been discrimination on a statewide basis?

Mr. KATZENBACH. Yes.

Mr. McCULLOCH. Has there been such a finding in Louisiana?

Mr. KATZENBACH. Yes; there has been.

Mr. McCULLOCH. Thank you.

Mr. CRAMER. I would like to try to keep the record as straight as possible based on what the bill itself says.

As I read page 2, line 17, pertaining to the right of the State to come into the District of Columbia and have the determination by the Attorney General and the Director of the Census set aside, it says, "Any State with respect to which determinations have been made under subsection (a) or any political subdivision"—and your answer to Mr. McCulloch was only the State had the right.

Now which is it?

Mr. KATZENBACH. Only the State has the right where the whole State is within section 3. Where the whole State is not within section 3, any political subdivision that is brought in separately may come in.

Mr. CRAMER. Where does it say so?

Mr. KATZENBACH. Well, it says so right there in line 19. If I may read it, Congressman, I think it would be clearer.

Mr. CRAMER. All right.

Mr. KATZENBACH. It says: "Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit."

Mr. CRAMER. Yes, but within a State, for instance, Louisiana, you will be making determinations relating to separate political subdivisions, will you not, as to whether, in fact, discrimination has been practiced? You just indicated you would be making those determinations.

Mr. KATZENBACH. I didn't intend to indicate that we would not be making those determinations. Determinations would only be made for the purpose of a Federal examiner and the appointment of a Federal examiner, not for the purpose of what tests were appropriate.

Mr. CRAMER. For the purpose of triggering section 3(a)?

Mr. KATZENBACH. No, Congressman.

Let me restate. The whole State is within the test set up in 3(a); then the whole State and every political subdivision is governed by that and only the State may appeal to get out.

Mr. CRAMER. In all these Louisiana counties that you say are political subdivisions that have not discriminated, which you state are many, so far as those political subdivisions are concerned, however, they are subject to section 8 whereby they must come to the District of Columbia if they want to go from paper ballots to voting machines or a different form for the registration. This would all have to be cleared, even though they are nonguilty counties, by the district court in Washington?

Mr. KATZENBACH. Correct.

Mr. CRAMER. What constitutional basis is there for that where the effect of it is obviously to strike down the State's constitutional rights to fix voter qualifications in areas where no discrimination has been found to exist? In areas where there is no discrimination, or no violations of the 15th amendment, the States have the right to fix voter qualifications under article I, sections 2 and 4.

Mr. KATZENBACH. That is right.

Mr. CRAMER. Now, what constitutional basis is there for the action which you just concurred would result?

Mr. KATZENBACH. The constitutional basis is this, Congressman: There is widespread noncompliance with the 15th amendment within the State of Louisiana. There are exceptions in particular voting districts or parishes of Louisiana to that but, nonetheless, the discrimination exists in substantial parts of that State.

I think that, from that, Congress can reasonably conclude, because of the extent of this discrimination, that the only way of making the 15th amendment fully effective within that State is to bring the whole State under the provisions of this act. The fact that a unit here or there or the other place has not violated the 15th amendment cannot be used as a proper support for saying, therefore, you can't regulate other units within the State or the State as a whole. I firmly believe that you can; I don't even see the constitutional difficulty.

Mr. CRAMER. All right. Then let's take another example.

What constitutional right is there to bring Alaska within the thrust of this legislation, where there is no discrimination? Just because less than 50 percent of the people voted, they would have to come to the District of Columbia to get approval of any laws they passed relating to voting registration? What constitutional basis is there for that?

Mr. KATZENBACH. The constitutional basis for that is that, based on the statistics——

Mr. CRAMER. In Alaska?

Mr. KATZENBACH. Yes. There is some reason to believe that discrimination may have occurred.

Now, you state there is no discrimination in Alaska. I don't know whether that is true or not, Congressman. Are you prepared to say that Eskimos have never been discriminated against in Alaska? I don't know whether they have not been or not. If they have not been, the State can come in and make the argument. I don't know whether they have been or not.

Mr. CRAMER. How about the State of Texas? There is some indication of discrimination in the State of Texas. Texas is out, but Alaska is in even though there is no such evidence.

Mr. KATZENBACH. Texas is out for the reason that it does not have a literacy test. The literacy tests are the devices and tests that have been primarily used in order to prevent Negroes from registering.

Mr. CRAMER. I understand that, but let's stick to the question of percentages for the moment.

Mr. KATZENBACH. I can't stick to it and answer the question if I don't give you the reason.

You said what about Texas and I explained why Texas was not in there.

Mr. BROOKS. Pardon me.

Would the gentleman yield?

Mr. CRAMER. Just a moment.

Mr. BROOKS. Would you yield now?

Mr. CRAMER. Just a moment.

I was just going to quote a figure on Texas, and then I will yield.

Mr. BROOKS. All right.

Mr. CRAMER. Thirty-four percent voted and 50 percent are registered. Now, does that 50 percent figure right on the button bring Texas in or leave it out?

Mr. KATZENBACH. Texas is out because Texas does not have the literacy test.

Mr. CRAMER. But suppose Texas used other means to keep people from registering who are Negroes, some of which I evidenced last night. They have been found by the Civil Rights Commission to be the means of preventing registration, resulting in discrimination. Texas still is outside?

Mr. KATZENBACH. Yes, but those other means that you have referred to last night, Congressman, are means that are very closely associated with the means that we are striking down here.

Mr. CRAMER. But they are not the same? They would not be covered?

Mr. KATZENBACH. As I explained, they are not covered because I don't know how you cover the fact that one registrar, without applying any test at all, may throw a Negro out of the office and not permit him to register. Now he has a right there; he can go to court, and we can go to court against that registrar. It seems to me Congress has to make a judgment in terms of what the devices are that have been used to discriminate.

Mr. CRAMER. And the result is that Texas is out and Alaska is in under your bill.

I yield to the gentleman from Texas, not disparagingly, I might add.

Mr. BROOKS. I hope the Attorney General has answered your question fully that Texas does not have discrimination and is not included. I would hope, though, Florida would meet that same test of nondiscrimination.

The CHAIRMAN. As I understand it, Mr. Attorney General, two conditions have to be met: One, the 50 percent condition, either the voting or registration, and, secondly, as we have on page 2, lines 1 and 2, any test or device as a qualification of voting.

Mr. KATZENBACH. That is right.

The CHAIRMAN. If either one is absent, they don't come in?

Mr. KATZENBACH. That is correct, Mr. Chairman.

The CHAIRMAN. Now, in Texas, as I understand it, they would not come in on the 50 percent formula because they have no literacy test; therefore, they are out.

Mr. KATZENBACH. Correct, Texas is not covered.

The CHAIRMAN. That is the situation in Florida.

Mr. CRAMER. I already said what the situation is in Florida. We will be out and I am complaining about it.

Mr. KATZENBACH. We certainly will concentrate our forces, which will be relieved by this act, in those districts in which there is discrimination, Congressman. With the limited resources we have, we have attempted to concentrate in those areas where discrimination

has been most blatant: In Mississippi, Alabama, primarily, and in Louisiana. If we get lawyers freed for this, we would be happy to send them to Florida and we would be happy to have your views as to what areas they should go to.

Mr. CRAMER. But you would not be happy to do anything about those states, where discrimination exists, that don't fall within the scope of your literacy test or 50 percent test giving the citizens discriminated in those areas better relief than that under present law which has been highly criticized.

Mr. KATZENBACH. I would be happy to do it, Congressman. If I had the ability to draft legislation which I was confident was constitutional and which would have the result of eliminating all discrimination everywhere and there was a means that would make that effective, I would be in support of it completely.

Now, what we have done in attempting to make this effective under the 15th amendment is to find the best objective test that we could as to where discrimination existed, to employ them, to employ an effective system of administration, and I am confident that this hits at the hard areas of discrimination. I can't be confident that it hits at all discrimination everywhere.

If the Congressman can suggest an effective means that covers everything that is covered by this act and can cover other areas and still be constitutional, I am sure that the administration would be most happy to consider that. We don't want discrimination anywhere.

Mr. CRAMER. The answer to my question relating to specific political subdivisions within a State has been declared to be subject to section 3(a), even though there is no evidence that this political subdivision has not administered its tests discriminatorily. In fact, if Negroes were registered in high percentages, they still would be required to come to Washington to get their laws approved or changed relating to voting?

Mr. KATZENBACH. Well, the only laws that are struck down in this are those that are in violation of the 15th amendment.

Mr. CRAMER. They have to come in and prove it, however; the burden is on them to come in and prove it.

Mr. KATZENBACH. The burden is on them to come in but I would suppose that would be very easily and very quickly and very inexpensively done if there was no reason to believe that those laws were in violation of the 15th amendment.

Mr. COPENHAVER. Mr. Katzenbach, in regard to that one point, if an action is brought for declaratory judgment under section 3(c), we are asking the court to determine whether the petitioner or any person acting under color of law has, during the period, engaged in an after-the-fact as to the right to vote.

In a proceeding of this nature, would it be possible for an individual citizen to ask to intervene in that action to submit evidence to the court that, in effect, he is 21 years of age, otherwise qualified to vote and has been denied the right to vote because of race or color, and thereby able to prohibit the court from issuing the declaratory judgment which in turn would affect the trials?

Mr. KATZENBACH. I would think that there was no right of intervention on the part of an individual, but I suppose individuals could intervene with the consent of the court.

Mr. COPENHAVER. And, thereby, declaratory judgment action could possibly be, in contrast to a very short, quick proceeding, a very long proceeding.

Mr. KATZENBACH. Yes, I think that is conceivable. I would imagine if the United States was opposed to the declaratory judgment that was sought, the court would suggest that the people discriminated against make their evidence available to the Department of Justice. I would suppose that if the Department of Justice had no such evidence and was unable to obtain such evidence, then the court might conceivably permit persons to intervene. I would be skeptical that the court in general would allow individual intervention in such a case.

The CHAIRMAN. Isn't it so, Mr. Attorney General, a declaratory judgment is based largely on papers submitted rather than on lengthy testimony?

Mr. KATZENBACH. Well, I would think in this instance a good deal of it could be done in that fashion.

Mr. COPENHAVER. May I say if the party is unable to intervene by court permission, he would come to the Attorney General and the Attorney General could present that before the court?

Mr. KATZENBACH. Yes.

Mr. COPENHAVER. Would you agree that if the court found that even one person had been denied the right to vote on account of race or color, the court would have that basis for denying any declaratory judgment, if there is any?

Mr. KATZENBACH. I think as drafted that would be a possible conclusion by the court. I would be doubtful if the court would make a finding of this kind without more in the way of evidence than one person at one time 8 years ago.

Mr. CRAMER. I will keep my questions as brief as possible. There are three or four other key points I would like to cover and then I will yield the floor.

On the 50-percent figure, just one additional point. Let's assume you have, for instance, 4,500 whites who are residents, 4,000 are registered. You have 3,500 Negroes, of which 1 is registered. You have a total population of 8,000 and you have 4,001 registered. Obvious discrimination. Your test would leave it out if 50 percent voted in the last election, would it not?

Mr. KATZENBACH. Yes, it would, Congressman.

Mr. CRAMER. Now, can you possibly justify approving such rank discrimination as that?

Mr. KATZENBACH. I don't approve rank discrimination and I hope nothing that I have ever said indicates that I approve rank discrimination.

Mr. CRAMER. I will ask a different question. Why not give them some relief?

Mr. KATZENBACH. The reason that it is out is that it does not fit the 50-percent figure. The reason we have not broken things down into whites and Negroes, which might be a preferable way of doing it, is that unlike the hypothetical case that you put, Congressman, we don't have those figures. I can't tell you and you can't tell me how many Negroes voted in Florida in 1964.

Mr. CRAMER. I could tell you that there are a number of counties in Florida, and I assume it is not solely in Florida, where you have a

large white population, a substantial Negro population. The white population is highly registered and the Negro slightly registered. It is obvious discrimination, and, yet, a combination of the 50-percent registration figure and 50-percent voting, and they are out.

Mr. KATZENBACH. They are out because they don't have literacy tests, I believe.

Mr. CRAMER. Let's take a State that does have. That does not make it good?

Mr. KATZENBACH. Oh, it certainly does not make it good, Congressman. The task here is we try to find the formula to the problem. We don't have racial statistics on registration or on voting for all States that we believe would form the basis for a congressional determination. Now, some States do keep some racial statistics; Florida is one. Other States don't.

Simply from the point of view of trying to find the formula this is the best that we have come up with. I don't say that it is perfect. If the Congressman can help us make it perfect, that is fine.

Mr. CRAMER. As far as this Congressman is concerned, I can only be of assistance if I understand the thrust of your bill, what it does, and what it does not do. That is why I am asking you the questions.

What system of getting figures are you going to use in applying this bill if it becomes law? You say you don't have the figures and that there is no present system of getting them. What system are you going to use?

Mr. KATZENBACH. There is a system of getting figures which we do use in this law, Congressman. You said there was not a way of getting some of the figures that your hypothetical question suggested. These figures we can get accurately.

The reason under section 2 why we take 50 percent of the persons of voting age residing, registered or voting, is because the figures of registration are not always easy to get and do not have the same accuracy, so we there use a double test. If you are over 50 percent on registration but under on election, you are still within the law and that is because the figures on registration are not always accurate.

Mr. CRAMER. In section 3(c), you provide that the person wanting to set aside your finding on the political subdivisions has to prove on line 23 that "no person acting under color of law has engaged during the 10 years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color."

Mr. KATZENBACH. Yes.

Mr. CRAMER. Isn't it an almost impossible burden to show 10 years of nondiscrimination?

Mr. KATZENBACH. I don't think it is an impossible burden for a State that has not discriminated. Where people have not been discriminated against. I think it would be pretty simple. Actually, all you have to do is come into court and say that you have not discriminated and then if the Department of Justice does not have evidence that you have, that is probably the end of the matter. I would think that you could shift the burden of going forward with the evidence by a simple affidavit from the appropriate officials that there had been no discrimination.

The Department of Justice would have to put on whatever evidence it had of discrimination and that evidence would have to be rebutted

if that were possible by the State involved. It does not seem to me very complicated.

Mr. CRAMER. What agency would establish this proof for the States of Alaska and Hawaii who have not been States for 10 years?

Mr. KATZENBACH. I would think in the case of the State of Alaska, which is the only one that would come within the bill, that its burden should only be to prove that since it became a State it had not engaged in discriminatory practices. I think it is easy to establish that before it became a State it had not because it didn't have any voting rights.

Mr. CRAMER. Page 6, section 6(a), the procedure for appearing before a hearing officer.

I didn't understand your last answer. Hawaii elected a Commissioner Delegate to the Congress.

Mr. KATZENBACH. Yes.

Mr. CRAMER. So, they voted.

Mr. KATZENBACH. Well, I think I was unaware of that or I had not thought of that, Congressman. I think you are quite right. I think they would have to prove a lack of discrimination for 10 years.

Mr. CRAMER. And Alaska?

Mr. KATZENBACH. Yes. I guess they did have an election.

Mr. CRAMER. Yes.

Mr. KATZENBACH. Yes.

Mr. CRAMER. Territory vote.

Mr. KATZENBACH. You are absolutely right. I was wrong.

Mr. CRAMER. Section 6(a) provides for a challenge to a listing of registrants. How does the Administrative Procedure Act apply to that so that all parties can be properly heard and the protection given them?

Mr. KATZENBACH. Does the Administrative Procedure Act apply to this? I should suppose that except as the specific provisions of this may be inconsistent with the Administrative Procedure Act, the Administrative Procedure Act would apply. I am referring primarily to the time provisions in section 6(a).

Mr. CRAMER. Yes; I understand that. I realize this is a 7-day procedure. It is your feeling that would apply, whatever exceptions are written into that section?

Mr. KATZENBACH. Yes.

Mr. CRAMER. I have some difficulty with section 8, which was discussed in some questions last evening. Is there any precedent for requiring that a State has to come in and prove that any matter relating to registration and voting, any change they make, is not, in fact, intended to result in discrimination?

Mr. KATZENBACH. I don't know of any exact precedent for this, but I would think that there are two rather close parallels to it. One would be the provisions of Title 6 of the Civil Rights Act of 1964 which sets up a rather similar system.

Mr. CRAMER. Well, let's examine that. Title 6 relates to nondiscrimination in federally assisted programs.

Mr. KATZENBACH. Yes.

Mr. CRAMER. That is Federal money going to the States.

Mr. KATZENBACH. Yes.

Mr. CRAMER. Which obviously the Federal Government can control.

Mr. KATZENBACH. Yes.

Mr. CRAMER. There is no parallel there, is there?

Mr. KATZENBACH. The procedures are somewhat parallel.

Mr. CRAMER. On a constitutional basis, there is no parallel.

Mr. KATZENBACH. Not on the constitutional basis; no. In several of the reapportionment cases, where courts have thrown out the State apportionment systems, the court has provided that when a State enacts a new law, a new plan, it must submit that plan to the court before it can become effective. That also seems a rather parallel situation.

Mr. CRAMER. That is a situation where the court has found discrimination and it is under the court's equity jurisdiction power.

Mr. KATZENBACH. Yes.

Mr. CRAMER. There is no parallel there from a constitutional standpoint.

Mr. KATZENBACH. I rather thought there was, Congressman.

Mr. CRAMER. Well, would you spell it out, please, Mr. Attorney General?

Mr. KATZENBACH. Because in reapportionment cases, a power that the State clearly, constitutionally has is limited to an extent by another body of the Government, which says that before State legislation on apportionment can become effective, the State must bring it in and establish to the court that it is constitutional. The only difference is that you are saying here by legislation, rather than by judicial decree, exactly the same thing. You are saying that before a State can enforce a new voting law it must come in and establish to the satisfaction of the court that the new provision is constitutional.

Mr. CRAMER. Even though in Alaska, for instance, there is no proof of discrimination whatsoever?

Mr. KATZENBACH. You say that, Congressman; I said I don't know whether there is discrimination in Alaska.

Mr. CRAMER. The Civil Rights Commission has found evidence of discrimination in Alaska.

Mr. KATZENBACH. I believe that is true. I don't believe they have ever visited Alaska; have they?

Mr. CRAMER. I am asking you.

Mr. KATZENBACH. I don't know if the Civil Rights Commission has ever been to Alaska. I know they have been to Mississippi.

Mr. CRAMER. Then let me ask you this question: Constitutionally, does this not strike at the basic constitutional system of American Government, separation of the division of powers vertically between the Federal and the State Governments? Does this not actually strike at the whole Federal concept of government providing that any community, even though no discrimination exists and that never existed, has to come to the Federal Government in Washington, D.C., District of Columbia Court, and get any of its changes relating to voting and registration approved by the court?

Mr. KATZENBACH. I don't think it strikes at our basic system except in the sense that it invokes the heart of the constitutional provisions of the 15th amendment to try to prevent States from abridging and denying certain rights. I think it is in total support of that constitutional principle.

Mr. CRAMER. Just a minute. This is not a case where a State passes a law that may be considered discriminatory and some citizen or the

Attorney General challenges it under existing law. This provides that where the body acts within its authority, it then has to come to the Federal Government to get approval of what it has done even though it has not, in the past, discriminated and even though what it has done very likely is not discriminatory or was intended to be.

Mr. KATZENBACH. Well, Congressman, if in the past it has not discriminated, then I would think it would come in and get out from under the whole provision because this bill applies only to those that are under section 3(a). I am only trying to think of how your hypothetical situation could be true. I suppose that it could be true, if——

Mr. CRAMER. In Louisiana?

Mr. KATZENBACH. In Louisiana, as far as a local parish that had not discriminated in the past now wants to make a change in voting rules. Now, most rules of that kind, I believe, in the State of Louisiana are set by State law.

Mr. CRAMER. I will give you an example. Let's say they decided to have voting machines and not paper ballots; or what might be subject to a question of discrimination, the reverse, paper ballots instead of the voting machine. Last evening, you said, yes, they would have to come to Washington and get approval.

Mr. KATZENBACH. I believe that they would under this provision. I said I thought there were two or three types of changes in State law that you could write out. That might be one, but there are precious few, because there are an awful lot of things that could be started for purposes of evading the 15th amendment if there is the desire to do so.

Mr. CRAMER. What you are doing, in effect, is granting a presumption against the local community. They have to come to Washington to prove their innocence.

Mr. KATZENBACH. I think it operates similarly to a presumption in that respect.

Mr. CRAMER. I just have one other question.

There are a lot of others I would like to ask, but I won't take the time of the committee.

Section 9(c), page 8—

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

Suppose two legislators in the State of Louisiana decide they want to introduce legislation involving the question of voting rights, involving the question of registration or voting and those laws could possibly, in some communities, be used in a discriminatory fashion. Are they in violation of section 9(c)?

Mr. KATZENBACH. I would think not.

Mr. CRAMER. What if the law is enacted and put into practice?

Mr. KATZENBACH. I don't believe what a legislature does can reasonably be said to be a conspiracy.

Mr. CRAMER. Well, let's take it down to the local subdivision level.

Suppose the city council passes ordinances that would have the same effect and they, in reality, are conspiring to violate provisions of these sections by doing so.

Mr. KATZENBACH. I think that would be possible; yes.

Mr. CRAMER. They are guilty?

Mr. KATZENBACH. Yes.

Mr. CRAMER. That is all I have.

The CHAIRMAN. Mr. Lindsay.

Mr. LINDSAY. Mr. Attorney General, first I should like to commend you on the excellence of your presentation these 2 days; your main statement and the professional lawyer-like way and forthright way in which you handled some very hard questions.

Mr. KATZENBACH. Thank you, Congressman. And I am about to get some more. [Laughter.]

Mr. LINDSAY. I don't think so. I don't think you will have too much difficulty with these, as I really seek to clarify some doubts that I have in my mind about the workability of some of this.

Now, this whole bill rests on the assumption that the 15th amendment is the basis for a voting bill which has to do with the denials of the vote based on race; is that not correct?

Mr. KATZENBACH. Yes.

Mr. LINDSAY. Now, to start a proceeding under section 3, I take it that you, as Attorney General, would have to start a proceeding, somebody would have to do something to begin the administration of this bill.

Mr. KATZENBACH. Yes.

Mr. LINDSAY. Now, I would take it that under section 3, you, as Attorney General, would have to make a finding, unilateral, that there had been a 15th amendment violation; is that not true?

Mr. KATZENBACH. Not a 15th amendment violation; no. Merely make a finding that there were literacy tests and these statistics applied.

Mr. LINDSAY. Now, you see that there is an area of discretion in here. If this bill should become law, would it be automatic that the seven States, plus parts of two others, that you mention on page 13 of your main testimony in the fourth paragraph—Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia, Alaska, 34 counties in North Carolina, and one county in Arizona——

Mr. KATZENBACH. And perhaps two others.

Mr. LINDSAY. And perhaps two others, would it be automatic that the provision of this bill would go into effect ? In other words, would the Director of the Census need to make his findings, and at that point would you feel compelled in all those instances to go forward with your system of registrars?

Mr. KATZENBACH. We are not under section 4 yet, are we?

Mr. LINDSAY. No. What has happened so far.

Mr. KATZENBACH. Probably findings would be made, and, while it is not specifically set out in the law here, I would suppose the appropriate steps would be (1) to make public findings; and (2) to notify the appropriate officials of the States involved and of the counties involved, or if the whole State is not involved. I would think it would be appropriate in that instance to notify the State officials as well as the appropriate county officials that the provisions of this act were applicable to them. We would publish the finding in the Federal Register and inform the State attorney general and perhaps the solicitor.

Mr. LINDSAY. In other words, we have an informational process and some findings of fact, but we don't put anything else into operation at this point.

Mr. KATZENBACH. When that is done, I think the whole act as to those States and counties is triggered.

Mr. LINDSAY. Then section 4 goes into operation in the event that you, as Attorney General, find that there are 15th amendment violations; is that not correct?

Mr. KATZENBACH. Yes, unless the State or subdivision were prompted to come into court under section 3(c), in which event I would suppose during the course of that proceeding the court might, if good cause where shown and if no good reason existed to believe that such State or separate subdivision had engaged in discrimination within the past 10 years, suspend the operation until it made its determination.

Mr. LINDSAY. I take it that a State may come in at this point even though no inspectors have been designated?

Mr. KATZENBACH. Yes. Federal examiners are a totally different situation.

Mr. LINDSAY. All right. But if registration procedures are to go forward and Federal examiners, or examiners appointed under the procedures of this bill, are to go forward at this point, there is an area of discretion there in that you as Attorney General would have to make findings that there are 15th amendment violations; isn't that true? You could be selective about choosing the areas where you would go forward and make operative section 4, and the reason you would be selective, am I not right, is because you would have to discover here denials of vote on the grounds of race.

Mr. KATZENBACH. You may be right. There may be a gap there. I suppose that you are referring here to lines 24 and 25 on page 3.

Mr. LINDSAY. That is right.

Mr. KATZENBACH. [Reads:]

That in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment.

Mr. LINDSAY. That is correct.

Mr. KATZENBACH. Now, if the State has not come in to contest the findings that have been made——

Mr. LINDSAY. Let's assume the State has done nothing and the findings and the publication in the Federal Register have not been heard, yet.

Mr. KATZENBACH. Well, the State has done nothing; they presumably would still be using the test and device; then I suppose it would be necessary, under this statute, to appoint a Federal examiner, the reason being that the State registrar is still using the test and device which has been outlawed for that State for 15th amendment reasons. Of course, the use of a test or device by a registrar where such test or device was suspended pursuant to this act would subject the registrar to sanctions under this act.

Mr. LINDSAY. This is the question: I am pursuing this because I am not clear how this would work at this point: Do I understand that when a State, having qualified for coverage in the bill and having done nothing to bring itself out under section 3(c), that you do not have any discretion in the selection between subdivisions of the State with respect to the appointment of Federal examiners?

Mr. KATZENBACH. The question is not wholly clear to me. I suppose if the whole State is under, if that is the situation you are describing——

Mr. LINDSAY. Yes.

Mr. KATZENBACH. And that whole State being under this provision, not having questioned it, continues to use the test and device that are prohibited by it, then I would suppose that, in effect, I would have no discretion but to appoint examiners for every registrar that was using the prohibitive test and device.

Mr. LINDSAY. Under section 4, as you have drafted and submitted it to the committee, you have no power to do that in the absence of a 15th amendment problem. In other words, as you have drafted it, you can't enforce anything. The word "enforce" is in here because you must enforce the guarantees of the 15th amendment. In other words, if you should discover just by your good investigation and lawyerlike approach, that in half the State there are 15th amendment violations and in the other half there are not, is there any element of leeway in here under which you are permitted not to appoint inspectors in the other half of the State?

Mr. KATZENBACH. We are not having a total meeting of the minds here, Congressman, because I think provision 2 says, "that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment." I think the "otherwise necessary" means that despite the legislative suspension here, despite the fact that this legislation has gone into operation and a State is not using any of the tests or devices in an area under this law, nonetheless, because the registrar is never there or something of that kind, that it is necessary in order to effectuate the guarantees of the 15th amendment—which in this context to me means in order to enforce the system set up by this statute—I would appoint Federal examiners.

Mr. LINDSAY. I think what you are saying is that if a whole State comes in under the findings of the Director of the Census, that we have to go forward with inspectors in the whole State.

Mr. KATZENBACH. No; I am not saying that. I am saying that if a whole State is within the provisions and either it has unsuccessfully contested its being in under (c) or has not bothered to contest it——

Mr. LINDSAY. Right.

Mr. KATZENBACH. Then that State is obligated by the terms of this statute not to employ any of the tests and devices prohibited by this statute. If they then comply with the Federal law and register people without the use of those tests and devices and register people fairly, I am not obligated to appoint anyone.

Mr. LINDSAY. Well, if that is the case, why did you draft section 3(a) to read—

No person 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 or in any political subdivision of a State?

Then, on the coming-out procedure, 3(c), as I read it, it seems clear to me—

any political subdivision with respect to which such determinations have been made as a separate unit * * *.

In other words, the provisions calling for inspectors and examiners and those provisions that separate units can come in and get out from under the scope of section 3. It seems to me that your intent may be one thing, but that is not the way I read it.

Mr. KATZENBACH. I am clear on the intent. Now let's see if it is ambiguous in its drafting.

Is it your view that the word "determination" is used here simply as determination under the statute; it is not a determination to use a Federal registrar in any way? I think, as I see the problem here, you are saying that in lines 10 and 11 on page 1, "in any State or in any polictical subdivision of a State."

Mr. LINDSAY. Right.

Mr. KATZENBACH. We make the findings with respect to the State, and then if it is made as to the State as a whole, it applies to the State as a whole. Your point would be that we have not made that clear?

Mr. LINDSAY. I don't think so. In section 3 you say, "in any State or in any political subdivision of a State."

Then in that part of the section 3 where a State may come out from underneath this form of Federal supervision as it were, you say again "or a political subdivision."

Mr. KATZENBACH. Yes, but there it is used with respect to whether such determinations are made as a separate unit.

Mr. LINDSAY. Well, if the subdivision may come out from under the word "determination" and the word "determination" you just said has to do with the point of inspectors——

Mr. KATZENBACH. No; no; I did not. The word "determination" has to do with the determination that they are under the provision of section 3.

Mr. LINDSAY. Then the subdivision can come out.

Mr. KATZENBACH. A subdivision as to which determinations—that is, the findings of the Director of the Census and the voting qualifications determinations—have been made as a separate unit may come out.

Mr. LINDSAY. Right.

Mr. KATZENBACH. A political subdivision which is a part of the State as to which determinations have been made cannot come out unless the State as a whole comes out.

Mr. LINDSAY. Let me go at this in a different direction.

Would there be circumstances, as you foresee it, under which the Director of the Census will make determinations as to a subdivision, but not the whole State?

Mr. KATZENBACH. Yes; he could make determinations as to a subdivision. What he would do is make determinations as to States and he would not worry about the subdivisions within those States which fell within this provision.

Mr. LINDSAY. Why not?

Mr. KATZENBACH. Many reasons, because they are all in if the State is in.

Mr. LINDSAY. Right.

Mr. KATZENBACH. Then he would take a look at the States that I certified to him had made use of literacy tests or tests and devices that are forbidden by this statute, and having taken out the seven States that I believe he would find to be within it, he would then go ahead and look at the other States, whatever the number is, 13 or 14 States, and examine each of their voting districts, voting registration districts, see how many of those fell within the law, and they would be subject to determinations as separate units. They all have the right to come

in to the district court. I think if we are correct, that means the seven States plus the 34 counties in North Carolina plus the scattered ones that we have found. That is the end of it.

The CHAIRMAN. Would the gentleman yield?

Mr. LINDSAY. Yes.

The CHAIRMAN. It has been charged, and I don't know how serious the charge is, that in an election district in New York City where there is a preponderance of the Puerto Rican population, taking into consideration also that New York has literacy tests, that literacy tests are being used to discriminate against the Puerto Ricans. Now, that is an election district.

If the Civil Service Commission certifies that that election district is subject to discrimination, what would happen? New York, of course, does not come within the 50 percent rule.

Mr. KATZENBACH. I think New York does not come in within the 50 percent, so that this statute as drafted would not take care of that problem.

Now, I have these feelings about it, Mr. Chairman. I think that the use of the English language test in New York with respect to Puerto Ricans serves to disenfranchise a great number of intelligent and able people. I think that is all wrong and I have never understood why the State of New York had it and why they didn't do something about getting rid of it. I would think that if this Congress wanted to get rid of that provision, it would be possible to do so. I think that if it did so, it should base that provision not on the 15th amendment and not treat it as a problem of race, but I think it should be based on the 14th amendment and be considered really a problem of due process, and I think that this Congress has the power to do it.

I would have no objection to doing it. I think it is sounder constitutionally to put that problem on a 14th amendment basis and either make it a separate bill or I suppose conceivably a separate section. I think the preferable way to do is for the State of New York to deal with it, but if the State of New York is not going to deal with it, I think Congress should.

Mr. LINDSAY. I think that should be 14th, although it could be 15th. The power is there; Congress has the power.

Mr. KATZENBACH. May have the power under the 15th but surely it has under the 14th.

Mr. LINDSAY. I yield.

Mr. GILBERT. I wish to thank the Attorney General for the statement just made with reference to the acuteness of the problem within the city of New York, and I imagine that also affects other areas of the country, but it is part of the city of New York.

I discussed this problem with your office on many occasions, and, in fact, this year with the help of your office I introduced a bill which would cover the exact situation to which you refer. If that would be any help in eliminating this problem in New York, I hope that the Attorney General's office pursue it.

Mr. KATZENBACH. I think it is an important problem and I think it ought to be dealt with. It is not the same problem that we are dealing with here although it has the effect of disenfranchising the people who, I think, clearly ought to be voting.

Mr. LINDSAY. Will the gentleman yield?

Mr. GILBERT. Just one more question.

I don't know whether in the city of New York there are not certain political subdivisions which might not fall within the purview of this bill. The city of New York has a board of elections which encompasses the entire city. Then we have election districts within the city—of which there are many, many thousands. This is for the purposes of registering people in an orderly fashion.

Now, I don't know the figures, but it is possible that in areas in the city of New York where you have a large Puerto Rican population, that less than 50 percent of these people either registered or voted in the 1960 election or the 1964 election. The State of New York also has a literacy test requirement.

Now, could there be a petition under the purview of this bill which would bring such an election unit into the situation where a Federal registrar would be appointed?

Mr. KATZENBACH. I think that is possible, Congressman, if that were the interpretation of political subdivision that Congress wishes put on the words in this statute. My own view is that because of the nature of the statute and because of what it is aimed at, the political subdivision in any given State ought to mean that area which is controlled for registration purposes which, I believe, the chairman told me last night, in New York was a county basis.

Mr. LINDSAY. No; election district. In most parts of the country, Mr. Attorney General, the subdivision would be a precinct, I would suppose.

Mr. KATZENBACH. We had in mind here an area for which you appoint a registration or election board; it may have other people working for it, but that is the area within which the registration process is controlled.

Mr. LINDSAY. In New York and other States, it is known as the precinct.

Mr. KATZENBACH. In the Southern States, it is known as a county, as a registrar for each county. In Louisiana, there is a registrar for each parish and those are the areas.

Now, we had to use the term "political subdivision" as a general term in order to cover what the appropriate area for registration purposes was within a State.

The point I want to make to Congressman Gilbert is that, while it may be possible that in Puerto Rican areas in New York less than 50 percent registered or voted in 1964, I don't think this bill is an effective way of dealing with that problem. I think that the problem of the Spanish-speaking Puerto Ricans ought to be dealt with separately, and I think it would be a mistake to hold out to that group that this bill is going to resolve their problems and then find out it isn't or find out that it operates unevenly with respect to the English language requirement. It is better to take it head-on and deal with it as it should be dealt with.

Mr. GILBERT. Will the gentleman yield?

Mr. LINDSAY. Just a moment. I will never get through.

I am wondering, then, on the section 4, page 3, about the language "is otherwise necessary to enforce the guarantees of the 15th amendment." Is that superfluous? Do we need that language in there under the theory of the constitutional basis of this bill?

Mr. KATZENBACH. It could read, it seems to me, "that in his judgment the appointment of examiners is otherwise necessary to enforce the provisions of this act"; I think it would be the same thing, but under the bill as drafted, examiners could also be appointed where State officials use other discriminatory tactics, not only where they use tests or devices.

Mr. LINDSAY. As I see it, the only time that the 15th amendment has specific application in the coverage of this bill is when a State or a subdivision of a State should come in and ask to be relieved of this voting Federal receivership or voting supervision.

Is that not correct?

Mr. KATZENBACK. Well, the 15th amendment has application whether they do or not. This entire act is based on the 15th amendment.

Mr. LINDSAY. Yes. In the event that the bill did not have the provision in section 8 under which a State can get out from under, then we would have real trouble with the constitutionality of the bill, would we not?

Mr. KATZENBACH. If it did not have the provision of section 8?

Mr. LINDSAY. Yes, section 8. We would have real trouble with the constitutionality of the bill, would we not?

Mr. KATZENBACH. Yes; I believe we would. I think the reason for using in line 25 "to enforce the guarantees of the 15th amendment," rather than simply, "enforce the provisions of this act" is for the reasons that Congressman Cramer raised. We have eliminated test and device but there are all kinds of stalling provisions or other sorts of things that might happen after the test and device had been removed. To enforce the provisions of this act and make them effective and get people registered is what we are trying to do, and we phrase it that way.

Mr. LINDSAY. I understand, but I think you would agree that if a State does not have the right to come in and say it has a device and proves that it does not discriminatorily use that device to deny the right to vote on account of race, then the 15th amendment comes into play as a protection to that subdivision or State and it comes out from under the bill.

Mr. KATZENBACH. Yes; under section 3.

Mr. LINDSAY. Yes. In other words, we have to keep our minds on the ball, do we not, that this is a 15th amendment problem?

Mr. KATZENBACH. Yes.

Mr. LINDSAY. It is denials of voting rights on the basis of race?

Mr. KATZENBACH. Yes.

Mr. LINDSAY. You must bring in the 15th amendment one way or another. What you have done, am I not right, is to shift the whole burden to the State or to a subdivision of the State, if the Director of the Census should find there is a problem, to come forward and prove it has not violated the 15th amendment?

Mr. KATZENBACH. That is right.

Mr. LINDSAY. Now, one of the problems that the committee has had thus far is the 50-percent provision and the possibility of arbitrariness there. As in the case of Louisiana, by 1 percent half the State is in and by 1 percent half the State is out.

Mr. KATZENBACH. The whole State is in.

Mr. LINDSAY. Yes.

Mr. KATZENBACH. In Louisiana, every parish would be in although some have not discriminated. In the case of North Carolina, if there is discrimination in each of these 34 counties, making that assumption half the State is in; half the State is out.

Mr. LINDSAY. There are now lines of discrimination here, you will agree?

Mr. KATZENBACH. Yes.

Mr. LINDSAY. And not only that, but you have a collection of other devices, as was pointed out in the course of testimony and questioning here, other than written devices that are used?

Mr. KATZENBACH. Yes.

Mr. LINDSAY. It has been suggested that on election day, it is possible to send people out of their communities or to give them special work assignments to keep them away from polls. There are all kinds of things used.

Now, if this is the case, and, as you have continually said in your testimony that the objective here is to produce the most effective instrument for voting people, why is it not possible to create a bill under which the Attorney General of the United States or the President, the executive branch of the Federal Government, would make a finding himself, unilaterally, that there have been voting denials. In my own legislation, H.R. 4552, as to which there is no pride of authorship I assure you, I use the words "pattern or practices" because that happens to be consistent with the past. Now, the trouble with the legislation of 1957, 1960, and 1964 is that we have run into trouble chiefly in the courts on this question.

Mr. KATZENBACH. Yes.

Mr. LINDSAY. So, why not give the President or the Attorney General the power to make a finding that there has been a "pattern or practices" of voting denials in these States, or subdivisions of States, and let that trigger off the appointment of Federal examiners or registrars as the case may be? Then you avoid all the arbitrariness of the 50-percent provision and you avoid the danger that other devices, nonwritten devices, will be used with great skill.

Mr. KATZENBACH. Well, in the first place, Congressman, I don't think this has got very much arbitrariness. I think the relationship between these statistical findings and the literacy test is pretty close and I think it is the proper basis for a congressional judgment, so I would not want to say that it was, you know, just picked out of the air. It has pretty sound backing to support it.

The second point that I would make would be that I don't think you can have a determination by the President or by the Attorney General of that kind without giving a judicial remedy and the power to go in and contest it, just as we have provided one here.

Mr. LINDSAY. Why can't that be done at the end of a certain period, either the normal registration period in the State, after the Federal registrars have the roll of people or on the 5-year basis as can be done—why can't you provide as I have done, as a matter of fact, in my bill that the court may make a finding ultimately that if the pattern or practice of voting denials has ended, and that would bring them out.

You could circumscribe that, as I pointed out, by a period of time which would be either directly connected with the normal registration

period or, if it is permanent registration, it could be cut off after the period of the President's election, 4 years.

Mr. KATZENBACH. I think it would be desirable to have a time period on that.

Mr. LINDSAY. Yes.

Mr. KATZENBACH. Simply as an insurance policy.

Mr. LINDSAY. Yes.

Mr. KATZENBACH. I think it would be possible to add another criterion to this, to add a separate section here to say, "or any other political subdivision as to which the President or Attorney General determines that there has been racial discrimination," but I think you still have to allow them to come in, the same way as they would come in under provision (c), to show that they had not discriminated.

I think in that case, since it would be a unilateral determination of possibly disputed factual matters that it would be difficult to trigger the appointment of Federal examiners in areas without tests or devices in that instance without having a finding by the court that the determination of the Attorney General was justified. So, you don't move very far on that, it seems to me, from what the 1957, 1960, and 1964 law provides, unless you take the position that the Attorney General can make a determination and it simply can't be questioned.

Now, we did have a provision, you recall, submitted in the 1963 legislation which was somewhat similar to that. It had an objective criterion that if less than 15 percent of the voting-age Negroes were registered in an area in which the court had been requested to find a pattern or practice of discrimination, the Court could appoint temporary voting referees and could issue an order permitting a Negro applicant to vote. The order would have operated until or unless the court later found that no pattern or practice of discrimination existed.

Mr. LINDSAY. I think you covered the point when you said that the State or subdivision could come out from under after 50 percent had been registered to vote or had voted. That would bring it out, or allow the possibility of bringing it out, and at the same time avoid the problem that so many members seem to be worried about, about not covering voters in many parts of the country where they exist.

Mr. KATZENBACH. I think we have covered most of them, as I said before, but if there is some method that is superior to existing law in getting at the others, we certainly should consider it.

I don't think, Congressman, it is a good idea to say a State which is covered can come out once it reaches the 50 percent level. I think that is a bad idea, and under the bill that could not happen. I think if a State has been discriminating it should be in until it has everybody registered.

Mr. LINDSAY. I come back to the original suggestion I just made. It seems to me that you have no 15th amendment problem and you have a constitutional bill if you provided that the Attorney General or the President, on the basis of a finding of voting denials which violate the 15th amendment in any area, may go forward with registration procedures providing there are additional procedures in there which will enable the State in due course to come out from under.

Mr. KATZENBACH. I am not really differing with you very much. I just doubt very much that you can have the Attorney General make a finding in areas without tests or devices without more objective

criteria or without being subjected to judicial review. You could have a temporary voting procedure, as we urged in 1963, which I think ran into some difficulties here in the Congress, but if the committee wanted to consider that as an additional triggering device here, I think it should consider it.

Mr. LINDSAY. Yes, sir; of course.

The CHAIRMAN. As Attorney General, don't you think there would be all kinds of obstacles in the Congress if we give such power to the Executive?

Mr. KATZENBACH. I think those are some of the objections that were made to the chairman before. In terms of trying to keep our eye on the mark, what I don't want to prejudice or sacrifice in the slightest is getting rid of these tests that have been used in these areas for the purposes for which they have been used.

The CHAIRMAN. Would you be willing to assume such powers?

Mr. KATZENBACH. I would think not, without sufficient judicial protection for testing in that respect. I am willing to take the responsibility of saying whether or not there is a test and device in the State because I have a copy of the State's statutes and I think I can read them. And I am also willing to decide whether examiners should be appointed in counties within section 3(a), and that power can be and would be given without any judicial review.

Mr. LINDSAY. I agree with you I would not want to do it without the possibility of testing, but I would hope that we can get our sharp pencils out and see if it is not possible to come up with language that won't run into the head storms that the 50 percent provision made in order to cover it.

Mr. KATZENBACH. Don't misunderstand me, Congressman. I am strong for this 50-percent provision. I think you might be able to get additional provisions to cover additional areas; I would not preclude that; but I feel strongly that this is a better test, fairer test, a more objective test, a more constitutional test, than the other.

Mr. LINDSAY. Do I understand from your main testimony on page 13, paragraph 4, that the intent of this bill is to cover the problem in Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia, Alaska, 34 counties in North Carolina and one county in Arizona, and in a couple of other instances, too? That is the chief intent, I take it, of what we are trying to do here.

I think it is important to get this clear because that is the effect of the 50 percent.

Mr. KATZENBACH. The intent is to get rid of subjective tests in areas where they have been used for a violation of the 15th amendment. I believe on the basis of the testimony I have made, on the basis of the evidence that we have, that those tests have been presumptively used in the areas described here for that purpose. I believe that in setting up the objectives we may have caught possibly one State, possibly more, that have not used them for discriminatory purposes. We may have caught a few counties that have not used them for discriminatory purposes.

I think in general we have caught those States and counties which have discriminated and those which have not had the opportunity to come in and show that they have not done so. I think it is a pretty precise standard. I think you would agree with me that these tests

have been used in Louisiana for a discriminatory purpose; they have been used in Mississippi for such purpose.

Mr. LINDSAY. Of course, and in a great many areas.

Mr. KATZENBACH. I don't know other areas that are not covered by the bill for which we have any evidence that tests have been used for discriminatory purposes.

Mr. LINDSAY. When my colleague from Maryland comes back, he may point to you where the nonwritten device is used but devices are used all the time in denying the right to vote.

Mr. KATZENBACH. These kinds of devices included in the bill are our major problem, and I want to get rid of them. I think this gets into those areas where they have been used——

Mr. LINDSAY. We do, too, but we have the problem of defending the bill on the floor and there will be some very serious questions asked as to why the bill only applies to a handful of States when there are instances of voting denials in lots of other States.

Mr. KATZENBACH. The answer to that, Congressman, it seems to me is simple. The answer to that is that these are the places where tests have been used time and time and time and time again for discriminating purposes, and if there are other instances they are isolated instances.

Mr. LINDSAY. Let me just ask a couple more points.

You mentioned yesterday that there is a case before the Supreme Court relating to poll taxes. Is the United States a party to that case?

Mr. KATZENBACH. No; we are not at the moment. The Solicitor General is considering the possibility of going into that case immediately.

Mr. LINDSAY. In the administration's bill, there is a provision for avoiding the accumulation of poll taxes.

Mr. KATZENBACH. Yes.

Mr. LINDSAY. But not a single poll tax in any 1 year; correct?

Mr. KATZENBACH. That is correct.

Mr. LINDSAY. In my own proposal, H.R. 4552, I have empowered the registrars to avoid it completely. Do you see a constitutional difficulty there?

Mr. KATZENBACH. Yes; I see a difficulty which I talked a little about the other day.

Mr. LINDSAY. Isn't it dancing on the head of a pin to say that you can avoid an accumulation, but not 1 year?

Mr. KATZENBACH. No; I feel I am on a very solid pin and the reason is this: I believe that you can avoid the back periods because during those times, tests and devices were being used to keep people from voting and I don't see why people have to pay poll tax for a period during which they could not vote.

Mr. LINDSAY. And literacy test.

Mr. KATZENBACH. That is exactly my point, Congressman. We avoid the literacy test. The literacy tests are what has been used to keep people from voting. There was no inclination to pay your poll tax when you had a literacy test keeping you from voting. We do not avoid past accumulations of poll taxes on the basis that the poll tax kept you from voting, but on the basis of a literacy test that kept you from voting.

Now, if you take the position, which I could, that poll taxes have been often used for the purpose of discrimination, I think it is a hard case factually to make because while they were intended for that purpose the States found a more effective device in the literacy tests.

Mr. LINDSAY. You are coming back to the 15th amendment basis that I was talking about. That is really what it comes down to. In other words, the poll tax is all right if it is ordinary and routine but it is not all right under the 15th amendment if it is used as a device to deny people the vote.

Mr. KATZENBACH. Right, but I can't establish that it has been used as that kind of device. That is my difficulty. If I cannot establish that, if you can't make a good case on that theory, then you are going to run into constitutional difficulties. I am sympathetic. I dislike this poll tax just as much as you do, Congressman.

Nothing could be more tragic than to have the Supreme Court decide that the poll taxes are all right and not throw them out on the broader ground, and then say you cannot throw them out on the 15th amendment ground because there has not been sufficient evidence to show they have been used for discriminatory purposes. If that happened, if all these people whom we finally got registered had not paid their poll taxes they would not be able to vote in that election. We thought it was easier and better to use the method in our bill. If the Supreme Court throws the poll tax out, there is no problem.

Mr. CRAMER. Will the gentleman yield?

Mr. LINDSAY. Yes.

Mr. CRAMER. At the top of page 2, the test and device that triggers the approach in this bill, is the device or test which the Attorney General determines was maintained on November 1, 1964.

Mr. KATZENBACH. Yes.

Mr. CRAMER. Any State hereafter could enact literacy test statutes and not be subject to this bill; right?

Mr. KATZENBACH. Yes; if it did not have a literacy test on November 1, 1964, then it could enact a literacy test law.

Mr. CRAMER. They could discriminate in the future all they want to and not be subject to this bill.

Mr. KATZENBACH. Congressman, I didn't intend to say that literacy tests always discriminate.

Mr. CRAMER. I didn't either.

Mr. KATZENBACH. I think we are hitting the areas here where there has been discrimination and that that discrimination has been through the use of literacy tests. I don't like literacy tests but I would have no constitutional objection to literacy tests in other States.

Mr. CRAMER. Florida, Kentucky, and Tennessee could have literacy tests tomorrow, but they would not be subject to this bill.

Mr. KATZENBACH. Correct.

Mr. LINDSAY. On page 4 of the administration bill, Mr. Attorney General, at the bottom of the page, there is a proviso on lines 23 and 24, and I am in doubt as to what that provides.

When you were out of the room yesterday, Mr. Marshall said it referred to the 90-day provision that appears on page 20. Do you read it that way? I had originally read it as referring just to the two lines before, 22 and 23.

Mr. KATZENBACH. Well, I believe that it was intended to apply to the whole of it—being denied an opportunity to register to vote under color of law. In other words, the intent of it, Congressman, was that the Attorney General can waive the requirements that you go to the State registrar where he has reason to believe it is going to be a futile undignified act and that the registrar would say, "go jump in the lake." You can waive the allegation that in the past 90 days he has been denied opportunity to register under State law.

Mr. LINDSAY. I should think that might be clarified.

Mr. KATZENBACH. Yes.

Mr. LINDSAY. Then, let me ask you this question: Here on page 7 of the administration bill, Section 7—

> No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote.

should that not also include the words "or having voted"?

If you are going to be thorough about it, would it not have to embrace the case of the fellow who votes and then comes back and is fired for having voted, or what have you?

Mr. KATZENBACH. Lines 21 and 22 deal with coercion for voting.

Mr. LINDSAY. I guess that is clear.

Now, finally, Mr. Attorney General, let me ask you about the possibility of including in this bill a limited version of the old titles to our part 3, as it is known, which would empower the Attorney General of the United States to protect the first amendment rights. That is to say, the right to assemble peaceably and petition against grievances. This has been an old question in part 3. We have been up and down the mountain on it many times. The House passed it once, in very broad form.

What I am thinking of is submitting a limit that would confine this problem to the first amendment, or free speech and peacefully petition rights as stated in the first amendment. What would be your opinion of an addition to this bill of that limited form of part 3?

Mr. KATZENBACH. My opinion on it, Congressman, would be the same opinion that was stated by my predecessor. When you give us that power, then you also give us the power for an appropriation to hire the police force that it is going to take to do it. Don't give us the responsibility without the capacity of fulfilling it. Don't put me in the box where you say the law tells you to do this and I have nobody to do it. Give me the national police force that it may take.

Mr. LINDSAY. Well, we do all the time. We pass legislation here in various fields which is authorizing legislation, and the Appropriations Committees have the responsibility, power, and obligation to do whatever is necessary.

Title 3, I repeat, passed the House several years ago in very broad form. If you limit it to the first amendment proposition, do you really think that it would require an army of Federal officers to secure those protections to individuals?

Mr. KATZENBACH. How many people do you think it might take in the State of Alabama, right now, to assure those protections, if you assume that those privileges are being denied by the State authority?

Governor Wallace seems to think it was going to take, as I recall, 6,171. I am not quite sure how he got that precise figure, but that is what he stated. That was only for one 50-mile stretch.

Mr. LINDSAY. I have seen instances around the world where tiny contingents, some of them unarmed, of the United Nations have kept peace just because of their presence, whereas, otherwise there would have been no stability, and there would have been violence. The question of numbers was not the issue; the question of immediate presence to protect some people against aggression, symbolically, if nothing else, was the key.

Mr. KATZENBACH. We have tried that, certainly, Congressman. We have had an awfully big Federal presence in these places and maybe it has helped; I think that it has; and I hope that it has, but it has not needed the kind of provision that you are discussing.

I think I ought to say, in all candor, that we have here a bill aimed at the proposition of getting people to vote. For that proposition, there is widespread consensus in the House of Representatives and in the Senate, and I don't believe it would be responsible to jeopardize this bill and this terribly important problem by adding a provision which, as I have already indicated in my reservation about it, would divide what is presently, I hope, I believe, a real and substantial consensus for attacking the voting problem.

I think if it is going to be taken up, it ought to be taken up separately and independently and not tacked on to this piece of legislation.

Mr. LINDSAY. On that point I agree with you completely, but I would not under any circumstances want to do anything to jeopardize the voting rights bill. However, I can recall that in the 1964 bill the argument was made by the administration that we could not broaden the voting rights section out to include State elections and local elections, and we had to confine it to Federal elections on the grounds that we might jeopardize the passage of the bill. The same applied to title 3. Yet, the bill went through the Congress with a very safe margin, and then just recently the President came back to the Congress and complained that the Congress had not enacted a voting rights bill that included local and State elections.

So, I am in a position now of wondering whether, with this mood in the country and the willingness of the members to get through a voting rights bill, and I think it will be a very large majority, too, by which it would go through, can't we try to do a little bit more? I think we would be successful on it in this other area, too.

Mr. KATZENBACH. Congressman, let's not tack on to this bill. If you permit me to say so, your description of what happened to the voting section in 1963 and 1964 is not quite my recollection, Congressman. We submitted some fairly strong proposals on voting; those proposals were taken out.

Mr. LINDSAY. Yes, and those proposals included registrars to deal with Federal, State, and local elections.

The CHAIRMAN. We should have taken Mr. Lindsay into the conference.

Mr. LINDSAY. In any event, I think it has to be agreed that the bill the subcommittee reported covered local elections as well as Federal elections.

Mr. KATZENBACH. The bill the subcommittee voted out knocked out the most important provision on voting that had been submitted by President Kennedy.

Mr. LINDSAY. We were asked by the administration to cut it back; so all I am saying is that I hope we are not in a position——

Mr. KATZENBACH. The administration wanted that provision and there was objection to it. I just want the record to show that we wanted that provision and we wanted it for the reason that it was sent down.

Mr. LINDSAY. We have a disagreement on that point, but that is not the important thing at this moment. The important thing is, I do not want to see the 89th Congress take a step now which we will immediately discover is too short a step. If we are going to go through the difficult business of drafting an important civil rights bill, I hope that we will not make the mistake of not covering those things which are critical in the country that ought to be covered. That is my viewpoint and I hope that you can think about that a little bit.

Mr. KATZENBACH. I have thought about it a great deal in the last 2 weeks, Congressman.

Mr. LINDSAY. If there is any disposition on your part in the next few days or weeks to agree to a limited part 3 proposal here, I wish that you would communicate with us.

The CHAIRMAN. Mr. Chelf.

Mr. CHELF. Mr. Attorney General, I have read your bill and while there are some sections that I would question seriously, nevertheless, on the whole, I want to commend you for having drawn a bill and presenting it to the Congress. The 15th amendment is very clear and very plain. In reading not only your bill, I have re-read the entire Constitution and in the 15th amendment there is no question, no doubt, no ambiguity; it says just what it means.

Section 1. The right of the citizens of the United States to vote shall not be denied or abridged by United States or by any State on account of race, color, or previous condition of servitude.

No question about that.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Not the Supreme Court, the Congress.

While I am very happy that you took Kentucky out of your "voters' list," nevertheless, if it had not been I would be for this type of legislation. I am going to support the right to vote vigorously. I feel that today our Nation in some areas is sick to the quick with a strong case of not ileitis, but "no vote-itis," if you want to call it that. I think it is time that strong medicine be taken for this malady that has come upon us. Maybe we need some 110-proof Kentucky bourbon instead of the mild, gentle, soft, mellow, whispering, 86-proof, discriminating whisky, if you know what I mean. Maybe we even need some block and tackle whisky. That's the kind, you know, you take a drink, you walk a block, and you tackle anybody.

I want to commend you, sir, for being here and supporting legislation of this kind. Now, I have not seen eye to eye with you or the administration from time to time on certain pieces of legislation.

In 1957, I supported the civil rights bill, voted for its passage; in 1960, I supported that civil rights bill; but last year, in 1964, I did not. I did not vote for it, sir, because, in my heart and in my mind at that time there were three disturbing factors. I was afraid that three sections in that bill—one that dealt with the first amendment, the fourth amendment, and the sixth amendment—were unconstitutional. They certainly, in my opinion, were dangerously on the outer perimeter, and I did not want to do anything that my conscience would leave any doubt about the freedom of speech or religion under amendment No. 1, nor under amendment No. 4, unlawful searches, and seizures of one's private books and possessions, and last but not least, the sixth amendment which could possibly deny the right of trial by jury.

Those are the reasons and those are the only reasons that I, myself, personally, voted against that piece of legislation. However, I must confess that I did everything that I could in our Judiciary Committee to get it to the floor with the reservation, of course, that I was at liberty to oppose it on the floor if it was not properly amended.

Mr. KATZENBACH. You certainly did.

Mr. CHELF. I think the gentleman seated before me knows what I mean.

Mr. KATZENBACH. You certainly did and without you it would have been difficult, if not impossible, to have had that legislation.

Mr. CHELF. You are very kind and I appreciate it because it was a question of my belief. If the time ever comes, General, that I can't vote according to the dictates of my heart, then I have had it here. My people are not going to have to send me to the showers; I am going to take a voluntary "walkout" on my own.

I am going to commend you, sir, for your presentation. Let me say this: While your voting list shows that some 54 percent of our people in Kentucky are voting, I would like to say to you that in all of my campaigns for public office for the past 30 years I have preached the gospel of voting because in the United States only 60 percent vote. I have stated to our people time and time and time again that in Canada 95 percent of the people vote, that in England 90 percent of the people vote, that in the Netherlands 90 percent of the people vote, that in Australia 92 percent of the people vote. I have begged them over the years to vote whether they are black or white, Republican or Democrat, Catholic or Protestant, rich or poor. I want everybody to vote, and you are going to have my vote on this right to obtain a vote for every person. [Applause.]

Mr. KATZENBACH. Thank you, Congressman.

The CHAIRMAN. The Chairman announced when we went into session he hoped that we can finish with Mr. Katzenbach by 1 o'clock because this afternoon we have scheduled to appear the Hon. John W. Macy, Chairman of the Civil Service Commission; Dr. A. Ross Eckler, Acting Director of the Bureau of the Census, Department of Commerce; and Rev. Theodore M. Hesburgh, member of the Civil Rights Commission and president of Notre Dame University, accompanied by Mr. William L. Taylor, Staff Director of the Civil Rights Commission. So, I hope that we can finish with Mr. Katzenbach at 1.

Mr. Ashmore.

Mr. ASHMORE. Mr. Attorney General, let me say, in the first place, I am from South Carolina, that I am not in favor of discriminating

against anybody because of race, creed, color, or for whatever reason one might give for doing so.

I believe that everybody should have the same right to vote, regardless of their color, when they meet the qualifications that are set forth in the eligibility rules of their State. However, I think that we have been operating on somewhat of a false premise here on a good many of these things regarding this bill.

I do not agree with a great deal of your bill, Mr. Attorney General. I commend you for your efforts, and I know you are operating in a most difficult area and one that sometimes seems to be almost impossible to solve. We tried to solve it in 1957; we tried to solve it in 1960; we tried to solve it in 1964; and in each of those instances, if I recall correctly, there was a great hue and cry for passing civil rights legislation, particularly with reference to the voting provisions.

I think that everybody, whether they voted for those bills or voted against them, is in favor of a voting bill that provides all citizens the right to vote when they meet legal and reasonable qualifications.

I believe it was said during the debate on the 1964 bill that this bill must be passed so we can get the people out of the streets and get their problems settled in court. Well, it has not solved them, although we set up new court procedure: so just passing new laws does not necessarily mean we are going to solve these problems, as I have indicated in various instances in the past. I don't think that this bill is going to solve them either. I think it could be improved upon in many instances and many changes should be made, and I think that if this bill is to be constitutional it must be drastically changed.

I was struck the other night when the President was making his wonderful speech but I could not help but notice in several instances that some of the things he said did not impress me as being very legalistic. Once for instance, was when the President said there is no constitutional issue here. I know the President has not had time to study the constitutional problems involved like the Attorney General and the members of this committee must study them. And, of course, he did not intentionally say anything wrong.

But I think there is a constitutional problem here, Mr. Attorney General, and I believe that you will have to say so, too. The President stated that there is no issue of States' rights or National rights. I am convinced that there is a serious question of States' rights and there are other constitutional problems that we are faced with. I don't see how we can avoid them.

I won't ask you whether you agree with the President or not, but I know you did not write that part of the President's speech wherein he made these two particular statements. I just don't believe, sir, you can say there are no constitutional issues raised in this bill.

Mr. KATZENBACH. Congressman, an awful lot of our constitutional arguments were made, as I am sure you recall, with respect to the 1964 act. I think they were sincerely made and we were able to persuade nine justices of the Supreme Court as to our position and the constitutionality of that bill. I think there are constitutional issues any time a lawyer says there are, but I don't believe this bill as drafted raised any serious constitutional problem. I would be happy to discuss them but I believe it is clearly constitutional.

Furthermore, I don't think any issue of States' rights is raised when the purpose and the background of the legislation is simply to get States to obey the provisions of the Constitution of the United States which they are obligated to do. No State has a right to duck and evade and equivocate and violate the 15th amendment.

Mr. ASHMORE. I am in favor of them being made to do it if they will not do it voluntarily, but, Mr. Attorney General, we don't think you can change the Constitution by passing an act of Congress.'

Mr. KATZENBACH. No, but we can enforce the Constitution, Congressman.

Mr. ASHMORE. All right.

Now, there is no question, I don't believe, but that the basic law is now and has been, that the States have the right to conduct elections and they have the constitutional right to set up certain eligibility rules for people to register and vote. Isn't that correct?

Mr. KATZENBACH. So long as those rules are not applied in a way which violates the 15th amendment, or do not conflict with a valid act of Congress.

Mr. ASHMORE. They must apply in the same manner to all people concerned.

Mr. KATZENBACH. Correct

Mr. ASHMORE. The Supreme Court has passed on that in the Lassiter case in 1959. They referred to another case, the Guinn case, wherein the Supreme Court said—

> We do not suggest that any standards which the State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record, are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters.
>
> The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot.

The Supreme Court said further:

> No time need be spent on the question of the validity of the literacy test—its validity is admitted.

Now, some people say do away with all of these standards and tests but the Supreme Court has said it is right to have them, perfectly legal to have them.

It appears to me that you now are bringing this bill under the 15th amendment and stating that the States have got to add something to this right which the Supreme Court and the Constitution have given the States the authority to enforce.

You are now saying that a State might have these eligibility requirements provided it also proves a most unheard of thing, in my opinion, Mr. Attorney General, that is, that at least 50 percent of its eligible voters have registered and voted in the State. Now, that just sounds unreasonable to me.

Mr. KATZENBACH. It sounds unreasonble to me, Congressman, too. It is not what we said.

Mr. ASHMORE. What did you say?

Mr. KATZENBACH. What we have said is, if you have not discriminated, you are not under this bill. All you have to do is come in and show that you have not discriminated, if you had under 50 percent registration or voting. That is what we have said. It is not correct

to state as a premise, Congressman, that where you have not discriminated, nonetheless, we are knocking them out. That is not true.

Mr. ASHMORE. Even if a State applies these rules or tests in a nondiscriminatory manner, that is not enough; the State must go further and show that 50 percent of the people voted. Aren't you saying that?

Mr. KATZENBACH. No, Congressman; that is not correct. You don't have to show that. If 50 percent have not voted, then you have to show that there has been no discrimination.

Mr. ASHMORE. You said it the other way—in reverse. What is the difference?

Mr. KATZENBACH. Quite a big difference, Congressman. All we say is that if 50 percent of the people have not voted, all a State has to show is that it has not discriminated and it can go right on using the tests.

Mr. ASHMORE. All right. You have got South Carolina listed as one of the States that has discriminated or that has not voted 50 percent; in other words, listed as one to whom this law would apply.

Mr. KATZENBACH. It is listed as a State which has to come in to court and prove it has not discriminated for the past 10 years.

Mr. ASHMORE. Yet, you don't have one single case on the record in recent years to show that they have discriminated against any man because of race or color. You don't know of any, do you, Mr. Attorney General?

Mr. KATZENBACH. It is correct that we have brought no cases in South Carolina. It would not be correct to say we have not discovered any evidence of discrimination.

Mr. ASHMORE. You have not found anybody guilty.

Mr. KATZENBACH. In enforcing the voting rights provision of the 1957 and 1960 acts, and the 1964 act more recently, we have adopted in the Department of Justice under my predecessor—and I would continue to do the same thing—a policy that, where we have found evidence of discrimination, we have never brought a lawsuit if we have been able by process of negotiation and persuasion, and rather quietly to persuade people to cease and desist from what they have been doing and to register people.

It has been our experience in South Carolina that we have discovered instances of discrimination; we have talked to local officials and they have taken remedial steps, but it would not be correct to say that we have never had any evidence at all of discrimination.

Mr. ASHMORE. I would not say that about any State in the Union.

Mr. KATZENBACH. It would be within the last 3 or 4 years, Congressman.

Mr. ASHMORE. Let me read to you a few sentences from the civil rights hearings of 1963 when I was questioning Attorney General Kennedy. This is page 3734 of volume 4, at the bottom of the page. Attorney General Kennedy said: "Congressman, you are right about South Carolina. There are a couple of areas where there is a potential problem; it is not a problem in South Carolina."

So we had no problem in 1963. Now, do you have anything since 1963 to prove discrimination in South Carolina?

Mr. KATZENBACH. Yes; we do have two matters under active investigation at the moment.

Mr. ASHMORE. You have not found any of them to be cases of discrimination, though, have you?

Mr. KATZENBACH. We have not brought suit at this point.

Mr. ASHMORE. Now, with reference to South Carolina and your requirement that something else must be done, whatever you call it, and I think you would certainly admit this, you are adding something in this bill to the requirements that a State must comply with. In other words, there is nothing in the present law that says 50 percent of the qualified electors have to vote in order to not be discriminatory.

Mr. KATZENBACH. No; no. There is not.

Mr. ASHMORE. Qualified to register? There is nothing in the 15th amendment that says that 50 percent of the qualified electors must be registered and must vote in an election, is there?

Mr. KATZENBACH. Not in those terms, but it says that Congress may enact such legislation as appropriate.

Mr. ASHMORE. All right. You also know that if you enact legislation it must apply equally to all people in all States or it would be unconstitutional, would it not?

Mr. KATZENBACH. Yes.

Mr. ASHMORE. All right. You have applied rules to these six States that do not apply to other States.

Mr. KATZENBACH. No.

Mr. ASHMORE. You are discriminating in the bill, itself; you are making it discriminatory.

Mr. KATZENBACH. That is not correct, Congressman.

Mr. ASHMORE. That is my opinion.

Mr. KATZENBACH. The rules that we laid down apply to every State and every county in the United States.

Mr. ASHMORE. But you say that these six States, because 50 percent of the qualified electors have not registered and voted, have discriminated.

Mr. KATZENBACH. Congressman, suppose you were just to lay down a simple proposition under the 15th amendment and simply say that you can't discriminate on grounds of race or color. You would agree with me that that would apply to all 50 States.

Then you find that people are discriminating in one State; I don't think that State can get up and say, "Look, because we are discriminating you are applying a different standard to us than to anybody else."

Mr. ASHMORE. Your standard is not reasonable. It lets some States or counties discriminate and this bill would not touch them.

Mr. KATZENBACH. I think the standard is fair and reasonable.

Mr. ASHMORE. To tell me that my State is going to be covered with this bill because 50 percent of the people don't vote when there is nothing in the law saying that 50 percent of them have to register or vote, when we are complying with the law regarding discrimination, is unfair and unjust. Certainly that is true when you say the purpose of your bill is, as you stated yesterday, to prevent massive resistance to Negro voting. That is what you said, isn't it?

Mr. KATZENBACH. Yes.

Mr. ASHMORE. That is the general statement which covers all of it.

Mr. KATZENBACH. Yes.

Mr. ASHMORE You have to show me that there is evidence in South Carolina of massive resistance to Negroes voting before you can justify putting my State under the provisions of this law.

Mr. KATZENBACH. Well, there is a county, for example, in South Carolina which had 82 percent of the white population registered in 1962, 4 percent of the Negro.

Mr. ASHMORE. Any discrimination there that anybody has told you about?

Mr. KATZENBACH. It jumped up to 72 percent and then to 14 percent after we entered into some negotiations.

Mr. ASHMORE. All right. There is no discrimination, though.

Mr. KATZENBACH. Congressman, if there is no discrimination, you have not got a problem in the world under this bill; all you have to do is just come in and show it.

Mr. ASHMORE. All right. That is not what I am getting at. You are saying here we are violating the law.

Mr. KATZENBACH. No; I don't say that any State is violating the law. It is never said in the bill. It simply says that if you have these voting statistics, and if you have literacy tests, because of long past experience this tends to show a high probability that there has been some discrimination. You have to come in and show you have not been discriminating. Now, what is unreasonable about that?

Mr. ASHMORE. That is contrary to judicial procedure in this country with any man or State or anything else. You say in this bill we are presumed guilty and, thus, force us to go to court in Washington, D.C., and prove we are innocent. I say, if we are guilty, then its your duty to prove us guilty.

Mr. KATZENBACH. It is not a criminal charge.

Mr. ASHMORE. I don't care whether it is criminal or not but it is a charge of violating the law and not complying with the rules and regulations of the statute. The man that makes the charge has to prove it or he goes out of court on his neck in either a civil or criminal suit.

Mr. KATZENBACH. Time and time again, in court you have to come in and establish certain facts in order to be removed from certain restrictions.

Mr. ASHMORE. You should establish those facts; you are making the charge. But we will go on.

Mr. KATZENBACH. The only charge made is that 50 percent has not been registered and you have literacy tests.

Mr. ASHMORE. And, based on that, you claim we "may have discriminated some." Let's see why they have not been registered in South Carolina.

Mr. KATZENBACH. All right.

Mr. ASHMORE. The South Carolina Voter Education Project, a Negro group organized to get Negroes to register, told the Associated Press on March 16, 1965, in Columbus, S.C., that the problem is to get Negroes interested enough to register and vote. The spokesman said further:

The project is concentrating on a campaign to accomplish this, and qualified voters are being registered in all counties in the State as far as is known. There was not one charge of discrimination by the man in charge of the Negro voter registration machinery in South Carolina.

Now, here is another statement. In last night's Washington Star, Charles Bartlett's column, he talks about this same problem, about the low percentage of Negro people voting.

Incidentally, Mr. Attorney General, the fact that 50 percent of the people in my State or any other State does not vote does not necessarily mean, and it is not reasonable to infer from that fact alone, that there has been discrimination against one single person. Think for just a minute and you will recall that not until the last presidential election in 1964 did as many as 60 percent of the qualified electors and voters in the United States vote even for the President of the United States. Isn't that correct? It went a little over 60 percent last time.

Mr. KATZENBACH. I don't know what the figures are. It would be around 60, I would think, who voted in the last election.

Mr. ASHMORE. I think you ought to study well that fact before you want to come to the definite conclusion that because 50 percent of our people don't vote they are being discriminated against.

Furthermore, let me read what this man says, reading from Charles Bartlett's column, March 18. He is talking about this subject:

> A $500,000 campaign produced 265,000 registrants, almost all of them in the cities. The inertia of fear and political disillusionment that pervades the rural Negro communities is extremely difficult to dent.
>
> "You can send an army of Federal registrars down here," says Dr. Reginald Hawkins, who led the drive in North Carolina, "but rural Negroes won't register until they become convinced that their leaders are going to guide their voting power wisely."

Now, what are we going to do? Are you going to go out and herd them in and tell them they have to register? The voting organization in South Carolina says they have not registered and not because of any complaint or discrimination; they are spending money in North Carolina to have them register and the man in charge of it says they won't register.

Then, Mr. Attorney General, how can you say that we should be castigated, in so many words, and classified as a State that is discriminating when all you have is a mere assumption based on the fact that 50 percent of our Negroes did not register or vote? That is an unfair and unreasonable charge.

Mr. KATZENBACH. As I said, Congressman, I don't see the problem really, because if you have not been discriminating, it is very simple to come in and show that you have not and you are out from under the provisions of the bill.

Mr. ASHMORE. We have come in and shown we are not discriminating and we are not being even accused of it by the Negro people in the State who are in charge of the registration campaign. Now, then, is it fair, General, or constitutional, to pass a law that applies to only a few specified States but does not cover these 900 counties my colleague from Florida mentioned last night? In these various counties conditions were such that less than 50 percent of their people voted?

Now, simply because they don't have an eligibility test, are you going to say that it is right for these 900 counties to get by with discrimination? Our literacy test is legal and constitutional, yet we are to be punished if we don't vote or register the proper ratio, whereas in 900 other areas where the vote ratio was the same there would be no penalty under this bill, solely because no literacy test is required.

Mr. KATZENBACH. No one is being punished.

Mr. ASHMORE. I say you are punishing us when you put us in this situation. You are punishing us when you accuse us of discriminating because less than 50 percent of the people don't vote who are eligible to vote.

Mr. KATZENBACH. Of the seven States, the six in the South have large Negro populations. We have suits pending in some of them and we have judgments of discrimination. In all of these six States practices of segregation of Negroes, practices of segregated schooling, practices of social segregation, practices of economic segregation, have long existed.

I would think the very fact that this tool cut that precisely would be substantial reason to believe that they might be discriminating in other respects and they might be discriminating in voting. Now, if they are not, they have an opportunity to come in, but I would regard that as a reasonable inference from the statistical data.

Mr. ASHMORE. I think when you said "might," might have done this or might have done that, you are standing on very thin ice, Mr. Attorney General. The fact that a person or State "might be discriminating in voting" is an awfully weak premise to legislate on.

You mentioned integration. I have not mentioned that and I didn't intend to. South Carolina is not guilty of violating the statutes, either morally or legally on that score. The Governor of South Carolina called the president of the University of South Carolina when some Negro students wanted to enter and they entered without any untoward results at all.

At Clemson College, you will recall, 2 years ago a Negro man made application to enter there and when the day came, there were news reporters and photographers and police officers all over the campus and everybody thought there was going to be a lot of trouble. But the man walked in and there was not one word said because the president of the college and the Governor of the State said there would not be any. Our people complied with the law.

The people in South Carolina have acted in a proper and gentlemanly manner, and I don't think you should say we have been guilty of these things, discrimination, integration or otherwise.

Now I go to the next point and that is the fact that if a State has violated this law or been guilty of discrimination back over a period of 10 years, that then they would have to come in and show that they have stopped violating the law.

Now that 10 years, you think over it. You know that is an extremely long time.

This is something that has to be developed by evolution. Just like Billy Graham has said on more than one occasion, and no later than a couple of days ago.

You can pass all the laws you want to but it has to be done in the heart of man, through his relation and belief in God.

We and other States have gotten away from some of these things. We did it in years gone by, probably every State did it. But we are wiser and more tolerant now and it is not morally or legally right to punish us for sins committed years and years ago.

Frankly, it is unreasonable and unfair to say we have to go back 10 years and show that we didn't do something. I just don't think it is reasonable, and I don't believe that you will say so if you think about it. In any event, it would be an *ex post facto* law, and that is unconstitutional.

Mr. KATZENBACH. Congressman, South Carolina has made great progress in this field and it is greatly to its credit. It has complied

with the court order as initially issued in Clemson; it has made general compliance with the 1964 act, and I agree with you that it is one of the areas of the South that has made real and genuine progress.

I don't think the problems have been eliminated and I don't think you think so, but it has made progress.

I would like to go on record as saying that it is an area that has made considerable progress. Progress has also been made in other areas in the South. I don't think the fact that it is included within this group on the basis of these objective criteria should mean that the State of South Carolina resembles in this regard other States that are in that group. The problem of South Carolina is certainly much less acute and much less bitter; it is through the elected representatives, both here in Congress and in the State government that this progress has been made.

The CHAIRMAN. The Chair wishes to state that it intended to conclude at 1 o'clock. There are still three members who want to interrogate.

Mr. ASHMORE. Mr. Chairman, I have one more point, and that is all.

Mr. Attorney General, you have said in several instances that if anyone else or any member of the committee, of course, has any better plan or idea or suggestion or recommendation or remedy for some of the things we think are bad or unwise in this bill, that you would be glad to hear them. Let me say this: I think that you can forget about this formula business; it didn't work before in some of the formulas we have had. These mathematical formulas are bad in the first place. I think your bill is unconstitutional in several respects, as I have already stated, however, if it is constitutional for the Federal Government to come in and do those things—you can write a bill that simply provides if a certain group, say 20, for example, as you have used in one of the sections of your bill, give written notice that they have been discriminated against, then in that case the Attorney General would have authority to appoint Federal referees, commissioners, or hearing examiners or anything you want to call them, and they would immediately hear each complaint as rapidly as possible. This would be their only duty, to determine whether or not the person had been discriminated against.

Let there be an appeal from the referee or the examiner directly to the Supreme Court of the United States and you have eliminated all loss of time element, you have eliminated all formulas in this thing about whether you voted or registered 50 percent, and so forth.

What would be wrong with a bill that simple? Is it too simple?

Mr. KATZENBACH. I think the difficulty with that kind of a bill is that it does not apply the same standards that have been applied to others who have been registered.

Mr. ASHMORE. Does not do what?

Mr. KATZENBACH. Let me see if I can be more clear about it, Congressman.

I know that in some of these instances, some of these States, while there are literacy tests, the literacy tests have not been applied to white applicants who are presently on the books but they have been applied, not merely applied but applied in an improper manner, to Negro applicants, to keep them off the register.

Mr. ASHMORE. I didn't recall that.

Mr. KATZENBACH. So, now if the determination was that you were going to freeze in all of the improperly registered whites and from here on out be honest in the application of a test of that kind, you would not cure the existing injustices. I think that people should be presently registered on the same standards that have, in fact, been used in the past and if those standards have been applied discriminatorily so that whites who did not meet them were registered and Negroes that did were not, then I think the proper course of action is to suspend those standards and get people registered without applying them.

So, I don't think that your proposal, that has the advantage of being simple, really solves the problem and I am afraid that it additionally has the disadvantage of another 2 years in court. It does not freeze out the possibilities of any tests in these areas; it does not freeze out the possibility of tests that would be designed to prevent Negroes from voting.

Mr. ASHMORE. It is going to have the possibility of—if the Supreme Court sets the precedent, there it is.

Mr. KATZENBACH. But the Supreme Court has set the precedent time and time again in the school cases and how many of them have been litigated? Every single one.

Mr. ASHMORE. If the Supreme Court says that a certain thing is a violation of voting rights, that is that, and the next man, the referee, would rule the same way; the Court would not even hear him the next time.

Mr. KATZENBACH. I wish that were true, Congressman; it has not been our experience.

The CHAIRMAN. Mr. Gilbert.

I am going to allow 3 minutes each to the next three members, not as a matter of race or creed.

Mr. GILBERT. Thank you, Mr. Chairman.

Mr. Attorney General, I don't wish to belabor the point, about political subdivisions, but in the State of New York there is a problem which would concern political subdivisions and I would like to have a definite statement from you on political subdivisions.

Mr. KATZENBACH. All right, Congressman, I'll be happy to provide that.

Mr. GILBERT. I wonder if we could have it on the record today, or would you prefer to provide that at a later date?

Mr. KATZENBACH. I attempted to make my general statement as to what a political subdivision is but I cannot apply that to New York without knowing more than I do about how the registration works.

Mr. GILBERT. In New York, we have a City Board of Elections and they have offices in each county. Also, as the chairman pointed out earlier in the hearing, I believe it was yesterday, we have assembly districts in which a person is elected to the New York State Legislature. We also have in these assembly districts election districts where there are registrars or members appointed by the Board of Elections to register people.

Now, that small compact unit of election districts, would that be considered a political subdivision?

Mr. KATZENBACH. Is each of these election districts run as a separate area for purposes of registration?

Mr. GILBERT. Yes; they are run as a separate area for purposes of registration, and, incidentally, they elect members of the county committee from that geographical area.

Mr. KATZENBACH. I think, Congressman, I would feel safer and perhaps you would feel safer if we examined the law in New York and made the judgment on the basis of that rather than on my understanding of your oral description of it. I could submit something for the record on that.

Mr. GILBERT. I appreciate it.

Also, you refer in section 3 of the bill, to Federal, State and local elections. Now, would that include election for a bond issue?

Mr. KATZENBACH. Yes.

Mr. GILBERT. Now, my bill, H.R. 4427. I have a definition. I spell out the word "election" on page 5, subdivision (b). I say:

"Election" means all elections, including those for Federal, State, or local office and including primary elections or any other voting process at which candidates or officials are chosen. "Election" shall also include any election at which a proposition or issue is to be decided.

Now, I have no pride of authorship but don't you think we should define in H.R. 6400 the term "election"?

Mr. KATZENBACH. I would certainly have no objection to it and I think it should be broadly defined.

The CHAIRMAN. Mr. Tenzer.

Mr. GILBERT. I have one other question, Mr. Chairman.

The CHAIRMAN. Make it brief, please.

Mr. GILBERT. My bill on page 5, section 6, says:

The requirement for payment of the poll tax as a prerequisite to vote in any election is hereby abolished.

Many leading scholars have told me and other Members of Congress that this provision is a constitutional provision, and I am just wondering if this provision were incorporated in your bill if you would have objection to its incorporation?

Mr. KATZENBACH. I have already expressed myself on that, Congressman.

The CHAIRMAN. The question has been answered.

I am going to recognize Mr. Tenzer.

Mr. TENZER. Thank you, Mr. Chairman. I just have one question.

Since you agree to define in the law the term "election", would you also agree to define the term "political subdivision", so there would be no question about that as one that regularly maintains a system for registering voters?

Mr. KATZENBACH. I think it might be a good idea to define political subdivision. I think the committee ought to consider giving it consideration.

Mr. TENZER. They do not maintain regularly established systems for voting throughout the year; they register only 1 week of the year and then send them on to the county voting board.

Mr. KATZENBACH. It was for that reason I was inclined to think in New York it might be the county.

The CHAIRMAN. The Chair will get advice from counsel.

Mr. Cahill.

Mr. CAHILL. About 60 percent voted for a President last year in New York. I believe nationwide, the percentage was approximately 60, or a little less.

Mr. KATZENBACH. Yes.

Mr. CAHILL. Do you have the figure as to how many were registered nationwide?

Mr. KATZENBACH. On the registration provision, we don't have it because we can't get registration figures from every State.

Mr. CAHILL. Is it fair to say in those States from which you could obtain the percentages, it is substantially higher than the percentage of those actually voting for the president in 1964?

Mr. KATZENBACH. Yes; it is higher.

Mr. CAHILL. In light of that, Mr. Attorney General, and so that this may be clear, and I think it would help us in our consideration of this part of the bill, would you explain the reasons why you would not elect to use a higher percentage than 50 percent in line 4 on page 2 of the bill? Could you tell us why you did not conclude that there should be a different percentage used in the registration test than in the voting test?

Mr. KATZENBACH. It does not make any difference. You see, we don't get accurate figures on registration; they are not reliable figures and that is really the reason.

Mr. CAHILL. Fair enough.

I have two more points.

The word "therein", first word on line 5, page 2. Can you tell us precisely what preceding words are encompassed by the word "therein"?

Mr. KATZENBACH. "Persons of voting age residing".

Mr. CAHILL. When you say "therein," do you mean in some particular area?

Mr. KATZENBACH. In a State or in a political subdivision.

Mr. CAHILL. Next question: Did you or other drafters consider the tests or devices in addition to the four specifically enumerated in subsection (b) on page 2?

Mr. KATZENBACH. We thought those were pretty all-inclusive, Congressman, since, for example, any attempt to test the ability to read, write, interpret, or understand, or to test knowledge, would be banned, no matter what form it took.

Mr. CAHILL. You considered others and rejected them?

Mr. KATZENBACH. We didn't know of others.

Mr. CAHILL. I am referring specifically to the question that has been mentioned heretofore about the findings of the Civil Rights Commission in 1963.

Mr. KATZENBACH. Those tricks, if you call them that, almost always associated with the test and devices.

Mr. CAHILL. Thank you, Mr. Chairman.

The CHAIRMAN. All right.

We thank you, Mr. Katzenbach, for your patience and the responses to the questions. I am sorry if we taxed you so much.

Mr. KATZENBACH. Thank you, Mr. Chairman. It is always a pleasure to be before this committee.

The CHAIRMAN. We will now adjourn until 2:30.

(Whereupon, at 1:18 p.m., a recess was taken until 2:30 p.m. of the same day.)

AFTER RECESS

(The committee reconvened at 2:30 p.m., Hon. Emanuel Celler, chairman of the committee, presiding.)

The CHAIRMAN. The committee will come to order. We have three witnesses this afternoon headed by Rev. Theodore M. Hesburgh, a member of the Civil Rights Commission, and distinguished president of Notre Dame University. Father Hesburgh, we will be very pleased to hear from you.

STATEMENT OF THE REVEREND THEODORE M. HESBURGH, MEMBER OF THE CIVIL RIGHTS COMMISSION AND PRESIDENT, NOTRE DAME UNIVERSITY, ACCOMPANIED BY MR. WILLIAM L. TAYLOR, STAFF DIRECTOR-DESIGNATE, CIVIL RIGHTS COMMISSION

Reverend HESBURGH. Thank you, Mr. Chairman and distinguished members of the committee.

My name is Theodore M. Hesburgh. I am president of Notre Dame University and a member of the U.S. Commission on Civil Rights. My feelings about the opportunity to testify before you today are far beyond those of appreciation. For 8 years I have served as a member of the Commission on Civil Rights.

During this period our Commission has been exposed time and again to the shameful facts that many American citizens have been denied their most basic rights of citizenship, the right to vote. No single issue has produced a greater consensus among our Commissioners.

I might add that from the beginning half our Commissioners have been from the South and there is no lack of consensus on this opinion.

We have long felt that if only the American people could be made as intensely aware as we have been of the wrongs that have been inflicted upon some of their fellow citizens, there would be quick and decisive remedial action.

That moment in our Nation's history appears to have come. And I believe all of us owe a debt of gratitude to President Johnson and his speech. The conscience of the Nation has been aroused and we are prepared to act upon our convictions. As an American citizen, I am proud to be sharing this moment with you.

The U.S. Commission on Civil Rights is charged with the duty to investigate denials of the right to vote to anyone by reason of race, color, religion, or national origin. In carrying out this statutory obligation the Commission has conducted extensive investigations in the field of voting since its establishment in 1957.

It held hearings on voting problems in Alabama in 1958–59, in Louisiana in 1960–61, and most recently in Jackson, Miss., this last February. In addition, State Advisory Committees of the Commission have held open meetings and heard complaints on voting prob-

lems. The transcript of these hearings and meetings runs into many thousands of pages.

The concern aroused by these investigations is evidenced by the fact that the Commission has issued three reports, addressed to the President and Congress, on voting and a fourth is in preparation. In 1959 the Commission found that there were discriminatory denials of the right to vote in certain States.

If recommended the establishment of Federal registrars to prevent such discrimination and three Commissioners recommended in 1959 the abolition of literacy tests. In 1961 it issued a second report, once more finding discriminatory denials and recommending that Congress enact legislation eliminating literacy tests.

In 1963 the Commission made the same findings and reiterated its recommendations for the appointment of Federal registrars and the elimination of literacy tests.

This time it also recommended that if these measures failed, Congress should take appropriate action to reduce congressional representation under section 2 of the 14th Amendment.

A summary of these recommendations for this from 1959 to 1961 and 1963 is submitted for the information of this committee.

(The document referred to follows:)

UNITED STATES COMMISSION ON CIVIL RIGHTS

RECOMMENDATIONS ON VOTING LEGISLATION AND SUMMARY OF RESULTING OR RELATED STATUTES

The U.S. Commission on Civil Rights was created by the Civil Rights Act of 1957. One of the Commission's duties has been to report and make recommendations to the President and Congress. Recommendations on voting were made in the Commission's 1959, 1961, and 1963 reports. These recommendations are set out in full below; each is followed by a summary of subsequent legislation following the outlines of the Commission recommendations or adopting alternative procedures to overcome the problem outlined.

1959 REPORT

Census

Recommendation No. 1.—The Commission found a general deficiency of information about nonvoting. It recommended that the "Bureau of the Census be authorized and directed to undertake, in connection with the census of 1960 or at the earliest possible time thereafter, a nationwide and territorial compilation of registration and voting statistics which shall include a count of individuals by race, color, and national origin who are registered, and a determination of the extent to which such individuals have voted since the prior decennial census."

This recommendation with certain alterations was enacted as Title VIII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(f).

Records

Recommendation No. 2.—The Commission found that the absence of uniform provision for the preservation and inspection of public voting records impeded investigation of alleged denials of the right to vote. It recommended that "Congress require that all State and Territorial registration and voting records shall be public records and must be preserved for a period of 5 years, during which time they shall be subject to public inspection, provided that all care be taken to preserve the secrecy of the ballot."

A provision was enacted as part of the Civil Rights Act of 1960 requiring that all records relating to Federal elections including application and registration records be preserved for 22 months after any Federal election to which they pertain, and be made available to the U.S. Attorney General upon his written demand. 42 U.S.C. § 1974 *et seq.*

Inaction of State Officials

Recommendation No. 3.—The Commission found that State officials failed to register voters by refusing to meet as required or by other inaction. It recommended that the Civil Rights Act of 1957 (42 U.S.C. 1971) be amended by insertion of the following paragraph:

"Nor shall any person or group of persons, under color of State law, arbitrarily and without legal justification or cause, act, or being under duty to act, fail to act, in such manner as to deprive or threaten to deprive any individual or group of individuals of the opportunity to register, vote and have that vote counted for any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegate or Commissioner for the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate."

A related provision was enacted in the Civil Rights Act of 1960, providing, at 42 U.S.C. 1971(c), that where registration officials resigned without leaving successors, Department of Justice litigation could be directed against the State.

Federal registrars

Recommendation No. 5.—The Commission found that substantial numbers of qualified citizens were being denied the right to register by State officials. It made the following recommendation: "Upon receipt by the President of the United States of sworn affidavits by nine or more individuals from any district, county, parish, or other political subdivision of a State, alleging that the affiants have unsuccessfully attempted to register with the duly constituted State registration office, and that the affiants believe themselves qualified under State law to be electors, but have been denied the right to register because of race, color, religion or national origin, the President shall refer such affidavits to the Commission on Civil Rights, if extended.

A. The Commission shall:

(1) Investigate the validity of the allegations.

(2) Dismiss such affidavits as prove, on investigation, to be unfounded.

(3) Certify any and all well-founded affidavits to the President and to such temporary registrar as he may designate.

B. The President upon such certification shall designate an existing Federal officer or employee in the area from which complaints are received, to act as a temporary registrar.

C. Such registrar-designate shall administer the State qualification laws and issue to all individuals found qualified, registration certificates which shall entitle them to vote for any candidate for the Federal offices of President, Vice President, presidential elector, Members of the Senate or Members of the House of Representatives, Delegates or Commissioners for the Territories or possessions, in any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

D. The registrar-designate shall certify to the responsible State registration officials the names and fact of registration of all persons registered by him. Such certification shall permit all such registrants to participate in Federal elections previously enumerated.

E. Jurisdiction shall be retained until such time as the President determines that the presence of the appointed registrar is no longer necessary."

The Civil Rights Act of 1960 provided that if a court finds a pattern or practice of discrimination at the conclusion of a law suit, it may appoint a referee to register voters. 42 U.S.C. 1971(c).

Voter qualifications

In 1959 three Commissioners recommended eliminating, by constitutional amendment, all State qualifications on the right to vote except requirements as to age, length of residence, and legal confinement.

No legislative action has yet been taken with respect to this proposal.

1961 REPORT

The Commission found that the application of voter qualification laws resulted in discriminatory denials of the right to vote. It made the following recommendations:

Voter qualifications

Recommendation No. 1.—"That Congress, acting under section 2 of the 15th amendment and sections 2 and 5 of the 14th amendment, (a) declare that voter qualifications other than age, residence, confinement, and conviction of a crime are susceptible of use, and have been used, to deny the right to vote on grounds of race and color; and (b) enact legislation providing that all citizens of the United States shall have a right to vote in Federal or State elections which shall not be denied or in any way abridged or interfered with by the United States or by any State for any cause except for inability to meet reasonable age or length-of-residence requirements uniformly applied to all persons within a State, legal confinement at the time of registration or election, or conviction of a felony; such right to vote to include the right to register or otherwise qualify to vote, and to have one's vote counted."

No legislative action has yet been taken upon this recommendation.

Literacy tests

Recommendation No. 2.—"That Congress enact legislation providing that in all elections in which, under State law, a 'literacy' test, an 'understanding' or 'interpretation' test, or an 'educational' test is administered to determine the qualifications of electors, it shall be sufficient for qualification that the elector have completed at least six grades of formal education."

The Civil Rights Act of 1964 provided at 42 U.S.C. § 1971(c) that in a voting suit by the Attorney General there would be a rebuttable presumption of sufficient literacy to vote in Federal elections for any person who had completed the sixth grade.

Inaction of State officials

Recommendation No. 3.—"That Congress amend subsection (b) of 42 U.S.C. 1971 to prohibit any arbitrary action or (where there is a duty to act) arbitrary inaction, which deprives or threatens to deprive any person of the right to register, vote, and have that vote counted in any Federal election."

No general legislative provision of this nature has yet been enacted. Certain types of arbitrary action by State officials, such as refusal to register voters for immaterial errors on application forms, have been prohibited by the Civil Rights Act of 1964. 42 U.S.C. § a(2).

Reapportionment of voting districts

Recommendation No. 4.—The Commission found that malapportionment of voting districts dilutes the right to vote of many citizens. It made the following recommendation: "That Congress consider the advisability of enacting legislation (a) requiring that where voting districts are established within a State, for either Federal elections or State elections to any house of a State legislature which is elected on the basis of population, they shall be substantially equal in population; and (b) specifically granting the Federal courts jurisdiction of suits to enforce the requirements of the Constitution and of Federal law with regard to such electoral districts; but explicitly providing that such jurisdiction should not be deemed to preclude the jurisdiction of State courts to enforce rights provided under State law regarding such districts."

The House Judiciary Committee voted, on March 1, 1965, to report favorably on H.R. 5505 providing that all congressional districts be drawn so as to vary no more than 15 percent from the average.

Census

Recommendation No. 5.—"That Congress direct the Bureau of the Census promptly to initiate a nationwide compilation of registration and voting statistics, to include a count of persons of voting age in every State and territory by race, color, and national origin, who are registered to vote, and a determination of the extent to which such persons have voted since January 1, 1960; and requiring that the Bureau of the Census compile such information in each next succeeding decennial census, and at such other time or times as the Congress may direct."

This provision, which reaffirmed recommendation No. 1 of the 1959 report noted above was enacted with certain alterations as Title VIII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(f).

1963 REPORT

The Commission found that there was continuing discriminatory denial of the right to vote and that existing remedies for discrimination were ineffective. It made the following recommendations:

Voter qualifications

Recommendation No. 1.—"That Congress, acting under section 2 of the 15th amendment and sections 2 and 5 of the 14th amendment (a) declare that voter qualifications other than age, residence, confinement, and conviction of a crime are susceptible of use, and have been used, to deny the right to vote on grounds of race and color; and (b) enact legislation providing that all citizens of the United States shall have a right to vote in Federal or State elections which shall not be denied or in any way abridged or interfered with by the United States or by any State for any cause except for inability to meet reasonable age or length-of-residence requirements uniformly applied to all persons within a State, failure to complete six grades of formal education or its equivalent, legal confinement at the time of registration or election, judicially determined mental disability, or conviction of a felony; such right to vote to include the right to register or otherwise qualify to vote, and to have one's vote counted."

No legislative action has yet been taken with respect to this recommendation. (See also recommendation 1, 1961.)

Registrars

Recommendation No. 2.—"That Congress enact legislation providing that upon receipt by the President of the United States of sworn affidavits by 10 or more individuals from any district, county, parish, or other political subdivision of a State, alleging that the affiants have unsuccessfully attempted to register with the duly constituted State registration office, and that the affiants believe themselves qualified under State law to be electors, but have been denied the right to register because of race, color, or national origin, the President shall refer such affidavits to such officer or agency of the United States as he shall designate.

A. Such officer or agency shall—

(1) Investigate the validity of the allegations.

(2) Dismiss such affidavits as proven, on investigation, to be unfounded.

(3) Certify any and all well-founded affidavits to the President and to such temporary registrar as he may designate.

B. The President upon such certification may designate an existing Federal officer or employee in the State from which complaints are received, to act as a temporary registrar.

C. Such registrar-designee shall administer the State qualification laws and issue to all individuals found qualified registration certificates which shall entitle them to vote in any Federal or State general, special, or primary election.

D. The registrar-designee shall certify to the responsible State registration officials the names and fact of registration of all persons registered by him. Such certification shall permit all such registrants to participate in the elections previously enumerated.

E. Jurisdiction shall be retained until such time as the President determines that the presence of the appointed registrar is no longer necessary."

No legislative action has yet been taken with respect to this recommendation. (See also recommendation 5, 1959.)

Enforcement of 14th amendment

Recommendation No. 3.—"That, if the steps previously recommended prove ineffective, Congress further act to assure the attainment of uniform suffrage qualifications as contemplated by section 2 of the 14th amendment, through enactment of legislation proportionately reducing the representation in the House of Representatives in those cases in which voter qualifications continue to be used as a device for denying the franchise to citizens on the grounds of race, color, or national origin."

No legislative action has yet been taken with respect to this recommendation.

The CHAIRMAN. Father Hesburgh, do you have separate recommendations? Do you want to make them a part of the record?

Reverend HESBURGH. Yes, sir. They are here.

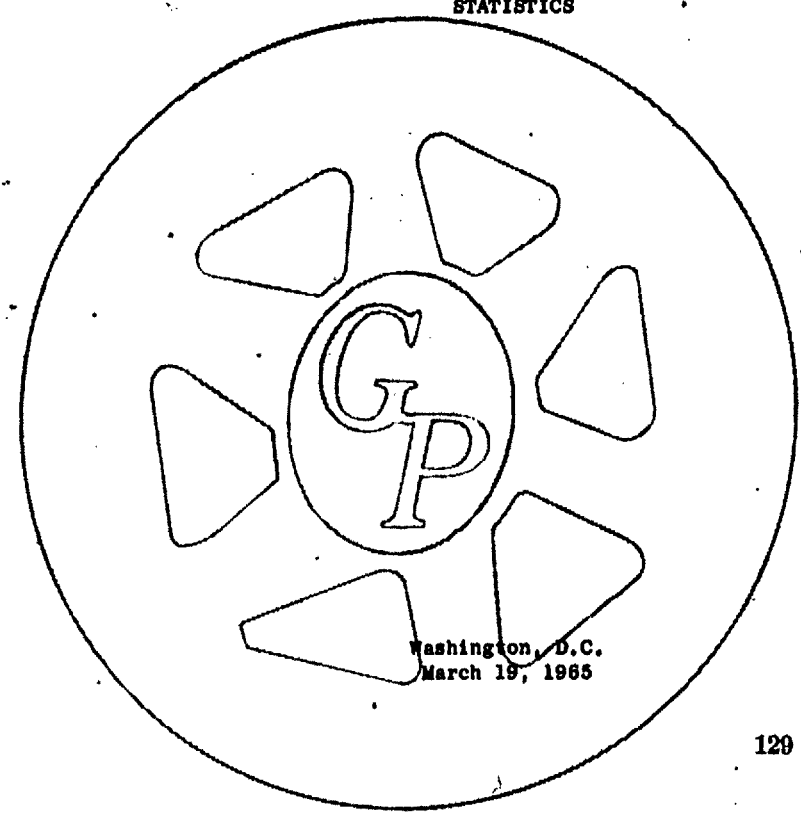
The CHAIRMAN. They will be made a part of the record. The voting statistics will also be made a part of the record.

(The document referred to follows:)

U.S. COMMISSION ON CIVIL RIGHTS

INFORMATION CENTER

REGISTRATION AND VOTING STATISTICS



Washington, D.C.
March 19, 1965

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INTRODUCTION

This compilation of registration and voting statistics is being published by the Information Center of the U.S. Commission on Civil Rights pursuant to the Commission's statutory function as a national clearinghouse for civil rights information. The figures reproduced here are those currently available in Commission files from official and unofficial sources. Since most states do not keep registration figures by race, more extensive information is not presently available.

In using or comparing these registration figures, the following should be observed:

The date of the registration figures must be taken into consideration. Such figures may change markedly between spring primary elections and the fall general election.

Current county population figures by race are not available. Accordingly, the county registration percentages given here are based on 1960 Census population figures. In general, the use of the 1960 population base leads to an overstatement of the registration percentage. In most cases the overstatement is relatively small. Census Bureau estimates of total statewide populations are available for November 1, 1964, and a comparative figure using this estimate is shown for each state.

Registration figures themselves vary widely in their accuracy. Even where official figures are available, registrars frequently fail to remove the names of dead or emigrated voters and thus, report figures which exceed the actual registration. Unofficial figures which come from a variety of sources are subject to even greater inaccuracies.

PERCENTAGE OF VOTING AGE POPULATION
VOTING IN 1964 PRESIDENTIAL ELECTION

	Estimated Voting Age Population November 1, 1964[1]	Total Presidential Vote, November 3, 1964[2]	Percent
Alabama[3][4]	1,915,000	689,818	36.0
Alaska[3]	138,000	67,259	48.7
Arizona[3]	879,000	480,770	54.7
Arkansas[4]	1,124,000	560,426	49.9
California[3]	10,916,000	7,057,586	64.7
Colorado	1,142,000	776,986	68.0
Connecticut[3]	1,698,000	1,218,578	71.8
Delaware[3]	283,000	201,320	71.1
Florida	3,516,000	1,854,481	52.7
Georgia[3]	2,636,000	1,139,352	43.2
Hawaii[3]	395,000	207,271	52.5
Idaho	386,000	292,477	75.8
Illinois	6,358,000	4,702,841	74.0
Indiana	2,826,000	2,091,606	74.0
Iowa	1,638,000	1,184,539	72.3
Kansas	1,323,000	857,901	64.8
Kentucky	1,976,000	1,046,105	52.9
Louisiana[3]	1,893,000	896,293	47.3
Maine[3]	581,000	380,965	65.6
Maryland	1,995,000	1,116,457	56.0
Massachusetts[3]	3,290,000	2,344,798	71.3
Michigan	4,647,000	3,203,102	68.9

PERCENTAGE OF VOTING AGE POPULATION VOTING IN 1964 PRESIDENTIAL ELECTION (Con't)

	Estimated Voting Age Population November 1, 1964[1]	Total Presidential Vote, November 3, 1964[2]	Percent
Minnesota	2,024,000	1,554,462	76.8
Mississippi[3][4]	1,243,000	409,146	32.9
Missouri	2,696,000	1,817,879	67.4
Montana	399,000	278,628	69.8
Nebraska	877,000	584,154	66.6
Nevada	244,000	135,433	55.5
New Hampshire[3]	396,000	288,093	72.8
New Jersey	4,147,000	2,846,770	68.6
New Mexico	514,000	327,615	63.7
New York[3]	11,330,000	7,166,203	63.2
North Carolina[3]	2,753,000	1,424,983	51.8
North Dakota	358,000	258,389	72.2
Ohio	5,960,000	3,969,196	66.6
Oklahoma	1,493,000	932,499	62.5
Oregon[3]	1,130,000	786,305	69.6
Pennsylvania	7,080,000	4,822,690	68.1
Rhode Island	568,000	390,078	68.7
South Carolina[3]	1,380,000	524,756	38.0
South Dakota	404,000	293,118	72.6
Tennessee	2,239,000	1,144,046	51.1
Texas[4]	5,922,000	2,626,811	44.4
Utah	522,000	401,413	76.9
Vermont	240,000	163,089	68.0
Virginia[3][4]	2,541,000	1,042,267	41.0
Washington[3]	1,759,000	1,258,374	71.5

PERCENTAGE OF VOTING AGE POPULATION VOTING IN 1964 PRESIDENTIAL ELECTION (Con't)

	Estimated Voting Age Population November 1, 1964[1]	Total Presidential Vote, November 3, 1964[2]	Percent
West Virginia	1,053,000	792,040	75.2
Wisconsin	2,391,000	1,691,815	70.8
Wyoming[3]	195,000	142,716	73.2
District of Columbia	517,000	198,597	38.4

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[1] U.S. Census Bureau news release dated September 8, 1964.

[2] Based on official vote totals reported to Congressional Quarterly by state government sources. Provided by Congressional Quarterly, Inc.

[3] Literacy test required for registration. Legislative Reference Service, Library of Congress, Voting Laws of the 50 States and the District of Columbia, 287-97 (May 18, 1964).

[4] Poll tax required for voting in State elections. Ibid.

ALABAMA (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Autauga				50.4
White	6,353	4,991	78.6	
Nonwhite	3,651	50	1.4	
Baldwin				78.9
White	22,236	20,021	90.0	
Nonwhite	4,527	1,100	24.3	
Barbour				57.6
White	7,338	7,107	96.9	
Nonwhite	5,787	450	7.8	
Bibb				98.3
White	5,807	7,192	100.+	
Nonwhite	1,990	475	23.9	
Blount				86.5
White	14,368	12,600	87.7	
Nonwhite	378	150	39.7	
Bullock				51.2
White	2,387	2,300	96.4	
Nonwhite	4,450	1,200	27.0	
Butler				56.8
White	8,363	7,239	86.6	
Nonwhite	4,820	248	5.1	
Calhoun				58.0
White	44,739	29,000	64.8	
Nonwhite	9,036	2,200	24.3	
Chambers				50.0
White	15,369	10,083	65.6	
Nonwhite	6,497	850	13.1	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Cherokee				72.2
White	8,537	6,438	75.4	
Nonwhite	782	288	36.8	
Chilton				59.7
White	12,861	8,139	63.3	
Nonwhite	1,947	700	36.0	
Choctaw				59.0
White	5,192	5,163	99.4	
Nonwhite	3,982	252	6.3	
Clarke				65.5
White	7,899	8,350	100.+	
Nonwhite	5,833	650	11.1	
Clay				90.1
White	6,470	6,342	98.0	
Nonwhite	926	320	34.6	
Cleburne				85.0
White	5,870	5,235	89.2	
Nonwhite	385	80	20.8	
Coffee				57.9
White	14,221	9,310	65.5	
Nonwhite	2,985	503	16.9	
Colbert				63.7
White	21,680	16,229	74.9	
Nonwhite	4,575	500	10.9	
Conecuh				50.1
White	5,907	4,385	74.2	
Nonwhite	3,635	400	11.0	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Coosa				69.2
White	4,201	3,800	90.5	
Nonwhite	1,794	350	19.5	
Covington				61.0
White	18,446	12,330	66.8	
Nonwhite	2,876	685	23.8	
Crenshaw				69.8
White	6,310	5,452	86.4	
Nonwhite	2,207	492	22.3	
Cullman				76.9
White	25,848	19,850	76.8	
Nonwhite	285	250	87.7	
Dale				54.9
White	14,861	8,864	59.6	
Nonwhite	2,743	794	28.9	
Dallas				33.1
White	14,400	9,463	65.7	
Nonwhite	15,115	320	2.1	
De Kalb				95.4
White	23,878	22,950	96.1	
Nonwhite	441	250	56.6	
Elmore				70.0
White	12,510	11,728	93.7	
Nonwhite	4,808	400	8.3	
Escambia				70.4
White	12,779	11,843	92.6	
Nonwhite	5,685	1,150	20.2	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Etowah				65.8
White	48,563	35,200	72.4	
Nonwhite	7,661	1,800	23.4	
Fayette				100.+
White	8,277	9,432	100.+	
Nonwhite	1,291	360	27.9	
Franklin				96.4
White	12,412	11,787	95.0	
Nonwhite	645	800	100.+	
Geneva				62.6
White	11,357	8,043	70.8	
Nonwhite	1,606	75	4.4	
Greene				[illegible]
White	1,649	2,305	100.+	
Nonwhite	5,001	275	5.5	
Hale				[illegible]
White	3,594	4,824	100.+	
Nonwhite	5,999	236	3.9	
Henry				63.5
White	5,165	4,958	96.1	
Nonwhite	3,168	503	15.9	
Houston				45.2
White	22,095	12,106	54.8	
Nonwhite	6,899	1,000	14.5	
Jackson				65.4
White	19,298	13,034	67.5	
Nonwhite	1,175	350	29.8	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Jefferson				41.6
White	256,319	130,804	50.9	
Nonwhite	116,160	23,992	20.7	
Lamar				100.+
White	7,503	8,580	100.+	
Nonwhite	1,027	300	29.2	
Lauderdale				65.3
White	31,089	21,600	69.5	
Nonwhite	3,726	1,200	32.2	
Lawrence				52.7
White	10,509	11,227	100.+	
Nonwhite	2,471	800	32.4	
Lee				60.6
White	17,547	11,384	64.9	
Nonwhite	8,913	1,995	22.5	
Limestone				65.0
White	16,173	11,221	69.4	
Nonwhite	3,579	750	20.9	
Lowndes				33.0
White	1,900	2,314	100.+	
Nonwhite	5,122	0	0.0	
Macon				49.0
White	2,818	3,733	100.+	
Nonwhite	11,886	3,479	29.2	
Madison				52.2
White	54,516	32,000	58.7	
Nonwhite	10,666	2,000	18.7	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Marengo				47.3
White	6,104	6,280	100.+	
Nonwhite	7,791	295	3.8	
Marion				57.0
White	12,656	7,050	55.7	
Nonwhite	403	400	99.2	
Marshall				79.8
White	26,997	21,925	81.2	
Nonwhite	637	125	19.6	
Mobile				48.0
White	121,589	69,795	57.4	
Nonwhite	50,793	12,917	25.4	
Monroe				63.7
White	6,631	7,017	100.+	
Nonwhite	4,894	325	6.6	
Montgomery				40.1
White	62,911	33,000	52.5	
Nonwhite	33,056	5,500	16.6	
Morgan				54.7
White	30,955	18,000	59.8	
Nonwhite	4,159	1,200	28.9	
Perry				38.1
White	3,441	3,006	87.4	
Nonwhite	5,202	289	5.7	
Pickens				59.3
White	7,336	6,511	88.7	
Nonwhite	4,373	438	10.0	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Pike				73.9
White	9,126	10,356	100.0	
Nonwhite	5,259	273	5.1	
Randolph				95.1
White	9,196	9,900	100.0	
Nonwhite	2,366	1,100	46.4	
Russell				34.2
White	13,761	7,520	54.6	
Nonwhite	10,531	800	7.6	
St. Clair				60.0
White	12,244	7,726	63.1	
Nonwhite	2,035	850	41.8	
Shelby				73.6
White	14,771	12,500	84.6	
Nonwhite	2,889	500	17.2	
Sumter				37.0
White	3,061	3,275	100.+	
Nonwhite	6,814	375	5.5	
Talladega				62.9
White	25,635	19,000	74.1	
Nonwhite	9,333	3,000	32.1	
Tallapoosa				77.7
White	15,310	14,880	97.2	
Nonwhite	4,999	903	18.0	
Tuscaloosa				51.3
White	47,076	26,000	55.2	
Nonwhite	15,332	6,000	39.1	

ALABAMA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Walker				75.1
White	28,148	21,602	76.7	
Nonwhite	2,890	1,710	59.2	
Washington				89.2
White	5,293	6,068	100.+	
Nonwhite (94.7% Negro)	2,297	700	30.5	
Wilcox				34.1
White	2,624	2,974	100.+	
Nonwhite	6,085	0	0.0	
Winston				100.+
White	8,559	10,354	100.+	
Nonwhite (94.8% Negro)	47	15	31.9	
Total by Color				
White	1,353,038	935,695	69.2	
Nonwhite	481,320	92,737	19.2	
TOTAL	1,834,358	1,028,432		56.0[3]

1. 1960 Census

2. Unofficial figures from the Birmingham News, May 3, 1964.

3. If the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 53.7.

ARKANSAS (1963)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Arkansas				64.1
White	10,589	7,316	69.1	
Nonwhite	2,809	1,271	45.2	
Ashley				63.8
White	9,012	6,822	75.7	
Nonwhite	4,258	1,650	38.8	
Baxter				77.1
White	6,584	5,080	77.2	
Nonwhite (0.0% Negro)	3	0	0.0	
Benton				59.4
White	23,309	13,872	59.5	
Nonwhite (19.3% Negro)	63	10	16.9	
Boone				67.4
White	10,414	7,022	67.4	
Nonwhite (50% Negro)	4	0	0.0	
Bradley				65.6
White	5,837	4,323	74.1	
Nonwhite	2,372	1,059	44.6	
Calhoun				90.9
White	2,496	2,442	97.8	
Nonwhite	1,056	785	74.3	
Carroll (60% Negro)				65.3
White	7,533	4,926	65.4	
Nonwhite	8	0	0.0	
Chicot				65.9
White	4,817	3,913	81.2	
Nonwhite	5,555	2,919	52.5	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Clark				[illegible]
White	9,419	6,048	64.2	
Nonwhite	2,725	1,095	40.2	
Clay				54.9
White	12,645	6,950	55.0	
Nonwhite (75% Negro)	3	0	0.0	
Cleburne				68.6
White	5,697	3,907	68.6	
Nonwhite	1	0	0.0	
Cleveland				77.1
White	3,246	2,699	83.1	
Nonwhite	832	445	53.5	
Columbia				54.5
White	10,646	6,907	64.9	
Nonwhite	4,808	1,509	31.4	
Conway				91.8
White	7,323	6,813	93.0	
Nonwhite	1,674	1,444	86.3	
Craighead				56.9
White	26,047	15,019	57.6	
Nonwhite	881	301	34.2	
Crawford				60.2
White	12,505	7,547	60.4	
Nonwhite	340	181	53.2	
Crittenden				38.7
White	10,569	7,299	69.0	
Nonwhite	12,871	1,777	13.8	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Cross				51.3
White	7,608	4,648	61.1	
Nonwhite	2,640	611	23.1	
Dallas				69.4
White	4,122	3,276	79.5	
Nonwhite	2,049	1,004	49.0	
Desha				65.2
White	6,103	4,670	76.5	
Nonwhite	4,802	2,445	50.9	
Drew				61.4
White	5,926	3,987	67.3	
Nonwhite	2,506	1,190	47.5	
Faulkner				80.1
White	12,850	10,731	83.5	
Nonwhite	1,246	560	44.9	
Franklin				73.8
White	6,363	4,691	73.7	
Nonwhite	63	48	76.2	
Fulton (0.0% Negro)				84.8
White	4,237	3,595	84.8	
Nonwhite	4	0	0.0	
Garland				70.9
White	27,811	19,495	70.1	
Nonwhite	2,964	2,317	78.2	
Grant				75.9
White	4,794	3,738	77.9	
Nonwhite	256	94	36.7	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Greene				60.8
White	14,835	9,022	60.8	
Nonwhite (82.4% Negro)	11	4	36.4	
Hempstead				62.7
White	8,333	5,970	71.6	
Nonwhite	3,717	1,581	42.5	
Hot Springs				68.7
White	11,267	8,110	72.0	
Nonwhite	1,584	720	45.5	
Howard				66.9
White	5,667	3,983	70.3	
Nonwhite	1,210	621	51.3	
Independence				62.3
White	12,386	7,840	63.3	
Nonwhite	321	75	23.4	
Izard				80.1
White	4,349	3,498	80.4	
Nonwhite	36	14	38.9	
Jackson				65.3
White	11,117	7,357	66.2	
Nonwhite	1,736	1,031	59.4	
Jefferson				56.3
White	27,284	17,462	64.0	
Nonwhite	17,505	7,733	44.2	
Johnson				69.5
White	7,715	5,373	69.6	
Nonwhite	137	82	59.9	
Lafayette				60.2
White	3,839	2,756	71.8	
Nonwhite	2,447	1,031	42.1	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lawrence				70.2
White	10,016	7,074	70.6	
Nonwhite (94.8% Negro)	112	40	35.7	
Lee				40.3
White	4,545	2,792	61.4	
Nonwhite	5,957	1,434	24.1	
Lincoln				56.8
White	4,619	3,114	67.4	
Nonwhite	3,579	1,541	43.1	
Little River				76.4
White	3,923	3,296	84.0	
Nonwhite	1,415	781	55.2	
Logan				62.8
White	10,290	6,518	63.3	
Nonwhite	163	45	27.6	
Lonoke				64.5
White	11,121	7,874	70.8	
Nonwhite	2,518	918	36.5	
Madison				70.2
White	5,552	3,900	70.2	
Nonwhite (37.5% Negro)	7	0	0.0	
Marion				79.4
White	3,938	3,129	79.4	
Nonwhite (33.3% Negro)	2	0	0.0	
Miller				59.8
White	14,327	9,290	64.8	
Nonwhite	4,290	1,848	43.1	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Mississippi				42.6
White	26,739	12,366	46.2	
Nonwhite	9,638	3,134	32.5	
Monroe				55.6
White	5,101	3,728	73.1	
Nonwhite	3,914	1,281	32.7	
Montgomery				81.1
White	3,372	2,750	81.5	
Nonwhite (87% Negro)	20	0	0.0	
Nevada				67.2
White	4,619	3,360	72.7	
Nonwhite	1,940	1,047	53.9	
Newton				78.7
White	3,403	2,680	78.8	
Nonwhite (12.5% Negro)	2	0	0.0	
Ouachita				66.3
White	12,021	8,756	72.8	
Nonwhite	6,163	3,298	53.5	
Perry				92.2
White	2,892	2,685	92.8	
Nonwhite	82	57	69.5	
Phillips				45.7
White	10,431	6,381	61.2	
Nonwhite	12,208	3,963	32.5	
Pike				70.2
White	4,786	3,395	70.9	
Nonwhite	188	98	52.1	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Poinsett				57.5
White	14,636	8,905	60.8	
Nonwhite	1,446	337	23.3	
Polk				66.5
White	7,686	5,116	66.6	
Nonwhite (0% Negro)	8	0	0.0	
Pope				67.8
White	12,431	8,584	69.0	
Nonwhite	370	90	24.3	
Prairie				68.0
White	5,179	3,728	71.9	
Nonwhite	938	429	45.7	
Pulaski				55.2
White	118,811	67,918	57.2	
Nonwhite	27,822	12,960	46.6	
Randolph				63.5
White	7,427	4,751	64.0	
Nonwhite	94	25	26.6	
St. Francis				52.1
White	7,963	5,613	70.5	
Nonwhite	8,403	2,920	34.8	
Saline				57.6
White	16,990	10,175	59.8	
Nonwhite	1,340	388	29.0	
Scott				72.7
White	4,625	3,320	71.8	
Nonwhite (28.6% Negro)	3	45	100.+	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Searcy				69.8
White	4,942	3,451	69.8	
Nonwhite (0% Negro)	1	0	0.0	
Sebastian				59.4
White	38,180	23,355	61.1	
Nonwhite	2,485	750	30.2	
Sevier				62.1
White	5,910	3,751	63.5	
Nonwhite	499	231	46.3	
Sharp				85.8
White	4,104	3,520	85.8	
Nonwhite (0% Negro)	0	0	0.0	
Stone				92.5
White	3,718	3,441	92.5	
Nonwhite (0% Negro)	1	0	0.0	
Union				61.2
White	21,725	15,133	69.7	
Nonwhite	7,590	2,799	36.9	
Van Buren				78.6
White	4,565	3,608	79.0	
Nonwhite	56	22	39.3	
Washington				51.9
White	33,359	17,448	52.3	
Nonwhite (82% Negro)	311	12	3.9	
White				66.4
White	19,172	12,782	66.7	
Nonwhite	659	381	57.8	

ARKANSAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Woodruff				61.6
White	4,838	3,528	73.0	
Nonwhite	2,652	1,083	40.8	
Yell				75.5
White	7,395	5,622	76.0	
Nonwhite	253	150	59.3	
Total by Color				
White	850,643	555,944	65.4	
Nonwhite	192,626	77,714	40.3	
TOTAL	1,043,269	633,658		60.7[3]

1. 1960 Census

2. Official figures. Arkansas had no permanent registration prior to 1965. County registration figures represent sales of poll tax receipts, as reported by the State Auditor, as of October 1963.

3. 1964 figures show 63.8% of the voting age population registered. This is based on 1,124,000, the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964), and 717,537, the official 1964 registration figure reported by the State Auditor as of October, 1964.

FLORIDA (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Alachua				64.2
White	30,555	21,534	70.5	
Nonwhite	9,898	4,421	44.7	
Baker				100.+
White	3,203	3,439	100.+	
Nonwhite	807	569	70.5	
Bay				68.0
White	31,940	21,634	67.7	
Nonwhite	4,964	3,473	70.0	
Bradford				79.2
White	5,580	4,714	84.5	
Nonwhite	1,345	772	57.4	
Brevard				80.9
White	58,433	49,977	85.5	
Nonwhite	6,494	2,570	39.6	
Broward				76.9
White	189,517	153,175	80.8	
Nonwhite	27,009	13,430	49.7	
Calhoun				100.+
White	3,434	4,606	100.+	
Nonwhite	582	440	75.6	
Charlotte				100.+
White	8,659	9,652	100.+	
Nonwhite	427	294	68.9	
Citrus				100.+
White	5,174	5,598	100.+	
Nonwhite	829	548	66.1	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Clay				84.3
White	9,508	8,084	85.0	
Nonwhite	1,276	1,008	79.0	
Collier				78.3
White	8,163	6,970	85.4	
Nonwhite (92.8% Negro)	1,364	489	35.9	
Columbia				96.9
White	8,092	8,552	100.+	
Nonwhite	3,122	2,309	74.0	
Dade				69.3
White	537,448	383,304	71.3	
Nonwhite	75,573	41,634	55.1	
De Soto				62.0
White	6,239	4,123	65.0	
Nonwhite	1,343	640	47.7	
Dixie				100.+
White	2,138	2,861	100.+	
Nonwhite	363	375	100.+	
Duval				63.8
White	203,804	130,285	63.9	
Nonwhite	58,430	36,972	63.3	
Escambia				68.9
White	76,688	54,151	70.6	
Nonwhite	18,041	11,075	61.4	
Flagler				81.7
White	1,789	1,860	100.+	
Nonwhite	846	294	34.8	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Franklin				100.+
White	3,186	3,510	100.+	
Nonwhite	779	585	75.1	
Gadsden				39.4
White	11,711	8,015	68.4	
Nonwhite	12,261	1,425	11.6	
Gilchrist				100.+
White	1,513	1,721	100.+	
Nonwhite	154	97	62.9	
Glades				79.3
White	1,061	1,142	100.+	
Nonwhite (82.8% Negro)	741	287	38.7	
Gulf				90.0
White	4,196	4,063	96.8	
Nonwhite	1,138	737	64.7	
Hamilton				92.2
White	2,486	2,729	100.+	
Nonwhite	1,621	1,056	65.1	
Hardee				82.1
White	6,734	5,635	83.7	
Nonwhite	552	348	63.0	
Hendry				93.1
White	3,430	3,499	100.+	
Nonwhite(90.3% Negro)	1,180	794	67.3	
Hernando				88.7
White	5,689	5,387	94.7	
Nonwhite	1,151	679	59.0	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Highlands				90.1
White	10,997	10,591	96.3	
Nonwhite	2,251	1,352	60.1	
Hillsborough				67.8
White	213,950	147,270	68.8	
Nonwhite	31,114	18,876	60.7	
Holmes				100.+
White	6,131	6,511	100.+	
Nonwhite	249	185	74.3	
Indian River				75.6
White	13,182	10,672	80.9	
Nonwhite	2,637	1,292	49.0	
Jackson				76.5
White	14,087	11,518	81.7	
Nonwhite	5,390	3,382	62.7	
Jefferson				61.8
White	2,383	2,443	100.+	
Nonwhite	2,600	638	24.5	
Lafayette				100.+
White	1,536	1,889	100.+	
Nonwhite	152	-0-	-0-	
Lake				67.4
White	30,535	22,972	75.2	
Nonwhite	6,438	1,948	30.3	
Lee				77.8
White	30,363	25,979	85.6	
Nonwhite	4,677	1,270	27.2	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Leon				66.9
White	28,241	20,783	73.6	
Nonwhite	12,322	6,334	51.4	
Levy				89.2
White	4,483	4,857	100.+	
Nonwhite	1,568	543	34.6	
Liberty				100.+
White	1,525	2,104	100.+	
Nonwhite	240	-0-	-0-	
Madison				83.7
White	4,380	4,632	100.+	
Nonwhite	3,067	1,602	52.2	
Manatee				71.8
White	42,291	31,696	74.9	
Nonwhite	5,278	2,444	46.3	
Marion				81.2
White	21,001	18,215	86.7	
Nonwhite	9,283	6,377	68.7	
Martin				88.9
White	9,291	8,752	94.2	
Nonwhite	1,753	1,062	60.6	
Monroe				63.7
White	25,512	15,922	62.4	
Nonwhite	2,919	2,189	75.0	
Nassau				82.3
White	7,054	6,039	85.6	
Nonwhite	2,076	1,474	71.0	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Okaloosa				74.4
White	30,816	23,334	75.7	
Nonwhite (94.7% Negro)	2,097	1,138	54.3	
Okeechobee				100.+
White	2,870	3,063	100.+	
Nonwhite	533	394	73.9	
Orange				61.4
White	137,780	89,582	65.0	
Nonwhite	21,771	8,381	38.5	
Osceola				80.7
White	11,697	9,836	84.1	
Nonwhite	1,122	508	45.3	
Palm Beach				74.0
White	119,342	99,123	83.1	
Nonwhite	29,541	11,035	37.4	
Pasco				88.5
White	22,329	20,820	93.2	
Nonwhite	2,391	1,052	44.0	
Pinellas				72.2
White	255,369	189,134	74.1	
Nonwhite	18,121	8,462	46.7	
Polk				65.5
White	97,314	67,362	69.2	
Nonwhite	19,224	9,010	46.9	
Putnam				59.3
White	13,095	9,054	69.1	
Nonwhite	5,089	1,722	33.8	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
St. Johns				73.2
White	13,771	10,919	79.3	
Nonwhite	4,331	2,329	53.7	
St. Lucie				67.9
White	17,238	13,791	80.0	
Nonwhite	6,527	2,338	35.8	
Santa Rosa				80.00
White	14,710	12,322	83.8	
Nonwhite (93.3% Negro)	1,082	789	72.9	
Sarasota				70.4
White	49,533	36,620	73.9	
Nonwhite	4,125	1,161	28.1	
Seminole				58.5
White	24,372	16,017	65.7	
Nonwhite	7,050	2,377	33.7	
Sumter				87.5
White	5,396	5,168	95.8	
Nonwhite	1,523	889	58.4	
Suwannee				93.7
White	6,409	6,970	100.+	
Nonwhite	2,149	1,046	48.7	
Taylor				94.6
White	5,454	5,911	100.+	
Nonwhite	1,724	876	50.8	
Union				60.1
White	2,880	2,254	78.3	
Nonwhite	1,082	128	11.8	

FLORIDA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Volusia				74.7
White	74,209	57,701	77.8	
Nonwhite	11,615	6,428	55.3	
Wakulla				100.+
White	2,130	2,603	100.+	
Nonwhite	753	552	73.3	
Walton				98.1
White	7,958	8,050	100.+	
Nonwhite	1,086	820	75.5	
Washington				100.+
White	5,364	5,800	100.+	
Nonwhite	1,021	892	87.4	
TOTAL BY COLOR				
White	2,617,438	1,958,499	74.8	
Nonwhite	470,306	240,616	51.2	
TOTAL	3,087,744	2,199,115		71.2[3]

1. 1960 Census

2. Official figures. Official publication of the Secretary of State of Florida, In the Capitol, May, 1964. Figures are listed as white and colored.

3. If the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 62.5.

GEORGIA (1962)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Appling				100.+
White	5,862	7,705	100.+	
Nonwhite	1,401	1,359	97.0	
Atkinson				96.7
White	2,486	2,498	100.+	
Nonwhite	812	692	85.2	
Bacon				100.+
White	4,203	6,184	100.+	
Nonwhite	536	101	18.8	
Baker				68.3
White	1,139	1,631	100.+	
Nonwhite	1,285	24	1.9	
Baldwin				26.9
White	16,109	5,353	33.3	
Nonwhite	9,235	1,477	16.0	
Banks				91.7
White	3,850	3,696	96.0	
Nonwhite	213	30	14.1	
Barrow				67.0
White	7,865	5,848	74.4	
Nonwhite	1,332	312	23.4	
Bartow				71.8
White	14,942	11,239	75.2	
Nonwhite	2,393	1,208	50.5	
Ben Hill				48.2
White	5,931	3,292	55.5	
Nonwhite	2,436	740	30.4	
Berrien				78.9
White	6,179	5,078	82.2	
Nonwhite	964	561	58.2	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Bibb				86.5
White	60,429	26,827	44.4	
Nonwhite	26,812	5,042	18.8	
Bleckley				57.4
White	4,528	3,346	73.9	
Nonwhite	1,380	45	3.3	
Brantley				100.+
White	2,854	3,500	100.+	
Nonwhite	384	265	69.0	
Brooke				40.8
White	5,059	3,097	61.2	
Nonwhite	3,711	445	12.0	
Bryan				82.0
White	2,289	1,972	86.2	
Nonwhite	1,111	817	73.5	
Bulloch				63.6
White	10,101	7,780	77.0	
Nonwhite	4,337	1,403	32.3	
Burke				37.3
White	4,358	3,664	84.1	
Nonwhite	6,600	427	6.5	
Butts				100.+
White	3,195	4,086	100.+	
Nonwhite	2,099	1,582	75.4	
Calhoun				45.2
White	1,654	1,685	100.+	
Nonwhite	2,393	145	6.0	
Camden				65.5
White	3,447	2,428	70.4	
Nonwhite	2,059	1,176	57.1	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Candler				100.+
White	2,714	2,989	100.+	
Nonwhite	1,200	1,066	88.8	
Carroll				55.1
White	19,234	11,789	61.3	
Nonwhite	3,595	797	22.2	
Catoosa				63.4
White	12,370	7,876	63.7	
Nonwhite	172	73	42.4	
Charlton				45.0
White	2,077	1,096	52.8	
Nonwhite	810	204	25.2	
Chatham				39.9
White	78,118	36,072	46.2	
Nonwhite	37,563	10,068	26.8	
Chattahoochee				3.6
White	8,061	338	4.2	
Nonwhite (94.2% Negro)	1,830	17	0.9	
Chattooga				77.2
White	11,460	8,733	76.2	
Nonwhite	1,025	906	88.4	
Cherokee				100.+
White	13,964	14,300	100.+	
Nonwhite	517	325	62.9	
Clarke				33.8
White	23,895	8,907	37.3	
Nonwhite	6,740	1,451	21.5	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Clay				40.8
White	1,130	900	79.6	
Nonwhite	1,441	150	10.4	
Clayton				59.1
White	23,996	15,094	62.9	
Nonwhite	2,456	544	22.1	
Clinch				72.5
White	2,373	2,293	96.6	
Nonwhite	1,256	339	27.0	
Cobb				46.3
White	63,291	29,622	46.8	
Nonwhite	4,568	1,808	39.6	
Coffee				79.0
White	9,682	8,000	82.6	
Nonwhite	2,977	2,000	67.2	
Colquitt				62.2
White	15,982	11,362	71.1	
Nonwhite	4,081	1,117	27.4	
Columbia				63.3
White	5,096	4,061	79.7	
Nonwhite	2,364	659	27.9	
Cook				86.1
White	5,213	5,400	100.+	
Nonwhite	1,755	600	34.2	
Coweta				61.3
White	11,891	9,108	76.6	
Nonwhite	5,579	1,594	28.6	
Crawford				52.6
White	1,596	1,403	87.9	
Nonwhite	1,611	284	17.6	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Crisp				58.9
White	6,451	5,179	80.3	
Nonwhite	3,858	890	23.1	
Dade				84.7
White	4,803	4,100	85.4	
Nonwhite	70	26	37.1	
Dawson				85.4
White	2,148	1,835	85.4	
Nonwhite	1	0	0.0	
Decatur				60.7
White	9,070	7,841	86.4	
Nonwhite	5,515	1,016	18.4	
De Kalb				41.5
White	148,167	64,450	43.5	
Nonwhite	12,407	2,153	17.4	
Dodge				100.+
White	7,392	8,794	100.+	
Nonwhite	2,328	2,180	93.6	
Dooly				77.2
White	3,581	4,252	100.+	
Nonwhite	2,866	722	25.2	
Dougherty				42.0
White	29,897	13,700	45.8	
Nonwhite	14,163	4,800	33.9	
Douglas				95.4
White	8,595	8,489	98.8	
Nonwhite	1,268	916	72.2	
Early				54.7
White	4,013	3,729	92.9	
Nonwhite	3,277	261	8.0	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Echols				79.5
White	832	838	100.+	
Nonwhite	246	19	7.7	
Effingham				48.7
White	4,008	2,618	65.3	
Nonwhite	1,756	188	10.7	
Elbert				89.4
White	7,752	8,787	100.+	
Nonwhite	3,127	934	29.9	
Emanuel				93.7
White	7,627	7,864	100.+	
Nonwhite	3,005	2,098	69.8	
Evans				66.5
White	2,738	2,206	80.6	
Nonwhite	1,308	483	36.9	
Fannin				100.+
White	8,111	8,649	100.+	
Nonwhite	31	18	58.1	
Fayette				58.3
White	3,585	2,760	77.0	
Nonwhite	1,190	26	2.2	
Floyd				51.4
White	38,230	21,045	55.0	
Nonwhite	5,949	1,653	27.8	
Forsyth				73.9
White	7,328	5,418	73.9	
Nonwhite	4	0	0.0	
Franklin				90.6
White	7,611	7,500	98.5	
Nonwhite	776	100	12.9	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Fulton				39.8
White	247,892	109,262	44.1	
Nonwhite	117,049	36,834	30.6	
Gilmer				75.6
White	5,431	4,106	75.6	
Nonwhite (88.9% Negro)	7	4	57.1	
Glascock				78.7
White	1,281	1,283	100.+	
Nonwhite	351	1	0.3	
Glynn				38.5
White	18,750	7,701	41.1	
Nonwhite	6,762	2,133	31.5	
Gordon				72.2
White	11,441	8,423	73.6	
Nonwhite	669	321	48.0	
Grady				44.6
White	7,205	4,080	56.6	
Nonwhite	3,364	629	18.7	
Greene				64.0
White	3,565	2,665	74.8	
Nonwhite	2,998	1,538	51.3	
Gwinnett				83.9
White	24,299	20,628	84.9	
Nonwhite	1,841	1,301	70.7	
Habersham				75.2
White	10,676	8,223	77.0	
Nonwhite	518	200	38.6	
Hall				45.6
White	27,726	13,174	47.5	
Nonwhite	2,789	733	26.3	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Hancock				42.8
White	1,727	1,409	81.6	
Nonwhite	3,576	853	24.0	
Haralson				81.9
White	8,571	7,162	83.6	
Nonwhite	642	384	59.8	
Harris				56.2
White	3,310	3,340	100.+	
Nonwhite	3,102	263	8.5	
Hart				67.9
White	7,382	5,978	81.0	
Nonwhite	1,832	281	15.3	
Heard				81.4
White	2,661	2,321	87.2	
Nonwhite	590	325	55.1	
Henry				96.3
White	6,429	7,225	100.+	
Nonwhite	3,539	2,377	67.2	
Houston				37.4
White	17,742	7,799	44.0	
Nonwhite	4,228	413	9.8	
Irwin				89.5
White	3,759	3,500	93.1	
Nonwhite	1,602	1,300	81.1	
Jackson				61.4
White	10,228	6,679	65.3	
Nonwhite	1,309	408	31.2	
Jasper				74.3
White	1,925	2,044	100.+	
Nonwhite	1,705	653	38.3	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Jeff Davis				100.+
White	4,116	6,130	100.+	
Nonwhite	909	56	6.2	
Jefferson				44.6
White	4,937	4,050	82.0	
Nonwhite	4,780	283	5.9	
Jenkins				68.2
White	2,985	2,837	95.0	
Nonwhite	2,210	704	32.0	
Johnson				73.6
White	3,455	3,208	92.9	
Nonwhite	1,261	262	20.8	
Jones				72.2
White	2,655	2,570	96.8	
Nonwhite	2,185	923	42.2	
Lamar				74.0
White	4,078	3,590	88.0	
Nonwhite	2,118	992	46.8	
Lanier				73.9
White	2,158	1,794	83.1	
Nonwhite	756	359	47.5	
Laurens				60.7
White	13,178	9,590	72.8	
Nonwhite	6,248	2,231	35.5	
Lee				38.5
White	1,427	1,210	84.8	
Nonwhite	1,795	29	1.6	
Liberty				47.3
White	5,310	2,000	37.7	
Nonwhite	3,176	2,014	63.1	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lincoln				73.7
White	1,974	2,437	100.+	
Nonwhite	1,336	3	0.2	
Long				100.+
White	1,527	2,201	100.+	
Nonwhite	635	1,061	100.+	
Lowndes				36.2
White	20,746	8,943	43.1	
Nonwhite	8,459	1,637	19.4	
Lumpkin				64.0
White	4,500	2,886	64.1	
Nonwhite	79	43	54.4	
McDuffie				58.3
White	4,625	4,046	87.5	
Nonwhite	2,740	251	9.2	
McIntosh				75.4
White	1,643	1,396	85.0	
Nonwhite	1,823	1,219	66.9	
Macon				48.2
White	3,171	3,052	96.2	
Nonwhite	4,077	443	10.9	
Madison				66.8
White	5,962	4,588	77.0	
Nonwhite	989	55	5.6	
Marion				52.8
White	1,353	1,508	100.+	
Nonwhite	1,609	55	3.4	
Meriwether				47.3
White	6,547	4,508	68.9	
Nonwhite	4,990	950	19.0	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Miller				79.8
White	3,095	3,220	100.+	
Nonwhite	946	6	0.6	
Mitchell				75.3
White	6,055	7,928	100.+	
Nonwhite	4,971	375	7.5	
Monroe				74.7
White	3,607	3,938	100.+	
Nonwhite	2,652	738	27.8	
Montgomery				81.4
White	2,520	2,385	94.6	
Nonwhite	1,288	715	55.5	
Morgan				41.9
White	3,415	1,576	46.1	
Nonwhite	2,469	892	36.1	
Murray				72.6
White	6,209	4,520	72.8	
Nonwhite	51	27	52.9	
Muscogee				33.3
White	74,662	27,595	37.0	
Nonwhite	22,549	4,801	21.3	
Newton				53.0
White	9,045	5,883	65.0	
Nonwhite	3,767	901	23.9	
Oconee				61.6
White	3,228	2,317	71.8	
Nonwhite	681	89	13.1	
Oglethorpe				64.7
White	2,964	2,763	93.2	
Nonwhite	1,709	259	15.2	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Paulding				100.+
White	7,353	7,626	100.+	
Nonwhite	603	543	90.0	
Peach				39.2
White	3,650	2,539	69.6	
Nonwhite	4,562	679	14.9	
Pickens				95.4
White	5,264	5,124	97.3	
Nonwhite	251	140	55.8	
Pierce				76.5
White	4,432	3,876	87.5	
Nonwhite	1,135	380	33.5	
Pike				71.4
White	2,584	2,520	97.5	
Nonwhite	1,643	496	30.2	
Polk				67.9
White	15,065	10,490	69.6	
Nonwhite	2,445	1,395	57.1	
Pulaski				67.0
White	3,018	3,020	100.+	
Nonwhite	1,843	235	12.8	
Putnam				63.7
White	2,297	2,303	100.+	
Nonwhite	2,204	563	25.5	
Quitman				64.5
White	581	793	100.+	
Nonwhite	707	38	5.3	
Rabun				100.+
White	4,392	5,089	100.+	
Nonwhite	43	29	67.4	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Randolph				44.6
White	2,878	2,495	86.7	
Nonwhite	3,663	423	11.6	
Richmond				38.1
White	61,315	26,097	42.6	
Nonwhite	24,785	6,747	27.2	
Rockdale				86.4
White	4,708	4,641	98.6	
Nonwhite	1,512	731	48.3	
Schley				55.1
White	961	893	92.9	
Nonwhite	903	134	14.8	
Screven				53.0
White	4,557	3,530	77.5	
Nonwhite	3,729	863	23.1	
Seminole				90.0
White	2,648	3,500	100.+	
Nonwhite	1,255	11	0.9	
Spalding				49.1
White	16,657	9,370	56.3	
Nonwhite	5,252	1,391	26.5	
Stephens				78.3
White	9,975	8,242	82.6	
Nonwhite	1,355	627	46.3	
Stewart				43.2
White	1,465	1,656	100.+	
Nonwhite	2,681	136	5.1	
Sumter				43.1
White	7,730	5,681	73.5	
Nonwhite	6,710	548	8.2	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Talbot				42.3
White	1,437	1,448	100.+	
Nonwhite	2,507	219	8.7	
Taliaferro				89.1
White	917	946	100.+	
Nonwhite	1,073	828	77.2	
Tattnall				75.5
White	7,377	6,630	89.9	
Nonwhite	3,135	1,310	41.8	
Taylor				69.8
White	2,767	2,940	100.+	
Nonwhite	2,004	389	19.4	
Telfair				61.0
White	4,938	3,959	80.2	
Nonwhite	2,087	325	15.6	
Terrell				42.7
White	3,038	2,935	96.6	
Nonwhite	4,057	98	2.4	
Thomas				48.0
White	13,179	8,422	63.9	
Nonwhite	7,644	1,579	20.7	
Tift				56.8
White	10,211	6,681	65.4	
Nonwhite	3,513	1,113	31.7	
Toombs				64.2
White	7,513	5,962	79.4	
Nonwhite	2,444	431	17.6	
Towns				100.+
White	2,942	3,514	100.+	
Nonwhite	1	0	0.0	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Treutlen				78.0
White	2,473	2,638	100.+	
Nonwhite	968	45	4.6	
Troup				46.3
White	20,579	11,759	57.1	
Nonwhite	8,577	1,732	20.2	
Turner				80.6
White	3,422	3,530	100.+	
Nonwhite	1,535	464	30.2	
Twiggs				46.0
White	1,969	1,698	86.2	
Nonwhite	2,255	246	10.9	
Union				100.+
White	3,957	5,662	100.+	
Nonwhite	1	0	0.0	
Upson				47.8
White	11,159	6,404	57.4	
Nonwhite	3,615	655	18.1	
Walker				93.0
White	26,511	24,928	94.0	
Nonwhite	1,388	1,019	73.4	
Walton				54.9
White	9,392	6,381	67.9	
Nonwhite	3,076	458	14.9	
Ware				72.2
White	15,671	12,365	78.9	
Nonwhite	4,763	2,391	50.2	
Warren				44.2
White	1,911	1,640	85.8	
Nonwhite	2,224	188	8.4	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Washington				62.9
White	5,373	5,269	98.1	
Nonwhite	5,451	1,542	28.3	
Wayne				79.2
White	8,204	7,171	87.4	
Nonwhite	1,878	809	43.1	
Webster				44.3
White	775	766	98.8	
Nonwhite	975	9	0.9	
Wheeler				90.7
White	2,236	2,302	100.+	
Nonwhite	824	474	57.5	
White				100.+
White	4,047	4,220	100.+	
Nonwhite	169	242	100.+	
Whitfield				71.1
White	24,437	17,259	70.6	
Nonwhite	1,085	898	82.7	
Wilcox				71.6
White	3,309	3,059	92.4	
Nonwhite	1,282	230	17.9	
Wilkes				59.8
White	3,621	3,529	97.5	
Nonwhite	3,101	493	15.9	
Wilkinson				63.8
White	3,135	3,041	97.0	
Nonwhite	2,279	411	18.0	

GEORGIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Worth				67.6
White	5,324	5,855	100.+	
Nonwhite	3,776	296	7.8	
TOTAL BY COLOR				
White	1,797,062	1,124,415	62.6	
Nonwhite	612,910	167,663	27.4	
TOTAL	2,409,972	1,292,078	53.6[3]	

1. 1960 Census.

2. Unofficial figures. Published by Atlanta Journal and Constitution, April 28, 1963 representing registration as of December 1962.

3. If the estimated total population as of November 1, 1964, (published by U. S. Bureau of Census in news release dated September 8, 1964) were used as a base, this percentage would be 49.0.

LOUISIANA (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Acadia				88.2
White	22,399	20,187	90.1	
Nonwhite	4,557	3,580	78.6	
Allen				95.9
White	8,357	8,343	99.8	
Nonwhite	2,310	1,884	81.6	
Ascension				78.8
White	10,110	8,808	87.1	
Nonwhite	4,171	2,448	58.7	
Assumption				77.6
White	5,877	5,141	87.5	
Nonwhite	3,237	1,933	59.7	
Avoyelles				72.5
White	15,845	13,157	83.0	
Nonwhite	4,717	1,756	37.2	
Beauregard				83.0
White	8,682	7,936	91.4	
Nonwhite	2,145	1,048	48.9	
Bienville				57.7
White	5,617	5,007	89.1	
Nonwhite	4,077	584	14.3	
Bossier				50.9
White	23,696	14,934	63.0	
Nonwhite	6,847	599	8.7	
Caddo				52.0
White	87,774	62,362	71.0	
Nonwhite	41,749	4,954	11.9	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Calcasieu				70.8
White	62,987	46,918	74.5	
Nonwhite	14,924	8,213	55.0	
Caldwell				82.9
White	3,843	3,786	98.5	
Nonwhite	1,161	361	31.1	
Cameron				92.5
White	3,642	3,400	93.4	
Nonwhite	239	190	79.5	
Catahoula				71.6
White	4,110	4,080	99.3	
Nonwhite	1,919	236	12.3	
Claiborne				40.5
White	6,415	5,229	81.5	
Nonwhite	5,032	96	1.9	
Concordia				57.5
White	5,963	5,505	92.3	
Nonwhite	4,582	563	12.3	
De Soto				50.2
White	6,543	5,830	89.1	
Nonwhite	6,753	849	12.6	
East Baton Rouge				70.3
White	87,985	75,773	86.1	
Nonwhite	36,908	11,990	32.5	
East Carroll				28.9
White	2,990	1,939	64.8	
Nonwhite	4,183	136	3.3	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
East Feliciana				22.2
White	7,043	2,726	38.7	
Nonwhite	6,081	182	3.0	
Evangeline				100.+
White	13,652	14,055	100.+	
Nonwhite	3,342	3,136	93.8	
Franklin				58.4
White	8,954	7,540	84.2	
Nonwhite	4,433	284	6.4	
Grant				86.3
White	6,080	5,966	98.1	
Nonwhite	1,553	618	39.8	
Iberia				80.4
White	20,200	17,670	87.5	
Nonwhite	7,165	4,336	60.5	
Iberville				65.8
White	8,733	7,422	85.0	
Nonwhite	7,060	2,971	42.1	
Jackson				80.1
White	6,607	6,078	91.9	
Nonwhite	2,535	1,244	49.1	
Jefferson				83.7
White	98,103	86,430	88.1	
Nonwhite	14,970	8,177	54.6	
Jefferson Davis				73.6
White	12,892	10,056	78.0	
Nonwhite	2,881	1,549	53.7	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lafayette				84.7
White	35,513	32,253	90.8	
Nonwhite	9,473	5,863	61.9	
La Fourche				92.8
White	25,737	24,788	96.3	
Nonwhite	3,078	1,963	63.8	
La Salle				94.6
White	6,799	6,961	100.+	
Nonwhite	849	272	32.0	
Lincoln				53.8
White	9,611	6,937	72.2	
Nonwhite	5,723	1,314	23.0	
Livingston				100.+
White	12,306	13,156	100.+	
Nonwhite	1,818	1,419	78.1	
Madison				32.4
White	3,334	2,467	74.0	
Nonwhite	5,181	294	5.7	
Morehouse				46.7
White	10,311	7,690	74.6	
Nonwhite	7,208	491	6.8	
Natchitoches				62.5
White	11,328	9,743	86.0	
Nonwhite	7,444	1,983	26.6	
Orleans				51.7
White	257,495	162,215	63.0	
Nonwhite	125,752	35,736	28.4	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Ouachita				55.4
White	40,185	29,587	73.6	
Nonwhite	16,377	1,744	10.6	
Plaquemines				67.0
White	8,633	7,627	88.3	
Nonwhite	2,897	96	3.3	
Pointe Coupee				52.0
White	6,085	4,384	72.0	
Nonwhite	5,273	1,515	28.7	
Rapides				57.5
White	44,823	32,456	72.4	
Nonwhite	18,141	3,792	20.9	
Red River				66.2
White	3,294	3,530	100.+	
Nonwhite	2,181	96	4.4	
Richland				49.8
White	7,601	5,688	74.8	
Nonwhite	4,608	381	8.3	
Sabine				97.2
White	8,251	8,735	100.+	
Nonwhite	2,143	1,366	63.7	
St. Bernard				100.+
White	15,836	18,425	100.+	
Nonwhite	1,105	682	61.7	
St. Charles				96.0
White	8,117	7,969	98.2	
Nonwhite	2,621	2,342	89.4	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
St. Helena				58.9
White	2,363	2,059	87.1	
Nonwhite	2,082	560	26.9	
St. James				80.7
White	4,892	4,611	94.3	
Nonwhite	3,964	2,537	64.0	
St. John the Baptist				80.8
White	4,982	4,475	89.8	
Nonwhite	4,279	3,009	70.3	
St. Landry				80.2
White	25,550	22,131	86.6	
Nonwhite	14,982	10,325	68.9	
St. Martin				87.1
White	9,781	9,397	96.1	
Nonwhite	4,664	3,182	68.2	
St. Mary				71.5
White	17,991	14,782	82.2	
Nonwhite	7,176	3,214	44.8	
St. Tammany				100.+
White	16,032	18,350	100.+	
Nonwhite	5,038	2,807	55.7	
Tangipahoa				73.0
White	22,311	19,918	89.3	
Nonwhite	9,401	3,247	34.5	
Tensas				38.0
White	2,287	2,154	94.2	
Nonwhite	3,533	60	1.7	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Terrebonne[3]				69.6
White	24,393	19,132	78.4	
Nonwhite	5,464	1,645	30.1	
Union				73.8
White	7,021	6,534	93.1	
Nonwhite	3,006	864	28.7	
Vermilion				95.6
White	19,710	18,972	96.3	
Nonwhite	2,429	2,183	89.9	
Vernon				95.6
White	9,279	9,971	100.+	
Nonwhite	1,268	684	53.9	
Washington				73.8
White	16,804	15,795	94.0	
Nonwhite	6,821	1,634	24.0	
Webster				56.3
White	15,713	12,002	76.4	
Nonwhite	7,045	803	11.4	
West Baton Rouge				65.4
White	3,974	3,642	91.6	
Nonwhite	3,502	1,245	35.6	
West Carroll				54.9
White	6,171	4,078	66.1	
Nonwhite	1,389	76	5.5	

LOUISIANA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
West Feliciana				19.4
White	3,814	1,345	47.8	
Nonwhite	4,553	85	1.9	
Winn				86.6
White	6,790	6,947	100.+	
Nonwhite	2,500	1,175	45.4	
TOTAL BY COLOR				
White	1,289,216	1,037,184	80.5	
Nonwhite	514,589	164,601	32.0	
TOTAL	1,803,805	1,201,785		66.6[3]

1. 1960 Census.

2. Official figures. Data furnished by Secretary of State of Louisiana showing registration as of October 3, 1964.

3. If the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 63.5.

MISSISSIPPI (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Adams				
White	10,888			
Nonwhite	9,340			
Alcorn				
White	13,347			
Nonwhite	1,756			
Amite				
White	4,449			
Nonwhite	3,560			
Attala				
White	7,522			
Nonwhite	4,262			
Benton				58.0
White	2,514	2,226	88.5	
Nonwhite	1,419	55	3.9	
Bolivar				
White	10,031			
Nonwhite	15,939			
Calhoun				
White	7,188			
Nonwhite	1,787			
Carroll				
White	2,969			
Nonwhite	2,704			
Chickasaw				48.2
White	6,388	4,548	71.2	
Nonwhite	3,054	1	0.03	
Choctaw				
White	3,728			
Nonwhite	1,105			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Claiborne				27.5
White	1,683	1,528	90.5	
Nonwhite	3,969	26	0.7	
Clarke				54.0
White	6,072	4,829	79.5	
Nonwhite	2,988	64	2.1	
Clay				
White	5,547			
Nonwhite	4,444			
Coahoma				
White	8,708			
Nonwhite	14,604			
Copiah				51.9
White	8,153	7,533	92.4	
Nonwhite	6,407	25	0.4	
Covington				
White	5,389			
Nonwhite	2,032			
De Soto				
White	5,338			
Nonwhite	6,246			
Forrest				45.1
White	22,431	13,253	59.1	
Nonwhite	7,495	236	3.1	
Franklin				
White	3,405			
Nonwhite	1,892			
George				72.0
White	5,276	4,200	79.6	
Nonwhite	580	14	2.4	

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Greene				
White	3,518			
Nonwhite	859			
Grenada				
White	2,792			
Nonwhite	4,323			
Hancock				
White	6,813			
Nonwhite	1,129			
Harrison				
White	55,094			
Nonwhite	9,670			
Hinds				65.4
White	67,836	62,410	92.0	
Nonwhite	36,138	5,616	15.5	
Holmes				35.6
White	4,773	4,800	100.+	
Nonwhite	8,757	20	0.2	
Humphreys				28.5
White	3,344	2,538	75.9	
Nonwhite	5,561	0	0.0	
Issaquena				37.5
White	640	640	100.0	
Nonwhite	1,081	5	0.5	
Itawamba				
White	8,523			
Nonwhite	463			
Jackson				
White	24,447			
Nonwhite	5,133			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Jasper				50.1
White	9,327	4,500	84.5	
Nonwhite	3,675	10	0.3	
Jefferson				
White	1,666			
Nonwhite	3,540			
Jefferson Davis				49.1
White	3,629	3,236	89.2	
Nonwhite	3,222	126	3.9	
Jones				
White	25,943			
Nonwhite	7,427			
Kemper				
White	3,113			
Nonwhite	3,221			
Lafayette				
White	8,074			
Nonwhite	3,239			
Lamar				76.1
White	6,489	5,752	88.6	
Nonwhite	1,071	0	0.0	
Lauderdale				49.6
White	27,806	18,000	64.7	
Nonwhite	11,924	1,700	14.3	
Lawrence				
White	3,878			
Nonwhite	1,720			
Leake				61.3
White	6,754	6,000	88.8	
Nonwhite (51.6% Negro)	3,397	220	6.5	

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lee				
White	18,709			
Nonwhite	5,130			
Leflore				32.0
White	10,274	7,348	71.5	
Nonwhite	13,567	281	2.1	
Lincoln				
White	11,072			
Nonwhite	3,913			
Lowndes				35.4
White	16,460	8,687	52.8	
Nonwhite	8,362	99	1.2	
Madison				40.5
White	5,622	6,256	100.+	
Nonwhite	10,366	218	2.1	
Marion				83.2
White	8,997	10,123	100.+	
Nonwhite	3,630	383	10.6	
Marshall				38.3
White	4,342	4,229	97.4	
Nonwhite	7,168	177	2.5	
Monroe				
White	13,426			
Nonwhite	5,610			
Montgomery				
White	4,700			
Nonwhite	2,627			
Neshoba				
White	9,143			
Nonwhite (79.4% Negro)	2,565			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Newton				
White	8,014			
Nonwhite (94.2% Negro)	3,018			
Noxubee				
White	2,997			
Nonwhite	5,172			
Oktibbeha				34.0
White	8,423	4,413	52.4	
Nonwhite	4,952	128	2.6	
Panola				45.7
White	7,639	5,922	77.5	
Nonwhite	7,250	878	12.1	
Pearl River				
White	9,765			
Nonwhite	2,473			
Perry				
White	3,515			
Nonwhite	1,140			
Pike				
White	12,163			
Nonwhite	6,936			
Pontotoc				
White	8,772			
Nonwhite	1,519			
Prentiss				
White	9,535			
Nonwhite	1,070			
Quitman				
White	4,176			
Nonwhite	5,673			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Rankin				
White	13,346			
Nonwhite	6,944			
Scott				47.1
White	7,742	5,400	69.7	
Nonwhite	3,752	16	0.4	
Sharkey				
White	1,882			
Nonwhite	3,152			
Simpson				
White	8,073			
Nonwhite	3,186			
Smith				
White	6,597			
Nonwhite	1,293			
Stone				
White	2,965			
Nonwhite	868			
Sunflower				32.6
White	8,785	7,082	80.6	
Nonwhite	13,524	185	1.4	
Tallahatchie				38.7
White	5,099	4,464	87.5	
Nonwhite	6,483	17	0.3	
Tate				
White	4,506			
Nonwhite	4,326			
Tippah				
White	7,513			
Nonwhite	1,281			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Tishomingo				
White	8,068			
Nonwhite	359			
Tunica				18.4
White	2,011	1,407	70.0	
Nonwhite	5,822	38	0.7	
Union				
White	9,512			
Nonwhite	1,626			
Walthall				64.6
White	4,536	4,536	100.0	
Nonwhite	2,490	4	0.2	
Warren				58.1
White	13,530	11,654	86.1	
Nonwhite	10,726	2,433	22.7	
Washington				
White	19,837			
Nonwhite	20,619			
Wayne				
White	5,881			
Nonwhite	2,556			
Webster				
White	4,993			
Nonwhite	1,174			
Wilkinson				
White	2,340			
Nonwhite	4,120			
Winston				
White	6,808			
Nonwhite	3,611			

MISSISSIPPI (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Yalobusha				
White	4,572			
Nonwhite	2,441			
Yazoo				
White	7,598			
Nonwhite	8,719			
STATEWIDE FIGURES				
Total by Color				
White	748,266	525,000[3]	70.2	
Nonwhite	422,256	28,500[3]	6.7	
TOTAL	1,170,522	553,500		47.3[4]

1. 1960 Census.

2. Unofficial figures. Furnished by Department of Justice showing registration as of a median date, January 1, 1964.

3. Unofficial statewide registration figures as of November 1, 1964, furnished by the Voter Education Project of the Southern Regional Council.

4. If the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 44.3.

NORTH CAROLINA (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Alamance				
White	42,755			
Nonwhite	7,429	5,177	69.7	
Buncombe				42.8
White	72,249	28,894	39.9	
Nonwhite	8,510	5,695	66.9	
Cleveland				60.2
White	30,356	19,827	65.3	
Nonwhite	6,474	2,353	36.3	
Forsyth				70.2
White	87,219	66,800	76.6	
Nonwhite	24,952	12,000	48.1	
Guilford				71.2
White	116,748	85,689	73.4	
Nonwhite	27,292	16,796	61.5	
Halifax				63.2
White	16,496	15,469	93.7	
Nonwhite	13,766	3,644	26.5	
Mecklenburg				55.8
White	123,787	72,840	58.8	
Nonwhite	34,150	15,284	44.6	
Wake				56.7
White	76,799	43,869	57.1	
Nonwhite	22,856	12,586	55.1	

NORTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Wayne				51.9
White	29,349	18,187	62.0	
Nonwhite	15,754	5,218	33.1	
STATEWIDE FIGURES[3]				
Total by Color				
White	2,005,955	1,942,000	96.8	
Nonwhite	550,929	258,000	46.8	
TOTAL	2,556,884	2,200,000		86.0[4]

1. 1960 Census.

2. Unofficial figures. Furnished by Voter Education Project of Southern Regional Council showing registration as of 1964. Registration figures for other counties are not available.

3. Unofficial statewide estimates as of November 1, 1964, furnished by Voter Education Project of Southern Regional Council.

4. If the estimated total population as of November 1, 1964 (published by U.S. Bureau of Census in news release dated September 8, 1964) were used as a base, this percentage would be 79.9.

SOUTH CAROLINA (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Abbeville				58.6
White	8,733	6,100	69.8	
Nonwhite	3,215	900	28.0	
Aiken				68.7
White	33,646	26,000	77.3	
Nonwhite	10,040	4,000	39.8	
Allendale				59.3
White	2,531	2,900	100.+	
Nonwhite	3,205	504	15.7	
Anderson				65.6
White	47,542	30,000	63.1	
Nonwhite	9,598	7,500	78.1	
Bamberg				68.1
White	4,371	4,169	95.4	
Nonwhite	3,807	1,400	36.8	
Barnwell				93.3
White	5,652	6,800	100.+	
Nonwhite	3,242	1,500	46.3	
Beaufort				51.7
White	12,098	6,500	53.7	
Nonwhite	7,247	3,500	48.3	
Berkeley				78.9
White	10,122	10,000	98.8	
Nonwhite	7,619	4,000	52.5	
Calhoun				48.8
White	2,623	2,415	92.1	
Nonwhite	3,318	487	14.7	

SOUTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Charleston				56.7
White	77,909	50,310	64.6	
Nonwhite	35,499	13,976	39.4	
Cherokee				80.9
White	16,037	14,245	88.8	
Nonwhite	3,360	1,438	42.8	
Chester				77.7
White	11,172	10,088	90.3	
Nonwhite	5,664	3,000	53.0	
Chesterfield				77.0
White	12,099	10,936	90.4	
Nonwhite	5,219	2,400	46.0	
Clarendon				40.4
White	5,223	4,708	90.1	
Nonwhite	7,735	523	6.8	
Colleton				68.9
White	8,203	8,045	98.1	
Nonwhite	6,180	1,870	30.3	
Darlington				67.7
White	16,706	13,000	77.8	
Nonwhite	9,900	5,000	50.5	
Dillon				63.1
White	8,725	6,500	74.5	
Nonwhite	5,529	2,500	45.2	
Dorchester				77.0
White	7,121	7,864	100.+	
Nonwhite	5,370	1,750	32.6	
Edgefield				58.5
White	4,103	3,950	96.3	
Nonwhite	3,764	650	17.3	

SOUTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Fairfield				63.7
White	4,975	5,050	100.+	
Nonwhite	5,536	1,650	29.8	
Florence				65.9
White	27,047	23,881	88.3	
Nonwhite	15,951	4,458	28.0	
Georgetown				71.8
White	8,855	6,907	78.0	
Nonwhite	7,173	4,604	64.2	
Greenville				61.5
White	102,365	66.040	64.5	
Nonwhite	18,605	8,368	45.0	
Greenwood				69.3
White	19,218	15,714	81.8	
Nonwhite	6,764	2,300	34.0	
Hampton				65.3
White	4,711	4,696	99.7	
Nonwhite	4,052	1,025	25.3	
Horry				65.8
White	27,518	20,700	75.2	
Nonwhite	7,429	2,300	31.0	
Jasper				62.8
White	2,689	2,580	96.0	
Nonwhite	3,333	1,200	36.0	
Kershaw				76.5
White	11,258	10,862	96.5	
Nonwhite	5,903	2,266	38.4	

SOUTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lancaster				86.1
White	16,213	16,265	100.+	
Nonwhite	4,762	1,800	37.8	
Laurens				60.3
White	19,775	9,637	48.7	
Nonwhite	6,818	6,400	93.9	
Lee				55.9
White	4,394	4,354	99.1	
Nonwhite	5,446	1,150	21.1	
Lexington				71.5
White	28,774	20,500	71.3	
Nonwhite	4,782	3,500	73.2	
McCormick				50.7
White	1,915	1,900	99.2	
Nonwhite	2,248	210	9.3	
Marion				48.6
White	8,103	6,470	79.8	
Nonwhite	7,684	1,200	15.6	
Marlboro				63.6
White	8,230	7,800	94.8	
Nonwhite	5,932	1,200	20.2	
Newberry				71.1
White	12,204	11,200	91.8	
Nonwhite	4,954	1,000	20.2	
Oconee				61.4
White	19,762	12,100	61.2	
Nonwhite	2,230	1,400	62.8	

SOUTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Orangeburg				65.5
White	16,381	15,619	95.3	
Nonwhite	17,355	6,483	37.4	
Pickens				64.5
White	24,015	15,300	63.7	
Nonwhite	2,356	1,700	72.2	
Richland				60.4
White	79,050	58,750	74.3	
Nonwhite	32,670	8,750	26.8	
Saluda				79.5
White	5,573	5,840	100.+	
Nonwhite	2,327	440	18.9	
Spartanburg				71.2
White	73,317	57,129	77.9	
Nonwhite	17,047	7,171	42.1	
Sumter				37.4
White	22,004	9,800	44.5	
Nonwhite	15,380	4,200	27.3	
Union				87.7
White	12,826	13,423	100.+	
Nonwhite	4,125	1,438	34.9	
Williamsburg				55.3
White	7,560	8,067	100.+	
Nonwhite	10,535	1,933	18.3	

SOUTH CAROLINA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
York				62.6
White	31,700	22,300	71.7	
Nonwhite	10,196	3,500	34.3	
Total by Color				
White	895,147	677,014	75.7	
Nonwhite	371,104	138,044	37.3	
TOTAL	1,266,251	816,458		64.5[3]

1. 1960 Census

2. Unofficial figures. Published by Charleston News and Courier, November 1, 1964.

3. If the estimated total population as of November 1, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 59.2.

TENNESSEE (1964)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Anderson		27,788	82.8
White	32,520		
Nonwhite	1,034		
Bedford		7,123	49.7
White	12,716		
Nonwhite	1,603		
Benton		7,367	100+
White	6,619		
Nonwhite	171		
Bledsoe		4,742	100+
White	3,980		
Nonwhite	118		
Blount		26,091	79.4
White	31,329		
Nonwhite	1,520		
Bradley		18,549	84.8
White	20,834		
Nonwhite	1,047		
Campbell		13,890	90.1
White	15,274		
Nonwhite	140		
Cannon		5,806	100+
White	5,127		
Nonwhite	108		
Carroll		12,357	82.7
White	13,154		
Nonwhite	1,787		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Carter		25,282	100+
White	23,669		
Nonwhite	238		
Cheatham		5,166	92.5
White	5,238		
Nonwhite	344		
Chester		5,923	100+
White	4,879		
Nonwhite	685		
Claiborne		10,549	98.0
White	10,603		
Nonwhite	164		
Clay		4,548	100+
White	4,006		
Nonwhite	96		
Cocke		12,810	97.6
White	12,748		
Nonwhite	373		
Coffee		13,686	83.2
White	15,876		
Nonwhite	583		
Crockett		7,866	92.3
White	6,933		
Nonwhite	1,586		
Cumberland		8,358	80.8
White	10,343		
Nonwhite (33.3% Negro)	6		
Davidson		154,662	63.7
White	197,949		
Nonwhite	44,984		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Decatur		5,718	100+
White	4,979		
Nonwhite	251		
De Kalb		6,290	94.4
White	6,477		
Nonwhite	183		
Dickson		8,456	74.2
White	10,666		
Nonwhite	729		
Dyer		17,113	95.4
White	15,484		
Nonwhite	2,456		
Fayette		8,116	69.7
White	4,437		
Nonwhite	7,215		
Fentress		5,278	78.7
White	6,703		
Nonwhite	2		
Franklin		16,720	100+
White	13,328		
Nonwhite	1,130		
Gibson		19,283	69.4
White	22,888		
Nonwhite	4,903		
Giles		10,402	75.6
White	11,601		
Nonwhite	2,161		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Grainger		6,824	100+
White	7,045		
Nonwhite	100		
Greene		20,010	79.3
White	24,647		
Nonwhite	601		
Grundy		6,604	100+
White	6,191		
Nonwhite	10		
Hamblen		14,539	74.7
White	18,366		
Nonwhite	1,099		
Hamilton		91,476	64.0
White	116,321		
Nonwhite	26,658		
Hancock		5,216	100+
White	4,224		
Nonwhite	51		
Hardeman		7,265	57.1
White	8,653		
Nonwhite	4,072		
Hardin		9,768	94.7
White	9,734		
Nonwhite	578		
Hawkins		15,618	88.1
White	17,120		
Nonwhite	602		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Haywood		7,506	63.7
White	5,497		
Nonwhite	6,295		
Henderson		7,303	74.1
White	8,988		
Nonwhite	862		
Henry		12,450	86.4
White	12,429		
Nonwhite	1,977		
Hickman		6,375	89.5
White	6,796		
Nonwhite	324		
Houston		3,107	100+
White	2,705		
Nonwhite	197		
Humphreys		6,386	92.1
White	6,613		
Nonwhite	323		
Jackson		4,870	87.3
White	5,551		
Nonwhite	27		
Jefferson		10,281	81.1
White	12,159		
Nonwhite	516		
Johnson		5,652	89.9
White	6,198		
Nonwhite	86		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Knox		145,052	95.4
White	138,724		
Nonwhite	13,275		
Lake		5,082	98.5
White	4,047		
Nonwhite	1,1[illegible]		
Lauderdale		10,486	85.3
White	8,152		
Nonwhite	4,137		
Lawrence		14,029	86.9
White	15,837		
Nonwhite	300		
Lewis		3,686	100+
White	3,561		
Nonwhite	59		
Lincoln		10,732	75.1
White	12,621		
Nonwhite	1,673		
Loudon		12,152	86.5
White	13,786		
Nonwhite	268		
Macon		5,721	76.0
White	7,458		
Nonwhite	69		
Madison		26,598	73.8
White	25,617		
Nonwhite	10,416		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Marion		12,006	100+
White	10,730		
Nonwhite	707		
Marshall		7,819	74.4
White	9,473		
Nonwhite	1,042		
Maury		17,228	68.8
White	20,323		
Nonwhite	4,710		
McMinn		15,070	76.5
White	18,738		
Nonwhite	958		
McNairy		9,438	86.9
White	10,235		
Nonwhite	631		
Meigs		2,676	97.0
White	2,642		
Nonwhite	117		
Monroe		13,930	100+
White	12,318		
Nonwhite	507		
Montgomery		15,497	50.9
White	24,503		
Nonwhite	5,916		
Moore		1,824	84.5
White	2,012		
Nonwhite	146		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Morgan		6,063	76.5
White	7,625		
Nonwhite	296		
Obion		13,260	77.0
White	15,362		
Nonwhite	1,849		
Overton		8,522	99.7
White	8,501		
Nonwhite	44		
Perry		3,207	98.1
White	3,183		
Nonwhite	85		
Pickett		2,819	100+
White	2,462		
Nonwhite	5		
Polk		7,418	100+
White	6,776		
Nonwhite	13		
Putnam		14,166	83.0
White	16,764		
Nonwhite	306		
Rhea		7,688	86.2
White	8,564		
Nonwhite	354		
Roane		16,580	75.5
White	21,079		
Nonwhite	878		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Robertson		10,499	64.0
White	13,748		
Nonwhite	2,656		
Rutherford		18,535	61.1
White	26,387		
Nonwhite	3,960		
Scott		8,259	100+
White	7,792		
Nonwhite	3		
Sequatchie		3,218	100+
White	3,176		
Nonwhite (0.0% Negro)	1		
Sevier		13,140	93.8
White	13,906		
Nonwhite	105		
Shelby		248,542	69.1
White	240,499		
Nonwhite	119,033		
Smith		5,895	77.0
White	7,321		
Nonwhite	333		
Stewart		4,813	100+
White	4,637		
Nonwhite	150		
Sullivan		51,266	76.4
White	65,683		
Nonwhite	1,438		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Sumner		20,756	95.3
White	19,472		
Nonwhite	2,304		
Tipton		12,734	85.4
White	9,864		
Nonwhite	5,048		
Trousdale		2,946	97.3
White	2,549		
Nonwhite	478		
Unicoi		7,170	82.0
White	8,737		
Nonwhite (71.4% Negro)	7		
Union		4,425	93.8
White	4,713		
Nonwhite	2		
Van Buren		2,359	100+
White	1,940		
Nonwhite	16		
Warren		10,616	76.5
White	13,251		
Nonwhite	630		
Washington		29,854	76.0
White	37,705		
Nonwhite	1,582		
Wayne		8,577	100+
White	6,521		
Nonwhite	124		

TENNESSEE (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Weakley		12,444	79.2
White	14,694		
Nonwhite	1,016		
White		7,209	77.4
White	9,033		
Nonwhite	275		
Williamson		12,226	84.1
White	11,019		
Nonwhite	2,616		
Wilson		13,404	78.8
White	14,781		
Nonwhite	2,231		
STATEWIDE FIGURES[3]			
TOTAL BY COLOR			
White	1,779,018	1,297,000	72.9
Nonwhite	313,873	219,000	69.5
TOTAL	2,092,891	1,516,000	72.4[4]

1. 1960 Census

2. Official estimate. Furnished by Tennessee Department of State as of February 1964. County registration figures by race not available.

3. Unofficial statewide registration figures as of November 1, 1964, furnished by the Voter Education Project of the Southern Regional Council.

4. If the estimated total population as of November, 1964 (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 67.7.

TEXAS (1964)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Anderson		10,351	59.0
White	13,114		
Nonwhite	4,430		
Andrews		2,045	28.6
White	7,011		
Nonwhite	138		
Angelina		19,904	83.6
White	20,049		
Nonwhite	3,762		
Arkansas		2,069	50.8
White	3,921		
Nonwhite	154		
Archer		1,891	51.0
White	3,692		
Nonwhite (67.9% Negro)	18		
Armstrong		811	63.1
White	1,283		
Nonwhite (60.0% Negro)	3		
Atascosa		5,183	52.0
White	9,876		
Nonwhite (94.7% Negro)	92		
Austin		3,407	37.8
White	7,450		
Nonwhite	1,566		
Bailey		2,593	50.8
White	4,930		
Nonwhite	179		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Bandera		1,373	52.9
White	2,577		
Nonwhite	19		
Bastrop		4,187	40.2
White	7,561		
Nonwhite	2,867		
Baylor		1,494	39.1
White	3,712		
Nonwhite	112		
Bee		5,909	48.2
White	11,895		
Nonwhite (83.9% Negro)	369		
Bell		20,348	36.9
White	48,932		
Nonwhite (93.4% Negro)	6,228		
Bexar		189,046	50.0
White	350,918		
Nonwhite	27,072		
Blanco		1,208	50.7
White	2,308		
Nonwhite	75		
Borden		425	69.4
White	612		
Nonwhite	0		
Bosque		2,877	38.3
White	7,313		
Nonwhite	196		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Bowie		19,637	54.2
White	28,576		
Nonwhite	7,684		
Brazoria		26,034	60.2
White	37,767		
Nonwhite	5,497		
Brazos		14,630	58.7
White	19,987		
Nonwhite	4,957		
Brewster		1,934	54.5
White	3,520		
Nonwhite	30		
Briscoe		1,224	60.0
White	1,976		
Nonwhite	65		
Brooks		3,385	75.8
White	4,456		
Nonwhite (31.7% Negro)	9		
Brown		8,840	54.0
White	15,924		
Nonwhite	456		
Burleson		2,855	42.0
White	4,926		
Nonwhite	1,871		
Burnet		2,755	47.1
White	5,753		
Nonwhite	95		

TEXAS (Continued

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Caldwell		3,863	37.7
White	8,732		
Nonwhite	1,504		
Calhoun		5,264	62.1
White	8,059		
Nonwhite	421		
Callahan		2,324	44.0
White	5,274		
Nonwhite (25.0% Negro)	3		
Cameron		33,222	44.7
White	73,664		
Nonwhite (78.8% Negro)	725		
Camp		2,199	46.0
White	3,196		
Nonwhite	1,586		
Carson		2,477	57.2
White	4,314		
Nonwhite (81.8% Negro)	20		
Cass		5,230	37.3
White	10,511		
Nonwhite	3,509		
Castro		2,635	58.3
White	4,360		
Nonwhite	156		
Chambers		3,740	63.5
White	4,750		
Nonwhite	1,144		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Cherokee		8,129	38.1
White	16,480		
Nonwhite	4,839		
Childress		2,502	45.8
White	5,176		
Nonwhite	284		
Clay		2,398	44.7
White	5,318		
Nonwhite	51		
Cochran		1,837	53.9
White	3,280		
Nonwhite	131		
Coke		1,104	50.0
White	2,206		
Nonwhite (80.0% Negro)	4		
Coleman		3,151	37.8
White	8,169		
Nonwhite	178		
Collin		11,767	45.7
White	23,448		
Nonwhite	2,275		
Collingsworth		1,591	41.0
White	3,632		
Nonwhite	244		
Colorado		5,142	46.7
White	8,493		
Nonwhite	2,529		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Comal		6,892	59.6
White	11,368		
Nonwhite	205		
Comanche		2,987	35.8
White	8,330		
Nonwhite	9		
Concho		1,086	46.5
White	2,331		
Nonwhite	3		
Cooke		8,396	61.6
White	13,143		
Nonwhite	488		
Coryell		3,983	28.6
White	13,190		
Nonwhite	719		
Cottle		1,202	46.5
White	2,410		
Nonwhite	175		
Crane		1,753	65.9
White	2,565		
Nonwhite	95		
Crockett		1,296	56.3
White	2,221		
Nonwhite	80		
Crosby		2,669	47.4
White	5,234		
Nonwhite	395		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Culberson		884	60.3
White	1,459		
Nonwhite (50.0% Negro)	6		
Dallam		1,647	42.6
White	3,830		
Nonwhite	33		
Dallas		315,705	55.4
White	493,340		
Nonwhite	76,927		
Dawson		5,795	55.0
White	10,030		
Nonwhite	501		
Deaf Smith		3,935	55.8
White	6,955		
Nonwhite	99		
Delta		1,428	36.5
White	3,486		
Nonwhite	422		
Denton		14,849	53.8
White	26,011		
Nonwhite	1,594		
De Witt		4,645	36.5
White	11,013		
Nonwhite	1,699		
Dickens		1,479	47.1
White	3,002		
Nonwhite	137		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Dimmit		2,259	46.5
White	4,839		
Nonwhite	17		
Donley		1,525	52.3
White	2,806		
Nonwhite	108		
Duval		4,907	68.6
White	7,148		
Nonwhite	7		
Eastland		5,416	40.6
White	13,135		
Nonwhite	207		
Ector		28,336	57.3
White	46,903		
Nonwhite	2,591		
Edwards		719	51.0
White	1,405		
Nonwhite (87.5% Negro)	7		
Ellis		10,071	38.5
White	21,069		
Nonwhite	5,114		
El Paso		67,253	40.5
White	160,240		
Nonwhite (92.1% Negro)	5,861		
Erath		4,133	37.8
White	10,840		
Nonwhite (10.3% Negro)	108		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Falls		4,146	31.7
White	9,466		
Nonwhite	3,630		
Fannin		5,574	34.2
White	14,920		
Nonwhite	1,357		
Fayette		4,480	32.9
White	11,980		
Nonwhite	1,634		
Fisher		2,290	47.6
White	4,619		
Nonwhite	195		
Floyd		3,445	49.6
White	6,567		
Nonwhite	379		
Foard		847	42.4
White	1,861		
Nonwhite	138		
Fort Bend		10,693	48.1
White	17,879		
Nonwhite	4,373		
Franklin		1,662	48.6
White	3,218		
Nonwhite	199		
Freestone		3,259	41.8
White	5,272		
Nonwhite	2,531		

TEXAS (Continued) COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Frio		2,522	49.6
White	5,052		
Nonwhite	32		
Gaines		3,515	53.0
White	6,470		
Nonwhite	156		
Galveston		50,531	61.2
White	65,830		
Nonwhite	16,685		
Garza		1,873	50.6
White	3,524		
Nonwhite	179		
Gillespie		3,025	46.4
White	6,514		
Nonwhite (Spanish-surnamed)	12		
Glasscock		342	50.8
White	666		
Nonwhite	7		
Goliad		1,494	45.9
White	2,894		
Nonwhite	361		
Gonzales		3,799	35.2
White	9,006		
Nonwhite	1,752		
Gray		10,621	56.7
White	18,205		
Nonwhite	514		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Grayson		22,359	48.5
White	42,364		
Nonwhite	3,712		
Gregg		25,401	61.3
White	32,941		
Nonwhite	8,508		
Grimes		2,934	37.9
White	5,068		
Nonwhite	2,665		
Guadalupe		7,952	47.9
White	14,684		
Nonwhite	1,924		
Hale		11,084	55.3
White	19,158		
Nonwhite	898		
Hall		2,115	46.6
White	4,104		
Nonwhite	436		
Hamilton		2,364	39.7
White	5,954		
Nonwhite (10.4% Hispanic)	8		
Hansford		2,044	58.5
White	3,491		
Nonwhite (20.2% Hispanic)	11		
Hardeman		2,179	41.7
White	4,776		
Nonwhite	453		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Hardin		7,709	54.9
White	11,905		
Nonwhite	2,126		
Harris		463,290	64.1
White	586,839		
Nonwhite	136,118		
Harrison		12,851	48.9
White	15,994		
Nonwhite	10,287		
Hartley		905	70.1
White	1,290		
Nonwhite	1		
Haskell		2,970	43.2
White	6,554		
Nonwhite	321		
Hays		5,817	52.8
White	10,352		
Nonwhite	659		
Hemphill		1,105	57.1
White	1,934		
Nonwhite (0.0% Negro)	0		
Henderson		6,510	48.1
White	11,299		
Nonwhite	2,222		
Hidalgo		43,613	49.8
White	87,137		
Nonwhite (67.9% Negro)	396		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Hill		6,547	41.8
White	13,743		
Nonwhite	1,917		
Hockley		6,700	56.5
White	11,289		
Nonwhite	578		
Hood		1,572	43.4
White	3,590		
Nonwhite	34		
Hopkins		4,624	37.5
White	11,146		
Nonwhite	1,180		
Houston		4,740	38.7
White	8,341		
Nonwhite	3,906		
Howard		11,746	51.0
White	22,139		
Nonwhite (94.4% Negro)	889		
Hudspeth		769	42.4
White	1,806		
Nonwhite (92.9% Negro)	9		
Hunt		11,410	46.1
White	21,544		
Nonwhite	3,214		
Hutchinson		12,015	61.9
White	19,045		
Nonwhite (90.7% Negro)	371		

TEXAS (Continued) COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Irion		442	59.6
White	731		
Nonwhite(90.9% Negro)	10		
Jack		1,958	40.1
White	4,828		
Nonwhite	52		
Jackson		4,250	54.9
White	6,840		
Nonwhite	907		
Jasper		6,009	47.5
White	9,892		
Nonwhite	2,748		
Jeff Davis		448	50.3
White	889		
Nonwhite (80.0% Negro)	2		
Jefferson		89,613	62.5
White	112,761		
Nonwhite	30,672		
Jim Hogg		2,071	76.1
White	2,716		
Nonwhite (80.0% Negro)	5		
Jim Wells		12,401	71.2
White	17,287		
Nonwhite	128		
Johnson		11,224	51.4
White	20,908		
Nonwhite	915		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Jones		3,993	33.2
White	11,472		
Nonwhite	573		
Karnes		4,046	49.5
White	7,929		
Nonwhite	243		
Kaufman		7,533	39.5
White	14,411		
Nonwhite	4,637		
Kendall		1,871	49.8
White	3,721		
Nonwhite	35		
Kenedy		197	45.3
White	435		
Nonwhite	0		
Kent		680	62.6
White	1,063		
Nonwhite	24		
Kerr		5,492	47.6
White	11,065		
Nonwhite	476		
Kimble		1,234	49.2
White	2,497		
Nonwhite (88.9% Negro)	9		
King		230	61.0
White	347		
Nonwhite (75.9% Negro)	30		
Kinney		653	45.7
White	1,331		
Nonwhite	98		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Kleberg		7,812	50.7
White	14,748		
Nonwhite (89.2% Negro)	655		
Knox		1,915	39.9
White	4,526		
Nonwhite	273		
Lamar		10,726	48.9
White	18,342		
Nonwhite	3,576		
Lamb		6,076	49.9
White	11,434		
Nonwhite	747		
Lampasas		2,231	37.7
White	5,743		
Nonwhite	175		
La Salle		1,350	44.1
White	3,057		
Nonwhite	6		
Lavaca		4,534	35.6
White	11,559		
Nonwhite	1,173		
Lee		2,471	44.0
White	4,459		
Nonwhite	1,152		
Leon		2,799	45.4
White	4,128		
Nonwhite	2,040		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Liberty		8,236	45.7
White	4,216		
Nonwhite	3,796		
Limestone		4,271	32.1
White	10,187		
Nonwhite	3,120		
Lipscomb		1,218	57.2
White	2,102		
Nonwhite (3,[illegible] Negro)	27		
Live Oak		2,359	56.3
White	4,176		
Nonwhite (84.7% Negro)	14		
Llano		1,718	47.4
White	3,592		
Nonwhite	35		
Loving		119	88.1
White	125		
Nonwhite	10		
Lubbock		47,256	55.7
White	78,842		
Nonwhite	5,989		
Lynn		2,865	48.1
White	5,642		
Nonwhite	310		
Madison		1,876	42.7
White	3,185		
Nonwhite	1,210		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Marion		2,065	44.1
White	2,463		
Nonwhite	2,318		
Martin		1,362	48.7
White	2,700		
Nonwhite	98		
Mason		1,210	48.5
White	2,485		
Nonwhite	10		
Matagorda		7,840	54.7
White	11,474		
Nonwhite	2,870		
Maverick		3,742	52.2
White	7,143		
Nonwhite (88.3% Negro)	21		
McCulloch		2,227	38.8
White	5,550		
Nonwhite	195		
McLennan		44,698	48.9
White	78,090		
Nonwhite	13,232		
McMullen		472	70.8
White	667		
Nonwhite	0		
Medina		4,754	46.5
White	10,106		
Nonwhite	108		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Menard		838	43.7
White	1,900		
Nonwhite	16		
Midland		24,459	65.7
White	33,970		
Nonwhite	3,283		
Milam		5,012	36.3
White	11,686		
Nonwhite	2,120		
Mills		1,518	48.3
White	3,144		
Nonwhite (33.0% Negro)	2		
Mitchell		2,837	43.6
White	6,107		
Nonwhite	403		
Montague		3,858	38.5
White	10,016		
Nonwhite	2		
Montgomery		8,977	57.4
White	12,398		
Nonwhite	3,246		
Moore		4,800	60.7
White	7,880		
Nonwhite (3.2% Negro)	25		
Morris		3,708	51.5
White	5,615		
Nonwhite	1,591		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Motley		867	48.2
White	1,667		
Nonwhite	132		
Nacogdoches		9,175	54.2
White	13,093		
Nonwhite	3,843		
Navarro		9,804	44.7
White	17,323		
Nonwhite	4,586		
Newton		2,886	50.2
White	4,047		
Nonwhite	1,703		
Nolan		6,802	39.3
White	11,076		
Nonwhite	400		
Nueces		65,129	56.3
White	109,917		
Nonwhite	5,780		
Ochiltree		2,772	52.7
White	5,244		
Nonwhite(0.0% Negro)	13		
Oldham		662	66.9
White	985		
Nonwhite	4		
Orange		18,586	56.8
White	29,595		
Nonwhite	3,111		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Palo Pinto		6,774	52.7
White	12,303		
Nonwhite	550		
Panola		5,399	54.2
White	7,483		
Nonwhite	2,470		
Parker		6,336	43.9
White	14,163		
Nonwhite ([illegible] Negro)	268		
Parmer		2,862	55.6
White	5,038		
Nonwhite	106		
Pecos		4,005	62.2
White	6,390		
Nonwhite (84.4% Negro)	45		
Polk		4,032	49.5
White	5,958		
Nonwhite (91.6% Negro)	2,194		
Potter		30,183	46.4
White	61,007		
Nonwhite	4,054		
Presidio		1,687	55.8
White	3,021		
Nonwhite (20.0% Negro)	2		
Rains		907	45.4
White	1,839		
Nonwhite	158		
Randall		15,295	80.2
White	19,025		
Nonwhite (73.6% Negro)	54		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Reagan		1,195	56.7
White	1,989		
Nonwhite	117		
Real		417	33.3
White	1,249		
Nonwhite	4		
Red River		3,672	37.0
White	7,929		
Nonwhite	1,984		
Reeves		4,828	52.3
White	8,930		
Nonwhite	307		
Refugio		3,371	57.2
White	5,378		
Nonwhite	514		
Roberts		424	62.2
White	675		
Nonwhite (8.3% Negro)	7		
Robertson		3,418	35.7
White	6,173		
Nonwhite	3,413		
Rockwall		1,579	44.7
White	2,927		
Nonwhite	607		
Runnels		3,395	37.1
White	8,910		
Nonwhite	236		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED
Rusk		11,011	49.3
White	16,907		
Nonwhite	5,424		
Sabine		2,264	51.7
White	3,421		
Nonwhite	956		
San Augustine		2,234	50.3
White	3,002		
Nonwhite	1,437		
San Jacinto		1,931	54.3
White	1,878		
Nonwhite	1,678		
San Patricio		10,585	47.6
White	21,773		
Nonwhite	452		
San Saba		1,726	40.6
White	4,219		
Nonwhite (84.0% Negro)	37		
Schleicher		816	49.3
White	1,625		
Nonwhite	30		
Scurry		6,638	58.2
White	11,155		
Nonwhite	288		
Shackelford		1,236	45.8
White	2,618		
Nonwhite	78		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Shelby		5,592	44.8
White	9,838		
Nonwhite	2,655		
Sherman		1,049	68.5
White	1,531		
Nonwhite	1		
Smith		29,440	57.1
White	39,152		
Nonwhite	12,421		
Somervell		794	44.8
White	1,770		
Nonwhite	2		
Starr		6,166	73.6
White	8,374		
Nonwhite (0.0% Negro)	7		
Stephens		2,333	39.1
White	5,720		
Nonwhite	253		
Sterling		322	45.7
White	695		
Nonwhite (90.0% Negro)	10		
Stonewall		1,226	64.4
White	1,841		
Nonwhite	64		
Sutton		1,022	48.1
White	2,107		
Nonwhite	18		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Swisher		3,220	54.2
White	5,775		
Nonwhite	168		
Tarrant		180,975	56.5
White	287,360		
Nonwhite	32,995		
Taylor		28,263	48.6
White	55,618		
Nonwhite	2,548		
Terrell		772	52.3
White	1,469		
Nonwhite (88.9% Negro)	7		
Terry		5,877	66.6
White	8,518		
Nonwhite	301		
Throckmorton		1,024	54.2
White	1,876		
Nonwhite (14.3% Negro)	12		
Titus		4,891	46.5
White	8,922		
Nonwhite	1,592		
Tom Green		20,464	54.0
White	36,052		
Nonwhite	1,845		
Travis		76,975	62.4
White	108,111		
Nonwhite	15,284		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Trinity		2,652	54.8
White	3,665		
Nonwhite	1,178		
Tyler		2,682	42.7
White	5,187		
Nonwhite	1,099		
Upshur		6,135	52.2
White	9,161		
Nonwhite	2,600		
Upton		1,839	54.5
White	3,226		
Nonwhite	150		
Uvalde		5,514	59.6
White	9,151		
Nonwhite (91.6% Negro)	104		
Val Verde		6,179	47.8
White	12,488		
Nonwhite (90.9% Negro)	435		
Van Zandt		4,771	38.5
White	11,679		
Nonwhite	725		
Victoria		15,336	60.7
White	22,957		
Nonwhite	2,328		
Walker		5,352	39.8
White	9,127		
Nonwhite	4,308		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Waller		3,004	44.9
White	3,527		
Nonwhite	3,158		
Ward		4,309	52.6
White	7,969		
Nonwhite	222		
Washington		4,044	33.2
White	8,947		
Nonwhite	3,239		
Webb		16,318	49.5
White	32,843		
Nonwhite (84.0% Negro)	155		
Wharton		9,097	43.1
White	16,949		
Nonwhite	4,168		
Wheeler		2,166	43.1
White	4,857		
Nonwhite	164		
Wichita		31,824	44.2
White	67,002		
Nonwhite	5,055		
Wilbarger		6,066	53.7
White	10,446		
Nonwhite	856		
Willacy		4,195	44.4
White	9,383		
Nonwhite	60		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Williamson		7,741	36.4
White	18,673		
Nonwhite	2,575		
Wilson		4,123	55.4
White	7,306		
Nonwhite	132		
Winkler		4,731	64.0
White	7,183		
Nonwhite (95.0% Negro)	205		
Wise		4,311	40.3
White	10,628		
Nonwhite (92.4% Negro)	70		
Wood		4,643	40.7
White	9,899		
Nonwhite	1,504		
Yaokum		2,506	57.4
White	4,315		
Nonwhite	49		
Young		3,977	36.0
White	10,875		
Nonwhite (90.0% Negro)	165		
Zapata		1,649	70.9
White	2,315		
Nonwhite (89.6% Negro)	10		

TEXAS (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED
Zavala		2,807	47.1
White	5,932		
Nonwhite	32		
TOTAL BY COLOR			
White	4,884,769		
Nonwhite	649,412		
TOTAL	5,534,181	2,939,535	53.1[3]

1. 1960 Census

2. Official figures. Texas does not have permanent registration. The figures given were furnished by the Texas Secretary of State. They represent poll tax receipts, exemption certificates and tax-free Federal Election receipts, and show registration as of November 3, 1964.

3. If the estimated total population as of November 1, 1964, (published by U. S. Bureau of Census in news release dated September 8, 1964) were used as a base, this percentage would be 49.6.

VIRGINIA (1964)

COUNTY	VOTING AGE POPULATION	NUMBER REGISTERED	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Accomack				34.6
White	13,148	5,698	43.3	
Nonwhite	6,142	979	16.0	
Albemarle				42.2
White	15,670	6,485	41.4	
Nonwhite	2,576	1,215	47.2	
Alleghany				78.6
White	6,675	4,650	69.7	
Nonwhite	256	800	100.+	
Amelia				79.7
White	2,261	2,447	100+	
Nonwhite	1,924	888	46.2	
Amherst				60.4
White	10,523	6,702	63.7	
Nonwhite	2,693	1,275	47.3	
Appomattox				84.4
White	4,245	4,041	95.2	
Nonwhite	1,142	505	44.2	
Arlington				63.7
White	102,364	66,054	64.5	
Nonwhite(93% Negro)	5,214	2,525	48.4	
Augusta				47.4
White	21,314	10,163	47.7	
Nonwhite	864	339	39.2	
Bath				52.7
White	2,976	1,632	54.8	
Nonwhite	340	116	34.1	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Bedford				49.9
White	15,258	7,788	51.0	
Nonwhite	3,044	1,343	44.1	
Bland				53.5
White	3,504	1,947	55.6	
Nonwhite	146	7	4.8	
Botetourt				48.3
White	9,045	4,596	50.8	
Nonwhite	778	145	18.6	
Brunswick				48.9
White	4,637	3,671	79.1	
Nonwhite	4,734	914	19.3	
Buchanan				66.8
White	16,782	11,221	66.9	
Nonwhite	8	0	0.0	
Buckingham				42.2
White	3,776	1,700	45.0	
Nonwhite	2,208	825	37.4	
Campbell				38.5
White	15,518	6,103	39.3	
Nonwhite	3,291	1,132	34.4	
Caroline				60.0
White	3,793	2,602	68.6	
Nonwhite	3,210	1,601	49.9	
Carroll				48.6
White	13,614	6,627	48.7	
Nonwhite	41	11	26.8	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Charles City				52.9
White	582	490	84.2	
Nonwhite (91% Negro)	2,126	943	44.4	
Charlotte				70.8
White	5,014	4,514	90.0	
Nonwhite	2,500	808	32.2	
Chesterfield				76.1
White	35,853	29,200	81.4	
Nonwhite	4,862	1,794	36.9	
Clarke				72.6
White	4,016	3,137	78.1	
Nonwhite	786	348	44.3	
Craig				60.9
White	2,053	1,250	60.9	
Nonwhite	3	0	0.0	
Culpepper				64.9
White	6,964	5,054	72.6	
Nonwhite	2,068	807	39.0	
Cumberland				79.6
White	1,819	2,000	100+	
Nonwhite	1,647	759	46.1	
Dickenson				77.5
White	9,791	7,608	77.7	
Nonwhite	64	27	42.2	
Dinwiddie				32.8
White	5,212	3,241	62.2	
Nonwhite	8,587	1,284	15.0	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
[illegible]				59.1
White	2,241	1,640	73.2	
Nonwhite	1,665	667	40.1	
[illegible]				59.6
White	140,605	87,261	62.1	
Nonwhite (93% Negro)	9,110	1,904	20.9	
[illegible]oquier				59.5
White	10,726	6,734	62.8	
Nonwhite	3,093	1,492	48.2	
Floyd				73.3
White	6,017	4,483	74.5	
Nonwhite	308	155	50.3	
[illegible]luvanna				38.1
White	2,790	1,366	49.0	
Nonwhite	1,378	222	16.1	
Franklin				39.2
White	12,801	5,249	41.0	
Nonwhite	1,728	451	26.2	
Frederick [3]				47.4
White	12,479	5,975	47.9	
Nonwhite	232	50	21.6	
Giles				61.9
White	9,629	6,020	62.5	
Nonwhite	232	84	36.2	
Gloucester				69.8
White	5,341	3,873	72.5	
Nonwhite	1,882	1,172	62.3	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Goochland				39.4
White	3,121	1,627	52.1	
Nonwhite	2,312	514	22.2	
Grayson				66.2
White	10,173	6,778	66.6	
Nonwhite	329	173	52.6	
Greene				69.6
White	2,331	1,726	74.1	
Nonwhite	328	125	38.1	
Greensville				63.9
White	4,499	3,467	77.1	
Nonwhite	3,885	1,890	48.7	
Halifax				43.3
White	11,377	6,155	54.1	
Nonwhite	6,769	1,700	25.1	
Hanover				66.2
White	12,432	8,784	70.1	
Nonwhite	3,302	1,639	49.6	
Henrico				69.3
White	66,822	47,112	70.5	
Nonwhite	3,397	1,527	45.0	
Henry				52.0
White	17,805	9,829	55.2	
Nonwhite	4,113	1,574	38.3	
Highland				73.3
White	2,040	1,497	73.4	
Nonwhite	16	10	62.5	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Isle of Wight				65.9
White	4,991	4,241	85.0	
Nonwhite	4,317	1,893	43.9	
James City				52.9
White	4,845	2,688	55.5	
Nonwhite	2,056	960	46.7	
King George				55.9
White	3,200	1,841	57.5	
Nonwhite	1,009	513	50.8	
King & Queen				57.8
White	1,735	1,156	66.6	
Nonwhite	1,617	780	48.2	
King William				58.6
White	2,491	1,870	75.1	
Nonwhite	1,864	683	36.6	
Lancaster				77.0
White	3,613	3,078	85.2	
Nonwhite	1,978	1,229	62.1	
Lee				84.6
White	14,072	11,931	84.8	
Nonwhite	100	59	59.0	
Loudoun				73.0
White	12,014	9,423	78.4	
Nonwhite	2,239	979	43.7	
Louisa				55.7
White	4,917	2,844	57.8	
Nonwhite	2,482	1,279	51.5	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Lunenburg				48.7
White	4,611	2,821	61.2	
Nonwhite	2,534	660	26.1	
Madison[3]				49.8
White	3,883	2,135	55.0	
Nonwhite	898	247	27.5	
Mathews				52.2
White	3,809	2,218	58.2	
Nonwhite	1,062	326	30.7	
Mecklenburg				30.9
White	10,474	4,670	44.6	
Nonwhite	6,624	620	9.4	
Middlesex				56.3
White	2,586	1,684	65.0	
Nonwhite	1,363	538	39.5	
Montgomery				50.4
White	18,091	9,610	53.1	
Nonwhite	960	0	0.0	
Nansemond				41.1
White	6,965	4,104	58.9	
Nonwhite	9,806	2,792	28.5	
Nelson				67.0
White	5,693	4,327	76.0	
Nonwhite	1,813	704	38.8	
New Kent				66.0
White	1,325	1,185	89.4	
Nonwhite	1,229	501	40.8	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Northampton				31.0
White	5,340	2,325	43.5	
Nonwhite	4,786	810	16.9	
Northumberland				72.2
White	3,965	3,376	85.1	
Nonwhite	2,123	1,021	48.1	
Nottoway				59.2
White	5,564	4,020	72.3	
Nonwhite	3,458	1,320	38.2	
Orange				46.6
White	6,269	3,025	48.3	
Nonwhite	1,429	561	39.3	
Page				75.6
White	9,121	7,015	76.9	
Nonwhite	271	85	31.4	
Patrick				59.9
White	8,076	4,980	61.7	
Nonwhite	616	229	37.2	
Pittsylvania				31.2
White	22,835	8,340	36.5	
Nonwhite	8,604	1,476	17.2	
Powhatan				68.2
White	2,376	1,820	76.6	
Nonwhite	1,563	867	55.5	
Prince Edward				52.3
White	5,125	3,085	60.2	
Nonwhite	2,896	1,112	38.4	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Prince George				38.4
White	8,860	3,343	37.7	
Nonwhite	2,420	986	40.7	
Prince William				37.6
White	24,477	9,617	39.3	
Nonwhite	2,217	438	19.8	
Pulaski[3]				43.2
White	14,802	6,470	43.7	
Nonwhite	1,030	366	35.5	
Rappahannock				50.6
White	2,608	1,379	52.9	
Nonwhite	540	213	39.4	
Richmond				51.9
White	2,713	1,644	60.6	
Nonwhite	1,132	353	31.2	
Roanoke				76.4
White	35,014	27,474	78.5	
Nonwhite	2,211	977	44.2	
Rockbridge				56.4
White	12,662	6,830	53.9	
Nonwhite	1,127	950	84.3	
Rockingham				37.2
White	22,976	8,630	37.6	
Nonwhite	427	70	16.4	
Russell				67.8
White	13,883	9,535	68.7	
Nonwhite	297	76	25.6	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Scott				71.8
White	14,626	10,557	72.2	
Nonwhite	193	84	43.5	
Shenandoah				70.2
White	13,416	9,436	70.3	
Nonwhite	188	115	61.2	
Smyth				46.7
White	18,191	8,578	47.2	
Nonwhite	327	70	21.4	
Southampton				45.1
White	7,239	4,575	63.2	
Nonwhite	7,435	2,045	27.5	
Spotsylvania				65.6
White	6,262	4,465	71.3	
Nonwhite	1,503	632	42.1	
Stafford				46.0
White	8,594	3,685	42.9	
Nonwhite	971	712	73.3	
Surry				83.1
White	1,479	1,621	100+	
Nonwhite	1,842	1,140	61.9	
Sussex				61.1
White	2,662	2,536	95.3	
Nonwhite	3,706	1,354	36.5	
Tazewell				59.7
White	23,237	13,716	59.0	
Nonwhite	1,071	768	71.7	

VIRGINIA (Continued)

COUNTY	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Warren				62.3
White	8,211	5,235	63.8	
Nonwhite	587	250	42.6	
Washington				43.5
White	21,146	9,188	43.5	
Nonwhite	546	249	45.6	
Westmoreland				60.8
White	3,836	3,320	86.6	
Nonwhite	2,352	441	18.8	
Wise				49.2
White	22,602	11,232	49.7	
Nonwhite	685	225	32.9	
Wythe				80.4
White	12,299	10,030	81.6	
Nonwhite	523	283	54.1	
York				68.0
White	9,596	6,552	68.3	
Nonwhite	2,428	1,623	66.9	
CITIES				
Alexandria				62.8
White	50,548	32,918	65.1	
Nonwhite	6,025	2,548	42.3	
Bristol				47.0
White	9,373	4,528	48.3	
Nonwhite	672	192	28.6	

VIRGINIA (Continued)

CITIES	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Buena Vista				29.4
White	3,390	1,018	30.0	
Nonwhite	156	23	14.7	
Charlottesville				70.8
White	15,904	11,462	72.1	
Nonwhite	3,369	2,181	64.7	
Chesapeake				--
White		21,514	--	
Nonwhite		3,672	--	
Clifton Forge				75.6
White	2,920	2,225	76.2	
Nonwhite	600	435	72.5	
Colonial Heights				71.5
White	6,049	4,337	71.7	
Nonwhite	17	0	0.0	
Covington				55.6
White	6,206	2,860	46.1	
Nonwhite	751	1,005	100.+	
Danville				59.5
White	22,404	13,879	62.0	
Nonwhite	6,388	3,246	50.8	
Fairfax				--
White		5,822	--	
Nonwhite		41	--	
Falls Church				76.4
White	5,720	4,386	76.7	
Nonwhite	114	69	60.5	

VIRGINIA (Continued)

CITIES	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Franklin				--
White		1,752	--	
Nonwhite		899	--	
Fredericksburg				52.9
White	6,717	3,713	55.3	
Nonwhite	1,471	621	42.2	
Galax				47.1
White	3,073	1,500	48.8	
Nonwhite	152	20	13.2	
Hampton				52.7
White	40,795	21,433	52.5	
Nonwhite	10,825	5,789	53.5	
Harrisonburg				56.6
White	6,747	3,875	57.4	
Nonwhite	436	190	43.6	
Hopewell				61.0
White	8,854	5,600	63.3	
Nonwhite	1,549	750	48.4	
Lynchburg				58.8
White	27,728	16,708	60.3	
Nonwhite	6,574	3,446	52.4	
Martinsville				67.0
White	8,084	6,172	76.4	
Nonwhite	2,972	1,233	41.5	
Newport News				51.8
White	44,258	25,489	57.6	
Nonwhite	20,974	8,307	39.6	

VIRGINIA (Continued)

CITIES	VOTING AGE POPULATION[1]	NUMBER REGISTERED[2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Norfolk				42.7
White	129,423	58,893	45.5	
Nonwhite	45,376	15,801	34.8	
Norton				48.1
White	2,764	1,220	44.1	
Nonwhite	188	200	100.+	
Petersburg				46.0
White	12,528	6,353	50.7	
Nonwhite	9,821	3,919	39.9	
Portsmouth				37.8
White	44,286	17,986	40.6	
Nonwhite	21,055	6,725	31.9	
Radford				90.6
White	5,032	4,565	90.7	
Nonwhite	333	296	88.9	
Richmond [5]				
White	90,508			
Nonwhite	53,719			
Roanoke				56.7
White	52,527	32,138	61.2	
Nonwhite	9,519	3,037	31.9	
South Boston				69.7
White	2,639	1,975	74.8	
Nonwhite	969	540	55.7	
Staunton				52.9
White	13,290	7,063	53.2	
Nonwhite	1,288	645	50.1	
Suffolk				44.7
White	5,272	2,779	52.7	
Nonwhite	2,769	817	29.5	

VIRGINIA (Continued)

CITIES	VOTING AGE POPULATION [1]	NUMBER REGISTERED [2]	PERCENT REGISTERED	PERCENT OF TOTAL VOTING AGE POPULATION REGISTERED
Virginia Beach				100.+
White	4,706	26,163	100.+	
Nonwhite	342	2,961	100.+	
Waynesboro				68.3
White	8,667	5,963	68.8	
Nonwhite	548	336	61.1	
Williamsburg				49.3
White	3,509	1,632	46.5	
Nonwhite	583	384	65.9	
Winchester				53.6
White	9,200	5,135	55.8	
Nonwhite	708	174	24.6	
Total by Color (Cities and Counties)				
White	1,812,154 [4]	1,072,713 [5]	59.2	
Nonwhite	421,051 [4]	143,904 [5]	34.2	
TOTAL	2,233,205	1,216,617 [5]	54.5 [6]	

1. 1960 Census.

2. Official figures. Furnished by State Board of Elections as an estimate of registration as of October 1964.

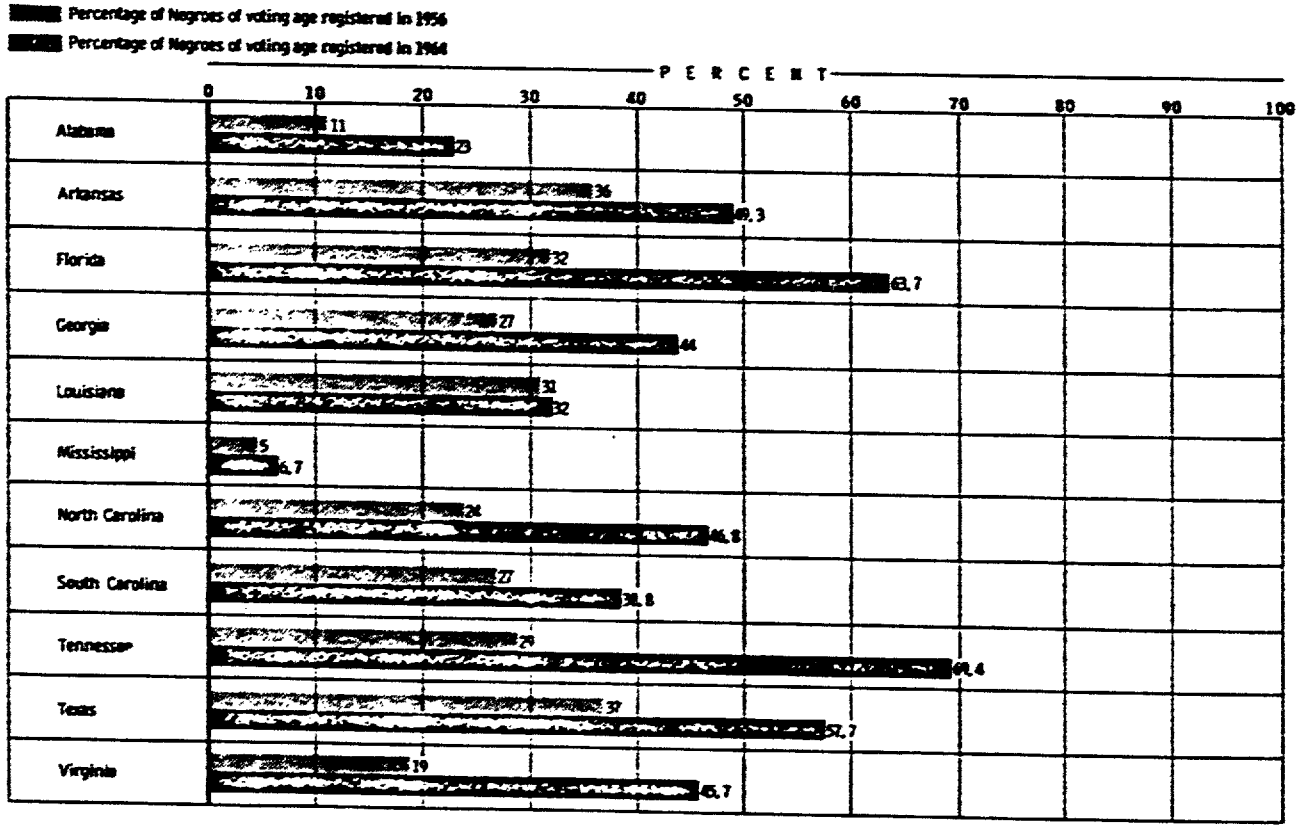
3. April 1964 figures.

4. Totals appearing here are exclusive of population of the cities of Chesapeake, Fairfax and Franklin, created after the 1960 Census.

5. Registration figures not furnished for City of Richmond.

6. If the estimated total population as of November 1, 1964, (published by U.S. Census Bureau in news release dated September 8, 1964) were used as a base, this percentage would be 47.9.

Estimated Negro Voter Registration in 11 Southern States in 1956 and 1964



Source:
1956 percentages - The Report of the United States Commission on Civil Rights: 1959
1964 percentages - Voter Education Project of the Southern Regional Council

Reverend HESBURGH. We appreciate your having made them a part of the record, Mr. Chairman.

INADEQUACY OF EXISTING REMEDIES

Since the Commission first recommended Federal registrars and abolition of literacy tests in 1959, Congress has passed two civil rights acts strengthening the powers of the Department of Justice to prevent discrimination by means of lawsuits.

Despite vigorous prosecution under these acts, the record of achievement has not been impressive. Since 1960, for example, the Department of Justice has brought 16 lawsuits against registrars in Mississippi. After 5 years of great effort, only three final decrees have been obtained and not more than a few thousand Negroes have been registered pursuant to these decrees. In several cases contempt proceedings have been required to achieve compliance by recalcitrant registrars.

Clearly in Mississippi, the litigation remedy remains inadequate.

The Commission has prepared statistics on registration principally for the 11 Southern States. These statistics reflect two significant facts: first, that adequate progress has not been made in increasing the number of registered Negro voters since the enactment of the first Civil Rights Act in 1957, and second, that States in which the literacy test would be suspended under H.R. 6400 also have the lowest percentages of voting age Negroes registered to vote. We would like to submit these statistics for the benefit of the committee.

ENDORSEMENT OF H.R. 6400

The Commission wholeheartedly endorses the elimination of literacy tests and the appointment of Federal registrars as provided in H.R. 6400. For the past 6 years we have recommended such legislation. We have done so in the belief that nothing less will suffice to root out the evil of discrimination in voting.

The testimony received at the Commission's recent hearing in Jackson, Miss., and the events of the past several months in Selma, Ala., have only served to strengthen this view.

It may be appropriate here for the Commission to state briefly the basis for its view that the elimination of literacy tests and the appointment of registrars are, in certain localities, essential to enforce the guarantees of the 15th amendment.

ABOLITION OF LITERACY TESTS

The Commission has repeatedly urged the abolition or drastic restriction of so-called literacy tests at least in States where such tests have been used to prevent Negro registration.

H.R. 6400 would eliminate such tests in States where less than 50 percent of the voting age population has registered or voted in the last presidential election.

According to our statistics, these criteria would serve the desired function of eliminating the test in those States where the Commission has found that it was used for discriminatory purposes. While other

States or areas not discriminating might be included, they may obtain relief under the provisions of the bill.

Since 1958, when the Commission began its study of the use of literacy tests, it has received abundant evidence that in certain States they have been used as instruments of discrimination. In Alabama in 1959, in Louisiana in 1961, and in Mississippi in 1965, the Commission found that the constitutional interpretation tests were being applied discriminatorily for the purpose of preventing Negro registration.

For example, under Mississippi law, an applicant for registration must read and interpret any one of 286 sections of the Mississippi constitution. Negro witnesses from one county testified at the recent Commission hearing that the registrar gave them extremely difficult sections of the constitution to interpret. A good example is section 111 which provides:

> The power to tax corporations and their property shall never be surrendered or abridged by any contract or grant to which the State or any political subdivision thereof may be a party, except that the legislature may grant exemption from taxation in the encouragement of manufactures and other new enterprises of public utility extending for a period of not exceeding 5 years, the time of such exemptions to commence from the date of charter, if to a corporation; and if to an individual enterprise, then from the commencement of work; but when the legislature grants such exemptions for a period of 5 years or less, it shall be done by general laws, which shall distinctly enumerate the classes of manufactures and other new enterprises of public utility entitled to such exemptions, and shall prescribe the mode and manner in which the right to such exemptions shall be determined.

Mr. Chairman, I would hate to have to interpret that before you as certificating my right to register and vote.

The CHAIRMAN. I would not know how to interpret it either.

Reverend HESBURGH. The records of the same registrar indicated, on the other hand, that most white applicants received substantially easier sections. A favorite was section 35, which provides:

> The Senate shall consist of members chosen every 4 years by the qualified electors of the several districts.

There was discrimination not only in choosing the test sections but also in passing upon the answers.

For example, in interpreting section 35, quoted above, one white applicant wrote, "equible wrights," and was passed. Another wrote, "the government is for the people and by the people" and was passed. A third wrote, "Elect every four years," and was passed.

As a result of these and other techniques of discriminatiton the registrar passed all 150 white applicants whose records were examined by the Commission and failed all but 9 of 128 Negro applicants.

This type of gross discrimination is made possible by the unfettered discretion characteristically given to registrars in the administration of these tests. This discretion, the Commission's experience plainly shows, has been used to block Negro registration. The Commission's hearing in Mississippi demonstrated that the insidious practices of 1959, when the Commission first recommended abolition for the literacy test, are still being continued in 1965.

Even if these literacy tests were fairly administered (which they are not) and fairly related to literacy (which they are not), they would still be inherently unfair to the Negro population of the States

affected by the proposed legislation. Since its inception the Commission has received repeated evidence of the denial to Negroes of equal educational opportunity, particularly in States which have the most difficult constitutional interpretation tests.

For example, at the Mississippi hearing last February, the Commission learned that in some Mississippi counties the State expenditure for education for white pupils is about double that for Negro pupils, and that in every county studied the expenditure for white pupils was substantially greater than the expenditure for Negroes. The Commission heard witnesses describe the ill-equipped and backward conditions of the schools for Negroes, all but a few of which are still segregated in disregard or defiance of the Constitution.

The result of unequal schools is that only half the Negroes of Mississippi have completed the 6th grade, while half the whites have completed the 11th grade.

Any test for voting which depends upon educatitonal achievement or which tests literacy, understanding or knowledge, will thus discriminate against the Negro population in States like these where there has been a denial of equality of education to the Negro citizens. The only way to avoid these unjust consequences is to eliminate the tests.

I am aware that some are concerned that in acting upon our strong conviction that literacy tests must be removed as discriminatory impediments to voting, we may somehow impair the foundations of good government based upon an informed electorate. While I can appreciate this concern, I do not think that this legislation will produce such a result.

During our recent Mississippi hearing, we heard scores of witnesses who had little formal education and who did not meet all of the traditional standards of literacy. Nonetheless these were people who by their interest and awareness were eminently qualified to participate in responsible democratic government.

Their concerns for good citizenship and good government have been sharpened by years of deprivation and denial. When they are permitted to register and vote, democracy will be stronger for their contribution.

I might add their courage in attempting to vote under the most difficult of circumstances at present is a good example to the rest of the Nation, many of whom do not vote even when they have an easy opportunity of doing so.

FEDERAL EXAMINERS

Under our system of government it is usual and desirable that State officials administer State laws respecting registration and voting as well as other State laws. But State officials have a correlative duty to respect the Constitution and laws of the Federal Government as well as the constitution and laws of their State.

When State officials fail or refuse to enforce Federal law it becomes the duty of the Federal Government to take the steps to insure that its law will be carried out.

In 1957 Congress enacted the first of the modern civil rights statutes which prohibited discrimination by State registrars. After 2 years of

experience under this statute the Commission concluded that discrimination was continung in defiance of Federal law. This conclusion led the Commission in 1959 to recommend the appointment of Federal registrars as the only way of insuring that the Federal prohibition against discrimination would be carried out.

Events since 1959 have borne out the Commission's original determination. There has been continued denial of the right to vote in violation of the 1957 Civil Rights Act. More recently, we have found that registrars have continued to disqualify Negroes for immaterial errors in applications and have refused to provide copies of applications or have charged exhorbitant fees for such applications in violation of the 1964 Civil Rights Act.

The record of defiance of Federal law by State registrars uncovered in Commission investigation makes it clear to us that State registrars cannot be trusted to carry out Federal law. Thus, we have come regretfully but firmly to the conclusion that a system of registration by Federal officials is necessary in certain localities in order to preserve and restore the integrity of our democracy.

INTIMIDATION AND FEAR

Federal examiners are important for another reason. It is profoundly disturbing but nevertheless true that in many rural counties it is dangerous for a Negro to go down to the county courthouse and attempt to register.

At the Mississippi hearing the Commission heard testimony from Negro witnesses, one of whom, in Tallahatchie County, was chased from the courthouse by a gang of armed men after attempting to register.

He was the first man to make such an attempt after the Department of Justice had succeeded in obtaining a decree in the county.

Witnesses from Humphreys County testified that the registrar threatened and abused them when they attempted to register and that the sheriff took their picture as they were leaving the courthouse. The ordeal does not end with registration.

Several Negroes who had managed to register testified that they failed to vote because they were afraid to appear at isolated rural polling places. Fear and intimidations have thus combined in many areas to prevent Negro registration and voting.

In this respect, the bills under consideration will not solve the problem. In order to dissipate an atmosphere growing out of a hundred years of repression, the Federal Government will have to take affirmative action to allay fear and to educate and encourage the Negro population in these states to exercise their rights of citizenship.

Insofar as the present bill will allow Negroes to register before a Federal official, it may alleviate fears arising in connection with registration and thus encourage at least greater registration, if not voting, activity.

CONCLUSION

During our recent Mississippi hearings, the Commission heard testimony from several Negro citizens who had served their Nation honorably and with decorations and even valiantly during time of war, but who had nonetheless been denied the right to vote.

One of them, Mr. Jesse Brewer, told us that the only time he felt like a man and a citizen was when he was in the Army. Nothing perhaps better illustrates the irony and shame of voting deprivation.

For this and many other reasons, I respectfully urge prompt enactment of the pending voting bill.

The CHAIRMAN. Father Hesburgh, I want to commend you for the statement you have made and I want to offer my gratitude and I am sure I reflect the gratitude of the entire citizenry of the country for the splendid job you are performing as a member of the Civil Rights Commission and the splendid job performed by your colleagues on that Commission.

Father, are you familiar with the terms of the bill? I presume you have read the bill?

Reverend HESBURGH. I am in general familiar with the terms of the bill and I have read an analysis of it.

The CHAIRMAN. Do you feel that bill would measurably help in the situations you describe?

Reverend HESBURGH. Mr. Chairman, I think it is the answer to many of the problems we have studied throughout the country. It embodies most of the recommendations we have made over the course of 6 years and I greet it with the greatest of enthusiasm.

The CHAIRMAN. You have submitted statistics for Alabama, the county of Autauga. You show voting age population, white 6,353; nonwhite, 3,651. The percentage of whites registered is 78.6. The percentage of nonwhites registered is 1.4. What deductions can you draw from that?

Reverend HESBURGH. I draw certainly, sir, that something is horribly wrong in this disparity of registration between the two segments of the population, both of whom presumably pay their taxes and both of whom have the same rights of citizenry and both of whom are called upon to defend the country in time of war and both of whom are subject to the same responsibilities of American citizenship.

One of the most horrible things we learned from our hearings in Mississippi was that schoolteachers lose their jobs if they try to register. It seems to me that registration to vote ought to almost be a qualification for presuming to teach youngsters how to become good citizens.

The CHAIRMAN. So there is a direct correlation between the discrimination your speak of and the relative numbers of Negroes who are registered and the numbers of those who are voting?

Reverend HESBURGH. Certainly; I think so.

The CHAIRMAN. In Dallas County that we hear so much about, apparently the white population is 14,400, and the nonwhite population is larger; namely, 15,115.

Of the white population, 9,463 are registered. Of the nonwhites which is a larger population than the whites, only 310 are registered. Of the whites, 65.7 percent are registered and only 2.1 percent of the the nonwhites when they seek to register?

These figures are out of the statistics that you gave to the committee and they are dated March 19, 1965. Again of course that shows a tremendous disparity. From your experience as a member of the Civil Rights Commission, there is no doubt in your mind that in the county of Dallas there is extreme, harsh, drastic discrimination against the nonwhites when they seek to register?

Reverend HESBURGH. I am in complete agreement with that conclusion, Mr. Chairman.

The CHAIRMAN. In the county of Sunflower, Miss., the white population was 8,785, the nonwhite was 13,524. The number of whites registered was 7,082 and out of the 13,524 Negroes, only 185 were registered. The comparative percentages are as follows: Whites, 80.6, nonwhites, 1.4.

In Tallahatchie County the white population is 5,099 and nonwhite population is 6,483, registered whites, 4,464, only 17 nonwhites are registered.

The comparative percentages are 78.5 percent whites registered and 0.3 percent of the colored. The pattern apparently in Alabama is duplicated in Mississippi. Is that correct?

Reverend HESBURGH. You are certainly correct, Mr. Chairman, and I would like to refer to another county where we had direct testimony and give you one personal example which I think may perhaps illustrate this.

This is Humphreys County in Mississippi and I am referring to the comparable percentages which are 3,344 white population, and 5,561 colored population. Of the 3,344 white population, 2,538 are registered to vote. Of the 5,561 nonwhite, zero are registered to vote.

The CHAIRMAN. Not a single Negro is registered to vote?

Reverend HESBURGH. I would like to tell you about one Negro who tried to vote in this county. She is a woman named Mary Thomas. She said she walked by the door many times but was afraid to go in. One day she said she felt her prayers were answered and therefore she was not alone and decided to go in and register.

She received a very difficult test and felt discouraged. When she left the room she was photographed, which meant she would have trouble getting credit around town. She had a small business which she used to support herself and her six children, the eldest being in his teens.

She was not back at the store 15 minutes when the sheriff appeared and said, "I have a warrant for your arrest." Fifteen minutes after she tried to register. He said, "You are selling beer without a license." She said, "I have a State, a city, and a Federal license."

He said, "You do not have a county license." She was immediately taken to jail, locked up overnight in jail without counsel, brought up the next day and fined over $300 for not having this $15 beer license from the county, despite the fact that she had licenses to sell beer and had done so for over 8 years.

I think when this happens to a person it is difficult to say they have any rights of citizenship at all. When they try to vote, they have the roof fall on them in this fashion.

I asked her if the sheriff said anything about her dependents. She said,

> I guess the neighbors took care of them because I was just taken out of my store overnight and put in jail, and all this happened 15 minutes after I tried to register.

That was one of many cases. We had two cases of two old ladies in their eighties who decided to register after 80 years in the country. They decided to exercise their rights of citizenship. They were asked if they wanted to get their commodities shut off. Their total income was about $47 a month, which is very hard to live on, I think.

Just because they tried to vote the registrar threatens to cut off their commodities. To see these things one by one, witness by witness, the threats, the violence, the intimidation, and the sheer determination that people will not exercise their constitutional rights or they will lose their jobs and lose their credits and lose their lives in some cases—you have to see this, Mr. Congressman, to understand the fact that something must be done.

When the President made his speech the other night he was not just going through words. You could tell it was coming from the heart. You have to sit and go through the experience where even a man with battle scars can't vote, where people with Ph. D.'s are turned down by people who don't even have a high school education.

You have to see this to realize the enormous responsibility this country has, I think, before the world to make it possible for these people to vote without any kind of ingenious or ingenuous action to keep them from voting.

The CHAIRMAN. In addition to the counties that you mentioned where not a single one was registered, there is the county of Lamar in Mississippi where not a single Negro is registered although the nonwhite population is 1,071; the white population is 6,480; 88.6 of the whites are registered and not a single Negro.

That leads me to this question: Do you think if we pass this bill and follow the suggestions of some that these examiners of registrants should be residents of the State or the community where they operate—do you think that would be efficacious or do you think the examiners, as I used the term this morning, take on the color of the prejudices that surround them?

Do you think the examiners should be selected from outside the State?

Reverend HESBURGH. All I can say, Mr. Chairman, is that from inside the State they will be subjected to enormous pressures, pressures from the community in which they live, if the pattern follows the pattern of the past, the pattern to which courageous newspaper editors or courageous judges have been committed, they will get nasty telephone calls, they may have a Molotov cocktail thrown at their home.

It seems to me you may be placing local citizens under tremendous pressure by giving them this job to do. My own feeling is that there are good people in Mississippi and there are good people in very State in this Union, and I have no doubt about it, and they are courageous, but I think you have to think of what you are asking these people to do in view of the past history of what has happened to people who have stood up for civil rights in these parts.

May Mr. Taylor, our acting staff director, say a word?

Mr. TAYLOR. I just wanted to add that under section 4 of the bill as we read it, the examiners would not necessarily have to be residents of the State or the subdivision, but we do not think it is entirely clear. As Father Hesburgh said, we think this should be clear in the legislation. It certainly would be desirable to have local citizens act as examiners where they are available and not subject to these pressures but if you put it as a requirement I think it might in many cases hamper the proper enforcement of the bill.

The CHAIRMAN. I do not seek any change. I want to keep the language of the bill and I think that is more or less discretionary without expressing whether it should be in or outside the State.

Mr. TAYLOR. That is the way we read it but we were not sure it was entirely clear because it says "appoint examiners in such subdivisions", I believe. It might be better for it to read "appoint examiners for such subdivisions" to remove any ambiguity in the section.

The CHAIRMAN. Are you satisfied with the so-called 50-percent formula?

Reverend HESBURGH. Yes, sir; I think it is a good formula. I think it will get at the pockets that most deserve attention for the registration of Negro citizens. I would feel a little better in regard to a provision that certain Negro citizens have to attempt to vote within a certain time period before appealing for this relief provided by the bill, if in certain areas where there is such a small percentage or no percentage of Negroes voting that this requirement be waived. As I understand it, it could be waived by the Attorney General.

I must tell you, sir, that there are certain areas where just the attempt to vote is tantamount to committing suicide. You will find in our Mississippi report and some of the other reports evidence to that effect.

The CHAIRMAN. Father, do I take it that your statements reflect the views of your colleagues on the Civil Rights Commission?

Reverend HESBURGH. I believe I can say for all six members I am speaking effectively for the consensus we have obtained in going through this experience together.

The CHAIRMAN. Have they actually reviewed the contents of H.R. 6400?

Reverend HESBURGH. We had a meeting here in Washington and I am the only member of the committee who could stay on today so they agreed I should speak for them.

The CHAIRMAN. Did they approve the bill?

Reverend HESBURGH. They approved the bill, were enthusiastic about it and they wanted me to tell you that they are enthusiastically supporting this bill.

Mr. RODINO. Father Hesburgh, first of all I would like to welcome you to this committee and say that I, too, appreciate the valuable contribution you have made as a member of the U.S. Civil Rights Commission.

I congratulate you on the outstanding work you are doing as an educator at Notre Dame University. Your statement is certainly lucid and clear and I do not think anyone can ask any more of you, but I do have several questions.

I would just like to ask you, Father Hesburgh, whether or not, in the light of your experience as a Commissioner of the U.S. Civil Rights Commission, you believe that this bill would substantially overcome the obstacles, the delays, the obstructions that have been put in the way of those who are seeking a right to vote?

Reverend HESBURGH. I would think, Mr. Congressman, that this is certainly the longest and best step in that direction that I have seen thus far proposed. I do not think there is a law conceivable that will get around the complete malice or ingenuity of people to subvert the laws.

I don't think the Good Lord and the Ten Commandments could accomplish that but I do feel, Congressman Rodino, that this is a fine step forward in that direction and I think it manifests just everything we are looking for.

Mr. RODINO. Generally would you say, Father Hesburgh, that the tests or devices that have been used have been at the core and seat of our trouble with trying to get people to register to vote?

Reverend HESBURGH. These have been the most widely used and most widely abused. There have been other things such as asking people to put down the exact year, month, and date of their age. This is very difficult to do. As a matter of fact the registrar in Louisiana who was trying to do this could not even do it for herself.

There are many devices such as this for disqualifying people because they don't dot an "i" or cross a "t" but we have found that literacy tests are the one great universal device used for denying Negroes the right to vote.

It has been our strong conviction if you want to solve this problem, and we have recommended it three times over in our report to the President and the Congress, this legislation is the most important way to do it to get around this test.

Mr. RODINO. Would you say that insofar as the literacy test is concerned that if some of the States that are presently, let us say, using this as a device to discriminate against certain people, if they were to suddenly say we have pangs of conscience and we are going to use the literacy test uniformly, not discriminate against whites or blacks, would you still feel that the literacy test is a proper vehicle to determine whether or not a person is eligible to vote?

Reverend HESBURGH. No; I do not think it is. I may be a maverick in this but I don't think so. Let me give you my own view on this.

I believe the literacy test was put in at a time when there were not very many literate people in the United States and there are very little means of becoming informed about an election unless you heard a person campaigning which was rare in some parts of the country, or else unless you had a newspaper or magazine to read about the various candidates.

I think people are more informed about candidates today than ever before due to radio and television and the widest kind of coverage in magazines with very little literary text going with them.

I don't think in the sense of a knowledgeable electorate have we ever had a more informed public. So I think the literacy test as originally conceived in the beginning of our country, the object of that test, the purpose of that test, is largely achieved by other means today; even if a person could not read or write he would be enormously informed by watching the candidates perform on television and hearing them on the radio, learning much more about them than he ever did before.

In addition to that argument which I sincerely believe, I would like to say again never before in the history of our country have we been as literate a people as we are today. I don't imagine there is any more than 3 or 4 percent of the people in the whole country who cannot learn to read or write. I think whatever purpose the literacy test had is something that is now being achieved in much greater measure by other means.

Second, I believe that it is being misused as no other thing is being misused to keep Negroes from exercising their constitutional right to vote.

Mr. RODINO. Some States do not employ literacy tests.

Reverend HESBURGH. That is right.

Mr. RODINO. The Attorney General in testifying about this before the committee made a very eloquent statement in this area, and I would like to read from it. He stated that:

It might be suggested that this kind of discrimination could be ended in a different way—by wiping the registration books clean and requiring all voters, white and Negro, to register anew under a uniformly applied literacy test.

For two reasons such an approach would not solve, but would compound our present problems.

To subject every citizen to a higher literacy standard would, inevitably, work unfairly against Negroes, Negroes who have for decades been systematically denied educational opportunity available to the white population.

Such an impact would produce a real constitutional irony—that years of violation of the 14th amendment right of equal protection through equal education would become the excuse for continuing violation of the 15th amendment right to vote.

The result would be something chillingly close to the mechanism once confidently described by the late Senator Bilbo of Mississippi:

"The poll tax won't keep 'em from voting. What keeps 'em from voting is section 244 of the constitution of 1890, that Senator George wrote. It says that a man to register must be able to read and explain the constitution when read to him. * * * And then Senator George wrote a constitution that damn few white men and no niggers at all can explain * * *" (See Collier's magazine, July 6, 1946, Hearings Before the Special Committee To Investigate Senatorial Campaign Expenditures, 1946, p. 205.)

The second argument against such a reregistration "solution" is even more basic—and even more ironic. Even the fair administration of a new literacy test in the relevant areas would, inevitably, disenfranchise not only many Negroes, but also thousands of illiterate whites who have voted throughout their adult lives.

Would you agree with that statement?

Reverend HESBURGH. Yes; I certainly would.

Mr. RODINO. Father Hesburgh, not to be repetitious, and not to ask you technical questions, but section 3(b) of the bill sets out the four areas where tests or devices have been employed where there has been discrimination against the Negoes:

Section 3(b) 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 qualification by the voucher of registered voters or members of any other class.

Would you say, Father Hesburgh, that these are reasonable provisions from which we might be able to learn whether or not discrimination exists?

Reverend HESBURGH. Yes; I think so. At least I can say from my own experience in sitting on the stand listening to people who were discriminated against these were the kinds of things that were being used to discriminate against people having a right to vote.

I hope Mr. Taylor, our staff director, might also have a word to say on this.

Mr. TAYLOR. Mr. Rodino, I certainly agree. I have one question I would raise about that section and that is whether it is comprehensive enough to prohibit the use of the registration blank itself as a form of literacy test?

We have encountered this problem in many areas where people have been disqualified for immaterial errors on the test blank. Perhaps Section 3(b) 1 is clear enough to overcome that problem, but we think

that literacy tests in any form ought to be prohibited including the use of the registration blank itself as a form of test.

Mr. RODINO. I think that is what the bill actually says. As a matter of fact I believe the Attorney General feels that this is broad enough and does not feel it would be necessary to particularize every instance.

Father Hesburg, you answered in reply to a question by the chairman that the 50-percent figure in your mind is also a reasonable one and this is based on your experience and the history that you have been able to discover from your investigations as a member of the Civil Rights Commission.

Reverend HESBURGH. Yes; we believe the 50-percent provision will get at the areas most needing attention at the moment.

Mr. RODINO. Thank you very much.

The CHAIRMAN. On this 50-percent formula, it would apply to Alabama which had only 36 percent of the voting—of the population voting in the 1964 Presidential election. I am reading from your statistics. It would apply to Alaska which had 48.7 percent. Both Alaska and Alabama have literacy tests. Arkansas had a percentage of 27.0. It would not apply to Arkansas because it has no literacy test.

Georgia, 43.2, has a literacy test which would be affected. Louisiana, 47.3, has a literacy test and the bill would apply. Mississippi, 32.9 percent and a literacy test, and the bill would apply. South Carolina, 38 percent, and a literacy test and the bill would apply. Texas, 44.4 percent. It has no literacy test and the bill would not apply.

Virginia, with 41 percent, has a literacy test, and would be covered.

I notice, however, that the District of Columbia has a voter percentage of 38.4. The District of Columbia has no literacy test so therefore it would not apply in the District of Columbia.

Would you say that where the nonwhite population is greater than the white population the mischief of discrimination is more exacerbated?

Reverend HESBURGH. There is no question about that.

The CHAIRMAN. There is no question about that.

Reverend HESBURGH. There is no question about that.

The CHAIRMAN. Mr. Brooks?

Mr. BROOKS. Thank you, Mr. Chairman.

Father Hesburgh, I have one question. It was my understanding that you thought that the legislation which you read yesterday was adequate to properly safeguard the majority of discriminations in the United States.

Reverend HESBURGH. That is right.

Mr. BROOKS. Some of the questioning here in the committee indicated that there were some matters of discrimination that would not be covered, and I wonder if in light of your background of 8 years in this matter and your feeling about the legislation, you feel that it should be broadened to include every isolated or other matter of discrimination in the country?

Reverend HESBURGH. I would think, sir, on the basis of the discrimination that we have studied on the Commission, and we have met all over the country, although in many parts of the country we have not found specific discrimination in the matter of voting, I would think that the present law is a large step forward and it would be

satisfactory to me with one possible exception. That exception, which I mentioned earlier, is in the case of those counties where there are practically no Negroes registered to vote and where attempting to register to vote is tantamount to asking for real serious trouble, either financially, physically or otherwise. In those cases, I think it is a little too much to say that to get the kind of relief provided by the bill you have to attempt to register because the very attempt to register means trouble in certain parts. That is the only provision I would add to the bill as it stands. Other than that, I find it perfectly adequate.

Perhaps Mr. Taylor would like to add that we have a few technicalities but they are not substantive.

We do have a few technicalities which we are making a part of the record but these are not substantive. I think the whole thrust of the bill as we see it is very good.

Mr. BROOKS. Thank you, Father, no further questions.

The CHAIRMAN. Mr. Corman.

Mr. CORMAN. Father Hesburgh, it seemed to me last year that we passed a pretty good civil rights act and I think we are going to pass this bill. I honestly believe the substantial reason for that is the comprehensive and perceptive work your Commission has done.

Without that record for us to refer to we could not have gotten the 1964 civil rights bill through the House and we are all deeply indebted to you.

I would like to call your attention to this problem you pose of 20 people attempting to register and sign affidavits. I wonder if you are satisfied with the language on section 4(a)2 leaving it within the discretion of the Attorney General to waive?

Reverend HESBURGH. We discussed this with our staff director and we did discuss this point. I think I mentioned earlier that the Attorney General has the power of doing this.

However, this may cause undue problems for him and I would like to ask Mr. Taylor to address himself to that point.

Mr. TAYLOR. Mr. Corman, in our experience, in some of the counties where we have been, you are very unlikely, for various reasons, primarily fear and intimidation, to get 20 complaints. Therefore, we think that this alternative provision which enables the Attorney General to make this determination is crucial, and we hope and assume that it is going to be exercised in many of these rural counties where it is just unreasonable to expect 20 people to even write a petition or a complaint.

Mr. CORMAN. So far as the language in the bill is concerned, do you not feel it is adequate?

Mr. TAYLOR. Yes, sir; as long as it is in the alternative.

Mr. CORMAN. I think it may be hard for a politician to feel that getting his picture taken is coercion, but there has been that pattern in the South. In view of your recent experience there I wondered if you might tell us again what this practice is of photographing people when they either go to register or go to vote and what has happened to the people who have been photographed?

Reverend HESBURGH. Our general perception has been in these cases and this goes back to the hearings we had last month in Mississippi, that you have to understand that you are in a very high tension situa-

tion. You are in a county, say, where practically no one is registered to vote and you finally work up the nerve to try it.

You are apprehensive about this. There is a fear and the fear runs both ways. You go to this room and you go through this ordeal. One registrar sat there like a metronome and kept tapping her pencil on the desk to distract them. The picture is taken by the sheriff, who in these counties is the real center of trouble, or it is taken by a deputy sheriff, and anyway it is generally some one wearing a gun and representing the law.

We asked a number of people why this was done and I asked one sheriff about this and he said he takes pictures as a hobby. He said he has four cameras in his office. We asked him if his deputies exercised the hobby for him while he was not around. That is all we could get out of him.

The people said what really happened was that if you are a farmer and need credit, the picture is shown to the fellow who sells seed, gas, and you don't get credit in the seed store, or gas station or on diesel oil. Your life becomes a lot more difficult if you can't get credit because the picture is exhibited to all creditors.

Mr. CORMAN. We were trying to decide last night what was criminal coercion and I was amazed to find that practice but it applies.

Reverend HESBURGH. As I told some of the folks during the hearing, I had a chance to live under a dictatorship for 3 years in Europe when I was studying before the war, and it was characterized by a pervading fear.

If you are living in this kind of a small society where there is a pervading fear and someone comes up and takes your picture you are not very happy about it.

I assume if you were traveling in a country ruled over by a dictator and you were on thin ice and somebody came up and took your picture, you don't assume it is to put you in a beauty contest. It is the kind of thing that worries a person especially if there is that built-in insecurity in the first place.

Mr. CORMAN. We brought up this matter of a conviction of a felony as making one ineligible to vote and the problems that may be attendant with some civil rights workers who have been convicted of felonies in those jurisdictions that perhaps would not be ordinarily considered felonious conduct. Do you think that is a particular problem which we ought to address ourselves to in this legislation?

Reverend HESBURGH. Perhaps I should let my lawyer friend here answer that.

Mr. TAYLOR. One of the questions we had under the standards provided in 3(b) was whether disqualification for conviction of a crime might be said to be a "good moral character test." I do not know if that is entirely clear.

Mr. CORMAN. I would think from the Attorney General's testimony that that would not have been. If one had been legitimately convicted of a crime and served time in prison in any State he loses his right to vote but if one is picked up for demonstrating before the courthouse and convicted of treason and fined $5, I suppose any—I suppose technically he has been convicted of a felony.

I wonder if your experience and investigations would indicate that there has been enough of that sort of conviction that we ought to address ourselves to it?

Mr. TAYLOR. There have been such convictions and particularly in the areas we investigated recently in Mississippi. There have been a great number of arrests that have to be categorized as harrassing arrests and convictions. I am not prepared to say at this time that in Mississippi or elsewhere under the law all of these would be disqualifications for voting.

The Commission has never recommended that conviction for a felony be abolished as a disqualification.

However, if it is not done by this legislation, I think we are going to have to have to look very carefully at the situation and see whether this becomes a new means for disfranchisement although it has not been a prime means before.

This could become a new means of depriving people of the right to vote.

For example, in Mississippi, and elsewhere there is a pretty wide list of crimes for which people can be disqualified including a great many crimes involving property rather than injury to persons.

They may be susceptible of such use. These included bribery, theft, arson, perjury, forgery, embezzlement, or bigamy, and I might say that perjury is a charge that has been used on a number of occasions against Negroes or civil rights workers.

So I think we have a potentially significant problem here. I am not sure how you deal with it, but it may be that you are not closing all of the loopholes with a provision which still leaves the conviction of a crime as a possible disqualification from voting.

Mr. CORMAN. For one to run for office in Mississippi or Alabama, I would assume he would have to be a qualified voter?

Mr. TAYLOR. That is right.

Mr. CORMAN. I would think, perhaps, in an endeavor to disqualify individuals who might want to seek public office, it might be effected that they be convicted of one of these crimes by a local court so I think, perhaps, we should at least explore further the possibility of there being some kind of control by the Attorney General.

Mr. TAYLOR. I do not know what the solution is, but I think this provision ought to be looked at pretty hard.

Reverend HESBURGH. I would be willing to say, having looked through many many of such cases, that wherever there is an opening to disqualify, that opening will be used.

I think you can assume that, in cases where people really do not want to qualify other people to vote. So any handle on this bill towards disqualification will be used. You can assume that, I think, because this has been the history of the past.

The CHAIRMAN. Would the gentleman yield?

Mr. CORMAN. Yes, Mr. Chairman.

The CHAIRMAN. Complaints have been registered with me, by certain officials in the National Association for the Advancement of Colored People, that there are numbers of cases of this and I am asking how true this is, and if you can tell us something about it, it would be very helpful.

It is alleged that in many cases Negroes who have been demonstrating and, very possibly, committed misdemeanors or slight offenses, for which they could be charged with slight offenses like misdemeanors, have instead been placed upon the criminal records as having com-

mitted a felony and are indicted as having committed a felony and then they are told it does not mean very much, you plead guilty to this and we let you off, and meanwhile they are on the record as having committed a felony.

Do you find any truth in that at all, in your checkup on these matters?

Mr. TAYLOR. I am not sure that we possess, at the moment, any documentary evidence of any such misdemeanors being recorded as felonies. I might suggest, however, there is an allied problem here, and that is when you have as many harrassing arrests as you have had in some areas, and you have a situation like you have in the State of Mississippi, where there are only a very limited number of lawyers who are prepared to represent clients in civil rights cases, you have a very serious problem of adequacy of defense.

In some cases you get a plea of nollo contendre or even a plea of guilty, and offenses which may be imaginary stand as a conviction, simply because there is not adequate legal representation.

The CHAIRMAN. I do not mean that. I mean where there is a deliberate advancing of the degree of crime, and then asking the defendant to plead guilty, and on the score that he can go scott free, but meanwhile there is a black mark against his record, and he is on the record as having committed a felony.

Under those circumstances, he certainly might not be thought to possess good moral character and possibly could not pass under this pending bill.

Mr. TAYLOR. We have seen some circumstances in which persons have been charged with crimes which seem to be out of proportion with the offense committed even if the facts were true.

We had a witness in Mississippi who reported a bombing of his home, and on the same night was arrested for illegally operating a garage, because he was repairing a car shortly before the police arrived.

I don't know if that was a felony conviction or not. It resulted initially in a 5 or 6 month sentence. So we have instances of these. But I could not tell you today that we have a pattern of what you are asking about.

We do have a lot of allied problems in this area.

Mr. CORMAN. Are you aware of any political subdivision where you think they need Federal examiners, but could not get them under section 3(a), the 50 percent plus the literacy test criteria?

Are you aware of any political problem—political subdivisions—where you need an examiner and could not get one because section 3(a) is too restrictive?

Mr. TAYLOR. Yes, sir, we have been in counties where white people in positions of responsibility in the community have been afraid to come forward and testify before our Commission even though they felt that something needed to be said.

I would say, in those counties, it seems unlikely in the present circumstances, that you could locate officials to serve as examiners.

Mr. CORMAN. I am sorry, I did not make myself clear. I am referring to just the political subdivisions themselves not qualifying under section 3(a). That is the 50 percent item plus a test or device. Regardless of where we get the examiners—we get him from any place—but do you feel we could not get an examiner from any place under 3(a)?

Mr. TAYLOR. We have just finished compiling these statistics and I would like to subject them to a fairly quick analysis. I am not sure. It is possible that under some other formula, some counties would be covered which need to be covered, but I cannot identify those right now.

Reverend HESBURGH. I might say, Mr. Corman, there are some States where the record is very good and is getting better all the time, such as for example, Tennessee. Yet there were a few isolated instances in Tennessee where things were quite difficult. Florida in general was making good progress, but there are a few northern counties in Florida where we had difficulty, but that would be a political subdivision.

Mr. TAYLOR. I might just add that I think that northern Florida is an example, and Florida, of course, does not have a literacy test.

It is possible that there litigation could handle the matter even if you were not able to obtain examiners.

Mr. CORMAN. I think it would be helpful to us if, after you again have had an opportunity to carefully review it, you could let us know one way or the other, because 3(a) is a critical part of the bill.

We regret failing to cover some things that ought to be covered, but we are merely talking about the appointment of examiners and we are not undoing any of the other remedies.

I am almost convinced that, perhaps, there does need to be a broadening of it and we might set up some additional mechanism if they need it.

Reverend HESBURGH. I would like to add just one thing, Mr. Corman. If you have really been next to this thing for many years, as many of us have, you hope, with the greatest of hope, for some kind of simple cut-through, which in one fell swoop, might answer the whole thing.

I believe that by getting at that literacy test and using the "50 percent" standard as a beginner, you may be able to solve 90 percent of the problem almost overnight, if people approach this bill then with good will.

Mr. CORMAN. Thank you very much.

(The following memorandum was subsequently supplied by the Civil Rights Commission:)

MARCH 24, 1965.

To: Hon. EMANUEL CELLER, *Chairman, Committee on the Judiciary.*
From: WILLIAM L. TAYLOR, *Staff Director-Designate.*
Subject: Analysis of voting statistics with respect to alternative proposals for application of voting legislation.

At the close of Commissioner Hesburgh's testimony before the committee on March 19, 1964, we were asked to review the report of voting statistics, which had been submitted to the committee, to determine which counties not covered by H.R. 6400 may present problems of discrimination. We were also asked to indicate which counties would be covered under the standard of 25-percent registration by race provided in S. 1517.

Under the test established by H.R. 6400, the following entire States would be covered: Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. We now consider other areas which may present problems of discrimination in voting.

At the present time, registration statistics are in many cases only estimates. Because, in all cases, voting figures will be less than regis-

tration figures, more counties would necessarily be covered by a 50-percent standard using voting statistics than by using registration statistics. Accordingly, we enclose a copy of an article appearing in the current issue of the Congressional Quarterly, for the week ending March 19, 1965, which indicates the counties in which less, or only slightly more, than 50 percent of the voting age population voted in the 1964 election and which sets forth the appropriate percentages.

NORTH CAROLINA

This State, as a whole, would not be covered since more than 50 percent of the voting age population voted in the last election. However, 34 counties containing 64.4 percent of the State's nonwhite voting age population would be covered under the bill since the voting percentage in these counties was less than 50 percent. These counties include areas in the State which are known to have racial difficulties and where there is thus a possibility of discrimination in voting.

TEXAS

In a great number of Texas counties (see p. 280) less than 50 percent of the voting-age population voted at the 1964 election. These would be excepted from coverage by H.R. 6400 because Texas has no literacy test. Most of the 649,412 voting-age Negroes in Texas reside in these counties. Racial registration statistics are not available at the present time and as a result we do not know what counties would be covered under the 25-percent formula of S. 1517. With respect to Texas, however, it is noteworthy that the Commission has never received any sworn, or unsworn, voting complaints.

ARKANSAS

Since Arkansas has no literacy test it would not be covered under H.R. 6400. In the following counties less than 50 percent of the voting-age population voted at the last election:

Chicot
Clark
Clay (3 nonwhites)*
Columbia
Crittenden
Cross
Desha
Drew
Greene (11 nonwhites)*
Hempstead
Howard
Lafayette
Lee
Lincoln
Mississippi
Monroe
Phillips
St. Francis
Woodruff

The following counties would be included under the 25-percent racial registration standard of S. 1517:

Baxter (3 voting-age nonwhites)
Boone (4 voting-age nonwhites)
Carroll (8 voting-age nonwhites)
Clay (3 voting-age nonwhites)
Cleburne (1 voting age nonwhite)
Crittenden
Cross

*Voting age.

Fulton (4 voting age nonwhites)
Independence
Lee
Madison (7 voting age nonwhites)
Marion (2 voting age nonwhites)
Montgomery (20 voting age nonwhites)
Newton (2 voting age nonwhites)
Poinsett
Polk (8 voting age nonwhites)
Pope
Searcy (1 voting age nonwhite)
Stone (1 voting age nonwhite)
Washington.

FLORIDA

Since Florida has no literacy test it would not be covered under H.R. 6400. In the following counties less than 50 percent of the voting age population voted at the last election:

DeSoto	Hillsborough	Union
Gadsden	Monroe	

The following counties would be included under the 25 percent racial registration standard of S. 1517:

Gadsden	Lafayette	Union
Jefferson	Liberty	

TENNESSEE

Since Tennessee has no literacy test it would not be covered under H.R. 6400. In the following counties less than 50 percent of the voting age population voted at the last election:

Clay (96 nonwhites)*
Crockett
Fayette
Gibson
Giles
Hardeman
Haywood
Lake
Lauderdale
Lincoln
Macon (69 voting age nonwhites)
Maury
Montgomery
Morgan (296 voting age nonwhites)
Obion
Robertson
Rutherford
Tipton
Trousdale
Warren
Weakley
White (275 voting age nonwhites)

*Voting age.

Since racial registration statistics are not presently available we do not know how many counties would be included under the 25 percent standard of S. 1517. The Department of Justice has obtained decrees to prevent discrimination or intimidation in connection with voting in Fayette and Haywood Counties. The Commission has no evidence of any problem in the remaining counties.

CONCLUSION

It is evident that H.R. 6400 covers most of the areas in which we have found discrimination. It may be that certain limited problem areas would not be covered. If it appears desirable to enlarge the reach of H.R. 6400, we would suggest the following procedure: Whenever a specified number of meritorious voting complaints from any county are filed with this Commission, it would request a census of voting and registration by race, pursuant to the authority granted by Title VIII of the Civil Rights Act of 1964. Federal examiners would be appointed whenever less than 25 percent of voters of the same race as the complainants were registered or had voted.

COMMENT ON CONSTITUTIONALITY OF H.R. 6400

Some critics of H.R. 6400 have questioned the constitutionality of the measure. The Commission staff has previously prepared memoranda upon the constitutionality of proposals to eliminate literacy tests and to establish Federal supervision of voter registration in places where there is discrimination in registration. We believe the present bill is constitutional. The formula adopted relates directly to the areas where the Commission has previously found discrimination to exist. To buttress this point, however, we believe there should be either a legislative finding to this effect or a clear legislative record, including findings in the Committee report, showing that the States covered by the formula are, in fact, the States in which discrimination exists.

Low Voter Turnout Areas

The table (p. 277) shows the States and counties of the United States where less than 50 percent of the voting age population cast ballots for President in 1964, or where the figure was only slightly over 50 percent. Under proposed voting rights legislation, it would be possible to appoint Federal examiners to register voters if (a) the Attorney General certified that an area was using literacy tests or similar devices as a prerequisite for registration to vote and (b) the Director of the Census Bureau certified that less than 50 percent of the voting age persons in such a State or subdivision of a State voted in the 1964 presidential election. Note, however, that this provision would apply only in those States with literacy tests. Such States are marked with (1) below. States without literacy tests would not be covered by this portion of the proposed 1964 act. Several States with low voter turnouts but no literacy tests are included in the table, however, and are marked by (2).

The 50-percent "trigger" mechanism of the bill could apply either to entire literacy test States or to subdivisions (counties or cities) thereof. If an entire State were under 50 percent, then every county

and any city within it would be covered, even if some areas in the State were individually over 50 percent. This criterion would apply, based on the 1964 statistics, to Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina and Virginia. For those States, the listing below includes only selected counties, since the entire State would be covered. For States where the statewide voting figure was over 50 percent, but individual areas less than 50 percent, every county under 50 percent is listed. (See note below.)

Statewide percentages of voter participation are computed on final, official presidential election returns for all parties, compared to the Census Bureau's estimate, as of November 1, 1964, of the number of persons of voting age in each State. (Voting age is 21 in all States except Georgia and Kentucky, where it is 18, Alaska, where it is 19, and Hawaii, where it is 20.) The Census Bureau's gross population figures include all residents of voting age, even aliens, military personnel, the mentally incompetent and new residents not yet eligible to vote. High military personnel populations, for instance, are thought to be largely responsible for low voter turnouts (in percentage terms) in Alaska and Hawaii.

Individual county or city voting age population figures were last computed in the 1960 census and are used below in computing percentages below the statewide level.

	Voting age population	Voted in 1964 for President	Percent voting
National figure	113,931,000	70,642,496	62.0
Alabama [1]	1,915,000	689,817	36.0
Selected counties:			
Baldwin (southern tip touching Gulf of Mexico)	26,763	13,411	50.1
Calhoun (east, Anniston)	53,775	16,845	31.3
Crenshaw (south central)	8,517	3,824	44.9
Dallas (central, Selma)	29,515	6,610	22.4
DeKalb (northeastern)	24,319	11,694	48.1
Jefferson (Birmingham)	372,479	139,205	37.4
Madison (Huntsville)	66,182	27,805	42.2
Mobile (Mobile)	172,382	70,202	40.8
Montgomery (central, Montgomery)	95,947	30,524	31.8
Tuscaloosa (west central, Tuscaloosa, site of University of Alabama)	62,408	19,263	30.9
Washington (southwestern)	7,590	4,026	53.0
Alaska [1]	138,000	67,259	48.7
Arizona [1]	879,000	480,770	54.7
Selected counties:			
Apache (east, only county in State under 50 percent)	13,048	3,892	29.8
Coconino (north central)	21,106	11,037	52.3
Maricopa (Phoenix-Mesa)	380,637	265,326	69.7
Pima (Tucson)	153,736	101,278	65.9
Yavapai (central, rural)	18,210	13,556	74.4
Yuma (southwestern	26,286	14,410	54.8
Arkansas [1]	1,124,000	560,426	49.9
Selected counties:			
Bradley (southeastern)	8,209	4,102	50.0
Garland (Hot Springs)	30,775	21,629	70.2
Jefferson (Pine Bluff)	44,789	22,960	51.3
Miller (southwestern-Texarkana)	18,617	9,492	50.9
Pulaski (central-Little Rock)	146,633	78,289	53.4
Sebastian (west central-Fort Smith)	40,666	23,493	57.8
Union (south central-El Dorado)	29,315	15,560	53.1

See footnotes at end of table.

NOTE.—There are 12 States which have literacy tests but no counties with less than 50-percent participation in the 1964 presidential election. Those States, with the statewide participation figure: California 64.7; Connecticut 71.8; Delaware 71.1; Hawaii 52.5; Idaho 75.8; Massachusetts 71.3; New Hampshire 73.2; New York 63.2; Oregon 69.9; Pennsylvania 68.1; Washington 71.5; Wyoming 73.2.

	Voting age population	Voted in 1964 for President	Percent voting
Counties with less than 50 percent:			
Chicot	10,372	4,903	47.3
Clark	12,144	6,037	49.7
Clay (3 nonwhite)	12,648	5,321	42.1
Columbia	15,454	7,533	48.7
Crittenden	23,440	8,302	35.4
Cross	10,248	4,580	44.7
Desha	10,905	5,236	48.0
Drew	8,432	4,121	48.9
Greene (11 nonwhite)	14,846	7,037	47.4
Hempstead	12,050	5,891	48.9
Howard	6,877	3,063	44.5
Lafayette	6,286	2,967	47.2
Lee	10,502	4,011	38.2
Lincoln	8,198	3,892	47.4
Mississippi	36,377	14,911	41.0
Monroe	9,015	4,237	47.0
Phillips	22,639	9,790	43.2
St. Francis	16,366	7,038	43.0
Woodruff	7,488	3,693	49.3
District of Columbia [1]	517,000	198,597	38.4
Florida [1]	3,516,000	1,854,481	52.7
Selected counties:			
Broward (Fort Lauderdale-Hollywod)	216,526	153,670	71.0
Dade (Miami Beach, Coral Gables, Hialeah)	613,021	326,421	53.2
Duval (Jacksonville)	262,234	160,481	61.2
Orange (Orlando)	159,551	87,132	54.6
Palm Beach (West Palm Beach)	148,883	93,450	62.8
Santa Rosa (Pensacola-Brownsville)	15,792	9,553	60.5
Counties with less than 50 percent:			
DeSoto (south-central)	7,682	3,763	49.0
Gadsden (north central)	23,972	9,763	40.7
Hillsborough (Tampa)	245,064	121,905	49.7
Monroe (southwestern tip)	28,431	13,778	48.5
Union (northeast)	3,962	1,450	36.6
Georgia [1]	2,636,000	1,139,352	43.2
Selected counties:			
Bibb (central-Macon)	87,241	43,472	49.8
Chatham (Savanah)	115,681	56,317	48.7
Chattahoochee (west central)	9,891	439	4.4
Cobb (Marietta)	67,859	37,510	55.3
De Kalb (just east of Atlanta)	160,574	86,642	54.0
Dougherty (Albany)	44,060	18,024	40.9
Fulton (Atlanta)	364,941	166,907	45.7
Glascock (northeast, rural)	1,632	970	59.4
Lanier (south central, rural)	2,914	1,380	47.4
Muscogee (Columbus)	97,211	33,471	34.4
Richmond (east central-Augusta)	86,100	35,026	40.7
Schley (west central-rural)	1,804	954	51.2
Hawaii [1]	395,000	207,271	52.5
Kentucky [1]	1,976,000	1,046,105	52.9
Selected counties:			
Campbell (northern tip-Newport)	55,258	28,264	51.2
Fayette (central-Lexington)	88,217	44,192	50.1
Fulton (southwest-rural)	7,271	3,672	50.5
Jefferson (Louisville)	385,494	227,823	59.1
Counties with less than 50 percent:			
Bourbon	11,762	5,316	45.2
Boyle	14,355	6,962	48.5
Christian	33,159	12,630	38.1
Clark	13,476	6,237	46.3
Daviess	42,596	20,755	48.7
Hardin	46,118	11,264	24.4
Harlan	28,489	13,428	47.1
Hopkins	24,904	11,297	45.4
Letcher	16,326	8,063	49.4
Lyon	4,857	2,006	41.0
Meade	10,190	4,136	40.6
Oldham	8,978	3,884	43.3
Scott	10,397	4,639	44.6
Louisiana [1]	1,893,000	896,293	47.3

See footnotes at end of table.

	Voting age population	Voted in 1964 for President	Percent voting
Selected parishes:			
Caddo (Shreveport)	129,523	52,877	40.4
East Baton Rouge (Baton Rouge)	124,893	63,787	51.1
Jefferson (New Orleans suburbs to the coast)	113,073	69,735	61.7
Orleans (New Orleans)	383,247	163,395	42.6
Cameron (smallest of all Louisiana counties)	3,681	2,447	66.0
East Carroll (northeast corner)	7,173	1,749	24.4
Plaquemines (scene of past civil rights demonstrations)	11,530	5,679	49.2
West Feliciana (on Mississippi border)	7,367	1,120	15.2
Maine [1]	581,000	380,965	65.6
Selected counties:			
Cumberland (Portland)	112,100	73,209	65.3
Penobscot (Bangor)	73,715	43,215	58.6
County with less than 50 percent:			
Aroostook (farthest north and largest in area of Maine's counties)	55,787	27,546	49.4
Maryland [1]	1,995,000	1,116,457	56.0
Selected counties:			
Baltimore County (Baltimore City suburbs)	290,428	195,023	67.1
Baltimore City	583,395	316,805	53.8
Montgomery (suburbs of Washington, D.C.)	193,991	155,667	80.2
Counties with less than 50 percent:			
Cecil (eastern shore)	26,961	13,184	48.9
St. Mary's (southern)	19,403	8,709	44.9
Worcester (Eastern Shore)	14,598	6,686	45.8
Mississippi [1]	1,243,000	409,146	32.9
Selected counties:			
Harrison (Biloxi, Gulfport)	64,764	21,694	33.5
Hinds (Jackson)	103,974	41,890	40.3
Neshoba (Philadelphia)	11,706	5,724	48.9
Lauderdale (Meridian)	39,730	14,874	37.4
Tunica (northwest corner)	7,833	1,044	13.3
Tishomingo (northeast corner)	8,427	2,911	34.5
Wilkinson (southwest corner)	6,460	1,576	24.4
New York [1]	11,330,000	7,166,015	63.2
Selected county: New York City	1,257,867	645,557	51.3
North Carolina [1]	2,753,000	1,424,983	51.8
Selected counties:			
Forsyth (Winston-Salem)	112,171	61,891	55.2
Guilford (Greensboro-Highpoint)	144,040	75,604	52.5
Mecklenburg (Charlotte)	157,937	96,171	60.9
Wake (Raleigh)	99,655	54,195	54.4
Counties with less than 50 percent:			
Anson	13,065	5,865	44.9
Beaufort	19,933	9,685	48.6
Bertie	12,417	4,263	34.3
Bladen	14,320	6,685	46.7
Camden	3,042	1,404	46.1
Caswell	10,155	4,306	42.4
Chowan	6,332	2,483	39.2
Craven	31,236	12,113	38.8
Cumberland	77,068	22,957	29.8
Edgecombe	27,845	11,766	42.2
Franklin	15,396	6,651	43.2
Gates	5,058	2,258	44.6
Granville	18,580	7,220	38.8
Greene	8,061	3,613	44.8
Halifax	30,262	13,709	45.3
Hertford	11,708	4,947	42.2
Hoke	7,745	3,033	39.2
Hyde	3,301	1,641	49.7
Lenoir	29,553	13,234	44.8
Martin	13,735	6,332	46.1
Nash	32,334	15,559	48.1
Northampton	13,482	6,233	46.2
Onslow	39,003	9,726	24.9
Pasquotank	14,345	6,649	46.3
Perquimans	5,110	2,399	46.9
Person	14,221	6,902	48.5
Pitt	36,196	16,466	45.5
Robeson	42,275	17,387	41.1
Scotland	12,498	5,073	40.6
Union	24,467	11,487	46.7

See footnotes at end of table.

	Voting age population	Voted in 1964 for President	Percent voting
Counties with less than 50 percent—Continued			
Vance	17,525	8,638	49.3
Warren	9,929	4,758	47.9
Wayne	45,103	17,846	38.4
Wilson	31,336	12,240	39.1
South Carolina [1]	1,380,000	524,756	38.0
Selected counties:			
Charleston (Charleston)	113,408	47,073	41.5
Lexington (Columbia suburbs)	33,556	16,848	50.2
Richland (Columbia)	111,720	45,245	40.5
Aiken (Suburbs of Augusta, Ga.)	43,686	25,089	57.4
Greenville (Greenville)	120,970	46,645	38.5
York (Rock Hill)	41,905	15,638	37.2
Jasper (farthest south)	6,022	2,595	43.1
Horry (Atlantic coast-North Carolina border)	34,947	13,737	39.3
Tennessee [1]	2,239,000	1,144,046	51.1
Selected counties:			
Davidson (Nashville)	242,933	124,722	51.3
Hamilton (Chattanooga)	142,979	78,746	55.1
Knox (Knoxville)	151,999	85,260	56.1
Shelby (Memphis)	359,532	212,023	59.0
Counties with less than 50 percent:			
Clay	4,102	1,818	44.3
Crockett	8,519	3,690	43.3
Fayette	11,652	5,558	47.7
Gibson	27,791	12,758	45.5
Giles	13,762	6,318	45.9
Hardeman	12,725	5,125	40.3
Haywood	11,792	4,697	39.8
Lake	5,155	2,403	46.6
Lauderdale	12,289	5,727	46.6
Lincoln	14,294	6,589	46.1
Macon	7,527	3,292	43.7
Maury	25,033	12,321	49.2
Montgomery	30,419	12,992	42.7
Morgan	7,921	3,799	48.0
Obion	17,211	8,474	49.2
Robertson	16,404	7,581	46.2
Rutherford	30,347	13,668	45.0
Tipton	14,912	6,894	46.2
Trousdale	3,027	1,475	48.7
Warren	13,881	6,781	48.8
Weakley	15,710	7,845	49.9
White	9,308	4,186	45.0
Texas [1]	5,922,000	2,626,811	44.4
Selected counties:			
Bexar (San Antonio)	377,990	162,520	43.0
Dallas (Dallas)	570,267	304,158	53.3
Harris (Houston)	722,957	382,985	53.0
Tarrant (Fort Worth)	320,355	154,158	48.1
Other counties with less than 50 percent:			
Anderson	17,544	8,181	46.6
Atascosa	9,968	4,516	45.3
Austin	9,016	3,915	43.4
Bastrop	10,428	5,049	48.4
Baylor	3,824	1,794	46.9
Bee	12,264	4,832	39.4
Bell	55,160	17,512	31.7
Bosque	7,509	3,721	49.5
Bowie	36,260	17,410	48.0
Brazos	24,944	12,019	48.2
Brown	16,880	7,293	44.5
Burleson	6,797	3,147	46.3
Caldwell	10,236	4,629	45.2
Cameron	74,389	25,659	34.5
Cass	14,020	6,292	44.9
Cherokee	21,319	8,537	40.0
Coleman	8,347	4,105	49.2
Collin	25,723	11,193	43.5
Collingsworth	3,876	1,872	48.3
Comanche	8,339	3,819	45.8
Coryell	13,909	4,564	32.8
Dallam	3,563	1,759	49.5
Dawson	10,531	4,868	46.2
Denton	27,905	13,494	48.9
DeWitt	12,712	5,573	43.8

See footnotes at end of table.

	Voting age population	Voted in 1964 for President	Percent voting
Other counties with less than 50 percent—Continued			
Dimmit	4,856	1,688	34.8
Ector	49,494	22,886	46.2
Ellis	26,183	10,062	38.4
El Paso	166,101	55,927	33.7
Falls	13,096	5,151	39.3
Fannin	16,277	7,200	44.2
Fayette	18,614	5,677	41.7
Foard	1,999	980	49.0
Fort Bend	22,252	9,699	43.6
Freestone	7,803	3,892	49.9
Frio	5,084	2,117	41.6
Gaines	6,626	3,201	48.3
Garza	3,703	1,827	49.3
Goliad	3,255	1,541	47.3
Gonzales	10,758	4,545	42.2
Gray	18,719	8,650	46.2
Grayson	46,076	19,728	42.8
Gregg	41,449	20,584	49.7
Grimes	7,733	3,247	42.0
Guadalupe	16,606	7,308	44.0
Hale	20,056	9,594	47.8
Hardeman	5,229	2,532	48.4
Harrison	26,281	11,930	45.4
Haskell	6,875	3,421	49.8
Hays	11,011	5,064	46.0
Henderson	13,521	6,714	49.6
Hidalgo	87,533	33,756	38.6
Hill	15,660	6,696	42.7
Hockley	11,867	5,733	48.3
Hopkins	12,326	5,651	45.8
Houston	12,247	5,366	43.8
Howard	23,028	9,367	40.7
Hudspeth	1,815	665	36.6
Hunt	24,758	9,879	39.9
Jasper	19,640	8,587	43.8
Johnson	21,828	9,642	44.2
Jones	12,045	4,920	40.8
Kaufman	19,048	6,694	35.1
Kendy	425	146	33.6
Kerr	11,541	5,606	48.6
Kinney	1,429	594	41.6
Kleberg	15,403	6,220	40.4
Knox	4,799	2,216	46.2
Lamar	21,918	8,945	40.6
La Salle	3,063	1,212	39.6
Lavaca	12,732	5,517	43.3
Leon	6,168	3,022	49.0
Liberty	15,012	8,257	45.8
Limestone	13,807	5,263	39.5
Lubbock	84,331	39,463	46.5
McCulloch	5,745	2,761	48.0
McLennan	91,322	39,346	43.1
Madison	4,395	1,945	44.2
Marion	4,681	2,303	49.2
Martin	2,798	1,297	46.3
Matagorda	14,344	6,555	45.7
Maverick	7,164	2,661	37.1
Medina	10,214	4,992	48.9
Milam	13,906	5,709	41.3
Mitchell	6,510	3,159	48.5
Montague	10,018	4,856	48.5
Morris	7,206	3,594	49.9
Nacogdoches	16,936	7,519	44.4
Navarro	21,909	8,953	40.9
Nolan	11,476	5,162	45.0
Nueces	115,697	54,558	47.1
Orange	32,706	15,645	47.8
Palo Pinto	12,853	5,541	43.1
Polk	8,152	3,700	45.4
Potter	65,061	24,419	37.5
Reagan	2,106	1,022	48.5
Red River	9,913	4,654	46.9
Reeves	9,237	3,595	38.9
Robertson	9,586	4,247	44.3
Rockwall	3,534	1,758	49.7
Runnels	9,146	4,132	44.2
San Augustine	4,439	1,940	43.7
San Patricio	22,225	9,384	42.2
Scurry	11,443	5,137	44.9
Shelby	12,493	5,711	45.7
Smith	51,573	25,472	49.4
Somervell	1,772	854	48.2

See footnotes at end of table.

	Voting age population	Voted in 1964 for President	Percent voting
Other counties with less than 50 percent—Continued			
Stephens	5,973	2,874	48.1
Sutton	2,125	1,051	49.4
Taylor	58,166	22,620	38.9
Terrell	1,476	658	44.6
Titus	10,514	5,219	49.6
Tom Green	37,897	16,443	43.4
Tyler	6,286	3,037	48.3
Upton	3,376	1,604	47.5
Uvalde	9,255	4,326	46.7
Val Verde	12,923	4,902	37.9
Van Zandt	12,404	5,676	45.7
Victoria	25,285	12,367	48.9
Walker	13,435	4,436	33.0
Waller	6,685	3,149	47.1
Ward	8,191	3,954	48.3
Washington	12,186	4,962	40.7
Webb	32,998	11,182	33.9
Wharton	21,117	9,020	42.7
Wichita	72,057	27,730	38.5
Wilbarger	11,302	4,742	41.9
Willacy	9,443	3,388	35.9
Williamson	21,248	9,202	43.3
Winkler	7,388	3,679	49.8
Wise	10,698	5,241	49.0
Wood	11,403	5,606	49.2
Young	11,040	4,996	45.2
Zapata	2,325	1,147	49.3
Zavala	5,964	2,385	40.0
Virginia [1]	2,541,000	1,042,267	41.0
Selected counties:			
Arlington (suburbs of Washington, D.C.)	107,578	54,363	50.5
Fairfax (suburb of Washington, D.C.)	149,715	79,517	53.1
Norfolk (independent city)	174,799	51,546	29.5
Richmond (independent city)	144,227	62,890	43.6
Bath (mountain area)	3,316	1,286	38.8
Accomack (Eastern Shore of the Chesapeake Bay)	19,290	6,683	34.6
Lee (furthest west of Virginia counties)	14,172	8,626	60.9
Greensville (1 of southernmost counties)	8,384	4,519	53.9

[1] State with literacy test. If there was less than a 50-percent turnout in the 1964 presidential election, either statewide or in a subdivision, Federal voting examiners could be appointed under the proposed 1964 Voting Rights Act.

[2] State has no literacy test, so it would not be covered by the 50-percent feature of the proposed 1964 Voting Rights Act. Listed here for purposes of comparison.

The CHAIRMAN. Mr. Cramer.

Mr. RODINO. Mr. Cramer.

Mr. CRAMER. You mentioned the State of Florida. It is my position that where discrimination is practiced it should come within the scope of any legislation. Obviously those counties in Florida, counties in Tennessee, Kentucky, what have you, don't come within the scope of this bill. Is that correct?

Reverend HESBURGH. That is right.

Mr. CRAMER. You suggested that the people of those counties who are being discriminated against have the 1957, 1960, 1964 pattern or practices approach which they can use to get their remedy.

Reverend HESBURGH. Yes, that is right.

Mr. CRAMER. Yet, it is that very approach, the weakness of the 1957, 1960, and 1964 litigation approach that supposedly is the basis for the legislation before us, is it not?

Reverend HESBURGH. I think what we are looking for is the 50 percent in a subdivision.

Mr. CRAMER. That has nothing to do with percentages or otherwise. My question is: Is the reason for the bill before us the weaknesses of the present law?

Reverend HESBURGH. That is right.

Mr. CRAMER. Yet, those people who live in the States I mentioned and anywhere else in America where they are being discriminated against, must suffer along with those weaknesses in this even if this bill becomes law.

Reverend HESBURGH. Mr. Taylor suggests that the other means might be used for these. What I am suggesting is that this law as written will get at the large, large portion of inequities existing even though there may be some lack of coverage in this.

Mr. CRAMER. If it is possible to get a bill that would make a first-class citizen out of every one, is that not preferable to the administration approach which obviously means some people end up being second-class citizens?

Reverend HESBURGH. I am for everybody being a first-class citizen but you can get a bill so complicated that we talk about it forever and never get it through.

I think it is important to get the vote as soon as possible for as many people as possible and then simulanteously work on those we may have missed. We made one step in 1957, one in 1960, and another in 1964. This is the best step yet on voting and I think it will bring us very far down the road.

You ask me if it will be perfect. I don't think so. But it is much more perfect than anything we have had thus far, and I favor it.

Mr. CRAMER. In preference to any other approach?

Reverend HESBURGH. I would like to look at the other approaches first, but with regard to the bill that is proposed—if someone asks are you favorable to this as proposed, yes, I am.

Mr. CRAMER. Have you given consideration to other bills that have been introduced prior to the President's bill; introduced in excess of a month by the gentleman from New York and many others, which have universal and nationwide application as compared to this bill which obviously is intended to have application only to certain Southern States?

Reverend HESBURGH. Mr. Cramer, my general approach today is that looking back over 8 years of listening to these comments and complaints and studying the possible ways of clearing up the situation we find, it occurs to me that the things involved in this bill have gotten at the solutions that we have proposed over the past 6 years in a way that no other bill heretofore has.

In view of that situation I strongly favor what is in the statement.

Mr. CRAMER. Since I mentioned the bill of the gentleman from New York I am delighted to yield to the gentleman from New York.

Mr. LINDSAY. For a long time the Commission favored the establishment of Federal registrars to register persons who have been denied the right to register and vote. Now there are bills pending which would do that, and do it quickly, and do it in any place where there have been denials of the right to register and vote based on race.

When you say that for many years you have been advocating a Federal registration system, there are many who agree with you, but there are many other approaches, some of which were introduced quite a while ago, and I would hope you have examined them.

Reverend HESBURGH. I have not examined all of them. I just recently examined the administration proposal. We in general keep

track of all of the legislation on the Hill but as you know there are many bills and they tend to go in categories as favoring this or that.

Mr. LINDSAY. I think you should be careful in saying that the administration bill, which we only saw a day or two ago for the first time and I am sure you did not see it earlier——

Reverend HESBURGH. No, we did not see it earlier.

Mr. LINDSAY. Answers all of the questions.

There are other good civil rights proposals which have been pending for some time. Admittedly, they are a little different in the approach because we don't get involved in this 50-percent test which limits the application of the bill to some States, while not covering others. Arkansas, for example, where the Boone County population is 50-percent Negro.

There are zero Negroes registered in Carroll County where the population is 60-percent Negro and zero Negroes to vote. That is Arkansas.

The same is true, more or less, in Florida, Tennessee, Kentucky, Eastern Shore, Maryland. None of these are covered by the bill that you think answers these questions, and that is why I am so curious as to whether or not you close the door to other Federal registrar proposals that may be more effective.

Reverend HESBURGH. No, I took it, Mr. Lindsay, that my presence here today is to say whether or not I think this bill is a good bill. I think this bill is far better than anything that has actually been on the docket and been under active consideration and on that I say I am delighted now.

If you say there is a way of making this bill even stronger I have no objection to that. Maybe one simple way of doing it is instead of having the 50 percent apply to the State have it apply to the county.

Mr. LINDSAY. Why can't you talk in terms of the 15th amendment violations or massive denials of the right to vote?

Reverend HESBURGH. Mr. Lindsay, I will make my position very clear. I have been concerned about this problem ever since I have been on the Commission.

I have, from the very beginning in our first report to the President and Congress, come out for Federal registrars, and have been in a minority position for getting rid of literacy tests. It would seem to me today and yesterday in seeing this bill there was an honest and effective approach to get at these things that we have been talking about for a long time.

I am not saying it is the only approach that has been ever put out. Many of you gentlemen have been champions of this for many years. Today, however, it is actively considered, there seems to be a lot of pressure behind it, it may get passed in the next month or two and it would be a great step forward.

If it can be made stronger, however, I am for that, too.

Mr. LINDSAY. Or a better method?

Reverend HESBURGH. Yes, I am for that, too. There are many, many methods of keeping people from voting. Let's get the best method we can to get them to vote.

Mr. CRAMER. Maybe if there were a little less pressure there would be more protection in a little better bill because we could give more reasonable and fair consideration to it.

As I understand it, the literacy test's elimination was your minority position, is that right?

Reverend HESBURGH. That is right. That was many years ago, that was 1959.

Mr. CRAMER. In 1963, as I recall, the Commission recommended a sixth grade literacy test?

Reverend HESBURGH. That was to get unanimous with our southern members of the Commission. From that point, they being in a minority position against the elimination of literacy, we had some more hearings and they all felt so strongly about it we tried to find some common method that we could agree on to get rid of the literacy tests per se. We took this sixth year, we could agree on it but my position was even stronger than that on another minority position.

Mr. CRAMER. In 1964, we wrote into section 3 the declaration that a sixth grade English speaking school certificate was the basis for a presumption of literacy and a right to register or to exercise rights under the 15th amendment of the Constitution.

Do you not think that maybe something this committee might consider, relating to registration and voting, is that a sixth grade education should be given some consideration as a proper test, rather than eliminating all literacy tests in given areas?

Reverend HESBURGH. I have seen so much duplicity in regard to literacy tests my own personal feeling is if we get rid of them we are making a great step forward.

Well over 90 percent of the public is now literate and there are many people with Ph. D.'s who can't vote because of these literacy tests.

Mr. TAYLOR. I might add if I may, sir, that since the Commission made that recommendation we have been much more exposed to places and situations where the educational deprivation is so great a large proportion of the population does not have even a sixth grade education.

This is particularly true in many areas in Mississippi. In fact it is quite possible that a sixth grade education standard might continue to disenfranchise half of the Negro population in Mississippi.

That is the reason why we strongly support a measure which would entirely eliminate the use of the literacy tests in this area.

Reverend HESBURGH. We met in this recent hearing in Mississippi a number of Mississippi Negro farmers who do not have 6 years of schooling but yet were owning and operating large farms, were paying taxes, were doing all of the planning and discussion of the work involved in this farm and were exercising a degree of literacy far in excess of what might be reflected by a certificate of schooling one might have had some years ago.

Mr. CRAMER. Do you then mean that the Commission as such changed the position it took in the 1961 report? I am reading from page 16 of the Commission's Report. The Commission said that—

> In the election of candidates for State and local offices the suffrage may be conferred or withheld by each State according to its own standards, but even in such elections, States are not wholly restricted.

In other words, if in applying those standards they discriminate then it comes within the scope of another constitutional provision.

Are you stating that the position of the majority of the Commission has changed on the question of what are the proper constitutional

powers of the States in relation to the power to set standards in elections?

Reverend HESBURGH. Sir, I think we have alternate suggestions in this report, and I can only speak for myself as one member of the Commission. I have been for some years against the literacy tests because of all of the abuses to which it is subjected.

As you know in the report we gave alternate suggestions and solutions for literacy tests.

I personally am for whatever method can be put in legislation which will give the most people the quickest opportunity to exercise a franchise in the most elections possible.

Mr. CRAMER. That would be an approach as suggested by the gentleman from New York. It has application in every community wherever there are discriminatory practices and against anyone. And, of course, the manner in which literacy tests are administered would be one basis for action.

Reverend HESBURGH. As I say, I can't say I have read every single proposal put forth on this subject. I have read them generically but not in specific detail and I would only say I am for getting the franchise for them as quickly and as effectively as possible and as far as this present bill I am here to talk about today is concerned, it is the greatest step forward I have seen today in this area under active consideration to the extent we are having hearings.

Mr. CRAMER. As a matter of fact, do you realize any State after November 1964 can pass any literacy tests and they do not even come under the law?

Reverend HESBURGH. No, I did not even think of that.

Mr. CRAMER. That is the case. Page 2, line 1, the Attorney General admitted, has the effect that where any State does not now have literacy tests, it can enact them in the future including Texas, Florida, Kentucky, Arkansas, and not come under the provisions of this bill.

Rev. HESBURGH. I hope you gentlemen will be able to get around that.

Mr. CRAMER. You are saying you are in support of the bill. I wonder how carefully you considered what the bill does in evidencing your support?

Rev. HESBURGH. I am a strong supporter of the bill but I do not say that the bill is completely without any kinks, because there is no bill ever written by man that does not have a few kinks in it.

Mr. TAYLOR. I would like to add on that provision, and I guess we have stated it before, through the formula in this bill, most of the areas where we have found abuses and discrimination would be covered but not all.

I don't know whether there is much likelihood, I think the momentum is all the other way, that States which have overcome their white primary systems and their grandfather clauses will begin discrimination again.

If there is a way to take care of that I am sure we will.

Mr. CRAMER. In other words if one could be drafted, you would support a bill which would give protection to any citizen in America who is deprived of his right to vote by race, creed, or color.

Mr. TAYLOR. Yes, sir, and the reason we give strong support to legislation of this kind is that the device which would bring suspen-

sion of literacy tests is automatic and objective and would go into immediate effect and the test would be suspended, and the areas where there are major deprivations will be covered.

Mr. CRAMER. Let me give you an example where you have all kinds of discrimination. If you have a total population of say 9,000 people, but of which 6,000 are white and 3,000 are Negroes. If you have 4,500 whites registered and one Negro, over 50 percent are registered, but there is gross discrimination.

That does not come under this bill, does it?

Mr. TAYLOR. That is right, and we would want to look very carefully at the counties covered by this bill to see if there's such a situation and there is an area that would not be covered. But the whole States of Mississippi, Alabama, Louisiana, would be covered, and the whole State of Georgia, so the places where we have found the greatest problems to exist are covered.

There is a problem which is not covered by the bill, where there is fear, intimidation, where there is economic dependency and educational deprivation, and all of these factors and not simply the literacy test or the way it is administered, which are combined to limit the rights above. We think then in those areas—this will not solve all of these problems. I don't know that we have the legislative recommendation today that would cover that.

I think perhaps it requires a good deal more affirmative action. The presence of examiners or registrars may help overcome some of this fear. Perhaps a good deal else will have to be done also.

Mr. CRAMER. But you are not going to have examiners in the areas where discriminatory practices take place outside of those defined under "test or device" within this bill.

Mr. TAYLOR. That is right.

Mr. CRAMER. In your 1963 Civil Rights Commission Report, you cited some examples and I quote:

"Unduly technical method of identification, rejection for insignificant errors in filling out forms, failure to notify applicants of rejection, imposition of delaying tactics, discrimination in giving assistance to applicants."

This bill does not cover any of it, does it, in States where you don't have literacy tests?

Mr. TAYLOR. The point was made earlier, and I hope this is correct, that in States which do impose literacy tests or educational requirements all of these practices would be covered. I think if that is not clear in the legislation it certainly should be made clear in the legislation.

As to other areas which do not have educational requirements but where these tactics may be used, as I understand it, it is correct that the bill would not cover these.

Mr. CRAMER. Would you not much prefer a bill that did?

Mr. TAYLOR. If this bill would be amended——

Mr. CRAMER. Any bill. There is nothing magic about this bill.

Mr. TAYLOR. There is nothing magic about it but I would not want to suggest a whole new bill is needed if there are some defects in this legislation.

What I was suggesting before is that the Commission has concluded litigation is not an effective remedy because you go case by case and the delays in the courts have been great.

But should you cover the major problem areas with legislation like this, those areas that are left might well, insofar as we are dealing with State or official action to deprive people of the right to vote, be taken care of in some respects by litigation.

Fear and intimidation are not going to disappear through this type of legislation.

Mr. CRAMER. It will not be touched outside of States that do not have literacy tests.

Page 7 of your statement, the third paragraph, involves the underlying basic question: Should literacy tests be stricken down completely?

Therefore, should there be no test of any kind relating to a person's capability to understand, qualifications of the candidate, issues involved or what have you. Can you state that?

You say in your statement:

I am aware that some are concerned that in acting upon our strong conviction that literacy tests must be removed as a discriminatory impediment to voting, we may somehow impair the foundations of good government based upon an informed electorate.

I think that is a very sound observation. You go on to say:

While I can appreciate this concern, I do not think that this legislation will produce such a result.

And then your justification for that conclusion is as follows:

During our recent Mississippi hearing, we heard scores of witnesses who had little formal education and who did not meet all of the traditional standards of literacy. Nonetheless, these were people who by their interest and awareness were eminently qualified to participate in responsible democratic government.

Would you clarify your meaning here?

Reverend HESBURGH. Never before in the history of mankind has the electorate been better informed than through television and radio.

Mr. CRAMER. What about the family without radio or television, they cannot read and they are not educated in the slightest, but they are people over 21?

Should there, or should there not, be some basic powers reserved to the States to try to make certain there is a minimally informed voter?

Reverend HESBURGH. One can argue theoretically about what this minimal literacy is. The fact is every time one tries to say what minimal literacy to vote is we get something like this reading of the constitution that is indulged in.

Secondly, there are very few of these people who do not have radio or television. I do not have the statistics on it at my finger tips but there are very few of these people who do not have to pay taxes, who do not have to serve in the armed forces.

I think you are talking about so few illiterate people when you get the total literacy statistics for the country as compared to so many people who are being kept from voting at all because of voting tests misapplied that I would take the lesser of two evils and there will be evils in any one of these alternatives.

Mr. CRAMER. Even though an election might be decided by two, three or four votes by uninformed voters?

Reverend HESBURGH. We could argue this all afternoon but it is my opinion literacy tests have been greatly misused, and I would not have any great fears as to damage to our Government as a result of their being dropped.

I don't find any less informed voting in one State from another State, and my general feeling is our people have never been more literate. The reason for which literacy tests originally were introduced have more than been met by new means other than reading a newspaper or magazine.

Mr. CRAMER. I hope you appreciate that there are limitations on congressional authority to strike down literacy tests. There has to be some indication that there is, in fact, discrimination. This bill applies to a number of local governing authorities where presumably there never has been discrimination.

Reverend HESBURGH. This is a constitutional question I will refer to our staff director.

Mr. TAYLOR. I would simply say that no formula is wholly perfect. I think that the provision in this bill which enables a subdivision to come into court and get out from under these provisions would be adequate to assure that in those areas where there is not discrimination the State will not unduly be disadvantaged.

Mr. CRAMER. That places the burden on those who have never discriminated at any time, under section 3(c), or again under section 8(a) if they pass additional laws, though not intended to discriminate. They themselves bear the burden of proof.

Mr. TAYLOR. Yes it does place a burden upon the State. Our basic conclusion about the constitutionality of such legislation is this. It is tests such as the ones we have been talking about that have been used widely as an instrument for disenfranchisement.

We think the Congress has the power under the 15th amendment to enact appropriate legislation. We think the problems are so drastic that they require a solution of this magnitude and we think this is appropriate and indeed necessary.

Mr. CRAMER. Don't you also agree there may be other approaches under which you wouldn't run the risk of the basic constitutional problems, involved here, that would possibly accomplish an even broader and better result?

Mr. TAYLOR. I don't think there is a substantial danger that this legislation is unconstitutional. There have been a number of approaches, and we have followed these very closely. One approach that has been suggested recently, and again it is a statistical approach, is to base a suspension of literacy tests and the appointment of registrars upon racial registration figures when less than a specified number or percentage of Negroes are registered.

We have submitted to you here today our best estimate of racial statistics, but I would have to admit to you that in many areas there are gaps. There are not adequate racial statistics and we indicate some of those gaps in this material.

That is one of the reasons we are not sure that would be an adequate approach to the situation and why we feel that the legislation that has been proposed does with whatever defects it has, meet the basic test of constitutionality and meet the basic test of effectiveness.

Mr. RODINO. Will the gentleman suspend for a moment? I would like to make the observation for the guidance of the committee members that Father Hesburgh is due to catch a train and we have the Chairman of the Civil Service Commission who is here to testify and

the Director of the Bureau of the Census and we intend to conclude by 5:30. I wish the committee members would consider this.

Mr. TAYLOR. I might just add, Mr. Chairman, we have mentioned here a number of problems which we find in the bill, the most substantial of which is the requirement that somebody claiming to have been denied the opportunity to register must actually go and try to register before he can appear before a Federal examiner.

We have other matters of a technical nature and we would be glad to submit a memorandum to the committee and go over any of these points with the members of the committee to see if we can be of any assistance.

Mr. RODINO. We would be very happy to accept it. I might point out that the Attorney General in his testimony in support of the administration bill has adverted to the fact time and time again that this bill does go far in providing the means to overcome the present obstacles and the obstructions and I think that is the position of the gentleman who is testifying, and if there is any way that we can avoid every possible avenue of discrimination and it can be done practically and constitutionally, we are all here to do the job.

Mr. CRAMER. I will say, Mr. Chairman, I would hope that the minority is given an adequate opportunity to question. The majority, yesterday, questioned the Attorney General all day. We questioned him this morning, and it was suggested we cut our questions short. I don't mind sitting until 12 o'clock if need be, but I think we would want to know everything about the legislation before commenting on it.

The only comment I have for the gentlemen who are witnesses, I would hope that they would remain in a somewhat flexible position, and not be irrevocably married to this proposal because it may be that this committee will end up with a bill that will accomplish much more, and preserve the right of everybody, everywhere, to be protected against discrimination; something this does not do.

Mr. RODINO. I am sure that Father Hesburgh has made it quite clear that that is his position.

The gentleman from New York.

Mr. LINDSAY. I shall not hold you long. You served for 8 years on the Civil Rights Commission and the whole country as well as the Congress owes you a great deal of thanks for the good many sacrifices and contributions you have made.

I am sure you have had your troubles, too, because I note with some sadness, although you have been in business for 8 years, it was not possible, apparently, for reasons beyond your personal control to hold hearings in Mississippi until last February, which is shocking really in view of the heavy charge that the Congress put upon the Commission 8 years ago when the Commission was established.

I want you to know that we on the subcommittee who are charged with writing the best bill, we in the minority, have the obligation not to accept just automatically what is sent down by the administration.

We have our own idea and we may have other suggestions. Personally, I think the administration bill is a big step forward, but we Republicans have a greater obligation than ever before to ask very

critical questions of the Government to make sure that the country gets the best possible results from this dialog that must go on.

So I think the minority particularly has an obligation to put hard questions, and they again may be very difficult questions, and we have to put them because very often the majority is not in a position to do that.

Your counsel was apologizing just a moment ago that there are other means and devices, which he describes as harassing techniques, that are 15th amendment problems.

In other words they result in voting denials because of race. Those techniques and devices may not be in written form and they will not come within the definition of devices as appears in the administration bill which we were talking about a moment ago.

I am very fearful that we may be inviting the situation where some States, ingenious as they are, local registration people and local chiefs of police, will find new ways and means of disenfranchising people if we lock ourselves into a particular definition, which is the case of the administration bill.

Over the 8 years you have seen case after case where new devices emerge, after the national Congress takes some steps to eliminate the old devices. Would that be true?

Reverend HESBURGH. I think there is literally no end to the ingenuity of human beings to get around the law, any law. I would be the last to say here, Mr. Lindsay, that any law you gentlemen write is going to be 100 percent effective.

The only point I have been trying to make all afternoon is that having thought about all possible solutions and simple and clear cut and quick solutions at least the ones I read in this bill seem to be fairly clear cut.

Mr. LINDSAY. What are we going to do about Arkansas, for example, where you have cases of county after county where there is obvious discrimination, yet the State is not covered by them.

Reverend HESBURGH. If you can find some way of cracking that in the bill, I am for you.

Mr. LINDSAY. I think we may have a way of bringing in Arkansas and other areas where there has been this denial of right to vote. I think it can be done speedily by a Federal registrar procedure which is a reasonable one. It is our job to write such a bill.

The last question I would ask, then, is whether the Civil Rights Commission in times past has advocated the old part 3 which would be a procedure under which the Government could safeguard the first amendment rights, among others.

Is your Commission still for such a measure?

Reverend HESBURGH. We have not discussed it in recent months and I would feel reluctant to speak for the other members of the Commission.

Mr. LINDSAY. How about for yourself?

Reverend HESBURGH. I would generally favor it.

Mr. LINDSAY. I would like to thank you again for the high caliber of your testimony.

Mr. TAYLOR. On that question, I am speaking for myself here. We are currently in the process of preparing a report which has to do with this whole problem of the administration of justice and the need

in many instances for better protection of citizens and their physical security.

As you say, we have recommended legislation in the past which would provide simple injunctive remedies. We hope in issuing this report to come up with some sound additional conclusions on this matter. If I can go back for a minute to your earlier question, again, speaking for myself, I think because of the problems that you described with new devices becoming available and other kinds of harrassing techniques being used as soon as the old ones are invalidated we think a Federal registration system, an administrative system whereby Federal registrars register applicants is the heart and the guts of any legislative proposal.

Mr. LINDSAY. I would agree with that.

When do you expect to have your report ready, the one you were just referring to?

Mr. TAYLOR. We are working very hard but I am not sure. Are you talking about the voting report?

Mr. LINDSAY. The one protecting the constitutional rights.

Mr. TAYLOR. I would hope within the next 3 or 4 months. That may seem like a long time but we are considering some very critical and serious problems and we don't want to come forward with recommendations unless we are sure they are soundly based.

Mr. LINDSAY. Meanwhile, I would like to submit to you, as a very good lawyer and a professional in this field, a draft of part 3 language confined to the first amendment protections. I would like to submit that to you and get your comments within the next week or so if I could.

Mr. TAYLOR. I would be very glad to give them.

Reverend HESBURGH. I would like to say something if I might on behalf of the Commission. I should have said it earlier. During the past 8 years we felt rather lonely at times and I think all of us have felt we owe a great word of thanks to all of you gentlemen of the Congress because in fact you have put into law almost 80 percent of our recommendations and if a strong voting law is passed we will have almost 100 percent of our recommendations for equal opportunity in this land.

Again I say, law does not solve the problem but it has educated the citizenry and it upholds an ideal. There are not many groups in Government that can say to you that you have taken at least 80 percent of what we have suggested and you have made it a matter of law.

The CHAIRMAN. Mr. Rodino.

Mr. RODINO. Thank you very much, Father Hesburgh. I want you to know when we did succeed in accomplishing this it was the result of bipartisan effort. I can speak for this committee as having done just that and having sought the remedy.

Mr. MCCULLOCH. I am pleased with your service on this Commission. Your stature has lent great dignity to its studies, findings, and to its reports.

I am only sorry that I could not have been here through the whole of your testimony. We hope you will continue as a member of the Commission.

Reverend HESBURGH. Thank you, Mr. McCulloch. I have to admit I have tried at times to get off and I keep trying to get off but so far I have had my arm sufficiently twisted at times to stay on.

The CHAIRMAN. Mr. Kastenmeier.

Mr. KASTENMEIER. Like my colleague, Mr. McCulloch, I am sorry to have missed the earlier part of Father Hesburgh's testimony, but I appreciate your being a member of this Civil Rights Commission, and I assume some of the interrogation dealt with whether the bill might even be extended somewhat. You are familiar perhaps with the Douglas-Case bill and its application of the 25 percent rule in other jurisdictions?

Would you feel kindly toward this?

Reverend HESBURGH. We found it did reflect some of the things we have consistently recommended over the past 6 years and for that reason we were happy to read it. In saying that I don't think one has to say it is a perfect bill.

Mr. KASTENMEIER. I know this is another view. Actually, Father Hesburgh, it was the gentleman next to you, Bill Taylor, who helped me 5 years ago in presenting, along with several other Members, on the House floor a voting registrars plan in 1960 with the end in view of accomplishing very much what H.R. 6400 does and I thank you for being here.

The CHAIRMAN. Mr. MacGregor.

Mr. MACGREGOR. I have been examining very carefully the document bearing today's date from the United States Commission on Civil Rights entitled "Registration and Voting Statistics."

You and Chairman Celler have already commented on the fact that in those counties and in certain of our States having a larger nonwhite population, the percentage of Negroes registered to vote is strikingly low in comparison to States where there is not a majority of nonwhite population.

I would like to call to your attention some other factors and ask you if you can give us the benefit of your experience in the Civil Rights Commission hearings on voting statistics on another point.

I note there are 7 counties in Alabama, 2 in Mississippi, and 7 in Georgia and all 16 of these counties have a higher nonwhite population. In each of these 16 counties, a substantially higher number of voters are listed in column 2, number registered, than there are in column 1, voting age population, among the white population.

So that I may make myself clear, let's refer to just a couple of examples, Greene and Hale Counties in Alabama. Greene County with a voting age population of 1,649 for whites, and number registered, whites, 2,305.

Hale County: with 3,594 whites listed in the voting age population column, the number registered is listed as 4,824.

Of course I have noted, Father Hesburgh, that in each of these three States from which the figures have been taken in column 2 titled, "Number Registered" the date is somewhat later than the date in which the figures in column 1 are taken.

I am wondering whether on the basis of your experience the mere passage of time and possible increase of white citizens in those counties accounts for this very unusual fact of having a greater number registered than there are eligible to vote?

Reverend HESBURGH. We have found really two things. One is the failure to delete the names of those who died. That is one of the main reasons this happens. It also happens because of the number of people who move away and are not deleted from the list.

Mr. MACGREGOR. Are each of those practices prevalent in the counties where there is a large nonwhite population? They would appear so from my examination over the last 2 hours of the document that I referred to earlier.

Reverend HESBURGH. I would say it could be but I do not have evidence to say for sure yes or no to that question.

Mr. RODINO. We want to thank you and Mr. Taylor once again for coming here and we want to thank you for the fine work you are doing for the Commission.

Reverend HESBURGH. Thank you, Mr. Rodino, and on behalf of the Commission they too would want me to thank you for your gracious reception of us this afternoon and the work you are doing to get a law out to help us face all of these problems all over the country.

Mr. CHELF. It was said a while ago by one of the members that there is nothing magic about the bill but by the same token I would like to think there is nothing unmagic about it either.

Something was also said about pressure. There are some pressures, I am sure, but I can say to you quite frankly as a member of the full committee, and I am here only as a guest of the subcommittee, that I have had but 2 letters in all of the mail I am getting, out of 500 or 600 a day, only 1 for and 1 against this particular piece of legislation.

So it can't be pressure. I am the for the right to vote because it is right. I am for it because it is LPD—Long Past Due.

I am for it because in America we should not have this shameful thing existing where somebody because of the color of his skin or shape of his eyes can't vote.

This is America and in my opinion we must show the light and an example to the rest of the world, how democracy works. If we can't do it here then may the Good Lord help the world, for we shall have failed it.

Reverend HESBURGH. I am glad you are with us.

Mr. CHELF. I want to thank you, all of you, for this presentation. Thank you for coming. I salute you, I commend you. You are doing great work in the vineyard of the Master.

(The following exhibits from the Civil Rights Commission public hearings in Jackson, Miss., held February 16–20, 1965, were submitted for inclusion in the record:)

EXHIBIT NO. 48

ANALYSIS OF ISSAQUENA COUNTY VOTING APPLICATION FORMS

On January 15, 1964, the Department of Justice photographed the registration and voting records of Issaquena County, Miss. At that time, there were only 110 registration forms in existence. The forms covered applications for the period from July 21, 1961, to July 30, 1963. The following is an analysis of the registrar's administration and grading of the registration test for this period.

I. *Forms Analyzed*

All forms represented applications by whites; all passed.*

II. *Analysis of Forms*

*Department of Justic files show that at the time of the photographing, the registrar stated that all applications had been passed, all executed during her term of office and that no Negroes had applied during that period.

A. SELECTION OF CONSTITUTIONAL SECTION

The Mississippi registration application form has three significant questions: Question 18 requires the applicant to copy a section of the State constitution designated by the registrar; question 19 requires him to interpret the section; question 20 requires him to set forth his understanding of the duties and obligations of citizenship under a constitutional form of government.

For the period 1961–63, the registrar relied primarily on three sections of the constitution in administering questions 18 and 19. Of the 119 persons who took the test, 111 were given one of these three sections.

Section:	*Number of applicants*
35	44
8	36
240	21
20	4
14	3
11	3
30	2
123	2
33	1
103	1
9	1
Preamble to U.S. Constitution	1

A review of the sections selected by the registrar shows that short and easy to understand sections were chosen to be given to almost all applicants. Only in one instance was applicant asked to interpret a more complicated section. The applicant in that case was, at the time of his application, a student at Vanderbilt University. He was asked to copy and interpret section 103 which deals with public officers, touching on vacancies in office, compensation, duties and powers. (Application of William Thomas Touchberry, Jr., March 12, 1963.) Another applicant was asked to interpret the preamble to the U.S. Constitution, a procedure not in conformity with the provisions of the Mississippi statute.

B. ASSISTANCE TO APPLICANTS AND ACCEPTANCE OF INADEQUATE ANSWERS

An analysis of the answers given to questions 19 and 20 clearly indicates that assistance was given to many of the applicants and that the registrar accepted inadequate and in some cases grossly inadequate answers in passing some of the applicants. The conclusion that assistance was given is based upon the finding of verbatim answers on many of the forms.

(1) Forty-four persons were given section 35 to interpret. The section reads: "The Senate shall consist of members chosen every four years by the qualified electors of the several districts."

The first 15 applicants listed below interpreted section 35 by stating (slight variations noted): "To elect the Senate members every four years in order to get people who keep abreast of the times."

Each one of these answered question 20, dealing with the duties of citizenship, with the following statement: "To obey the laws of the state and serve in a useful cacapity whenever possible."

Date of application and applicant:

1. July 21, 1961—Gary Wayne Morgan.
2. June 19, 1961—Julius Wayne Cole.
3. August 28, 1961—Louie Franklin McTeer.
4. January 8, 1962—Henry Wilborn Dye.
5. January 18, 1962—Katie Jane Stuart.
6. January 24, 1962—Allen George Mahalite.
7. January 26, 1962—Wilbert O'Neal Hill.
8. January 30, 1962—Mrs. R. M. Raiford, Jr.
9. February 19, 1962—James G. McDuff. (McDuff's answer to 20 read: "To abide by the law and serve the state in a useful capacity whenever possible.")
10. January 19, 1962—Thomas E. McGrew. (McGrew's answer to 19 omitted the word "abreast," and read: "To elect the senate members every four years in order to get people who keep of the times.")
11. February 22, 1964—Walter Clifton Porter.
12. February 23, 1964—Reid Erwin Monteith.
13. January 17, 1963—Darlene May Smith.
14. January 21, 1963—John D. McGrew, Jr.

15. February 20, 1963—Rachel J. Chick.

The applicant listed below interpreted the same section by merely repeating the words of the section.

16. January 30, 1962—Mrs. Charles Morris, Jr.

The three applicants listed below gave inadequate interpretations of this section. Their complete answers are given.

March 18, 1963—Bobby Roy Boyd. (Applicant's interpretation read only: "equible wrights.")

18. April 1, 1963—Peggy Ophelia Edwards. (Applicant's interpretation read: "The Government is for the people and by the people.")

19. April 12, 1963—Dorothy Lee Heigle. (Applicant's interpretation read: "Elect every four years.")

(2) Thirty-six persons were given section 8 to interpret. The section reads: "All persons, resident of this State, citizens of the United States, are hereby declared citizens of the State of Mississippi." The interpretations of section 8 did not show a broad pattern of similarity.

The three applicants listed below interpreted section 8 by stating: "All residents of this State who are citizens of the United States, are citizens of Mississippi, without regard to race, creed of (sic) previous conditions."

1. January 25, 1962—John R. Tremaine.
2. April 23, 1962—Earl L. Richardson.
3. January 7, 1963—Annie Marie Cousins.

The husband and wife applicants listed below both interpreted section 8 by stating: "If you are a citizen of the United States and live in Mississippi, you are a citizen of Mississippi."—and answered question 20 by stating: "To obey all State and Federal laws."

4. April 26, 1963—Flossie Mae Johnson.
5. April 26, 1963—Floyd Johnson.

The three applicants listed below gave inadequate interpretations of section 8.

6. June 21, 1963—Emma Jane Pack. (Applicant's interpretation read: "You have your legal rights as a citizen to vote as you wish.")

7. June 10, 1963—Claude Gardner, Jr. (Applicant's interpretation read: "Which means that all citizen are unamerica that does not take part in civic and national election.")

8. January 22, 1962—J. W. Jones. (Applicant's interpretation read: "Citizens of Mississippi" answer to question 20 read: "good and honest officials.")

(3) Twenty-one persons were given section 240 to interpret. The section reads: "All elections by the people shall be by ballot."

The nine applicants listed below interpreted section 240 by stating: "Elections by the people shall be held by secret ballot." Each of these answered question 20 with the following statement: "Obey the duties of the government and carry out the rules and laws to the best of your ability."

1. July 21, 1961—Bunny Jean Richards.
2. July 21, 1961—Mrs. G. W. Morgan.
3. July 24, 1961—Rudy A. Holcomb.
4. October 30, 1961—Agnes Marie Burrus.
5. October 30, 1961—Marvin Harry Burrus.
6. October 18, 1961—Claude Charles Collins.
7. November 6, 1961—Marion G. Massey.
8. April 27, 1962—Molly Perkins Dew.
9. January 17, 1963—Samuel Lee Smith.

The applicant listed gave an inadequate interpretation of section 240:

10. April 21, 1962—Fannie Sue Boyd Bonamour. (Applicant's interpretation read: "The people can not vote if they are not a citizen. No votes can be counted for except the ones that are suppose to be.")

His answer to question 20 read: "Because if everyone could vote and not be a citizen, there would be no need for voting. Everyone could vote."

(4) Four persons were given section 20 to interpret. The section reads: "No person shall be elected or appointed to office in this state for life or during good behavior, but the term of all offices shall be for some specified period."

The two applicants listed gave, on the same day, similar interpretations of this section:

1. April 12, 1963.—Opal Jean Heigle. (Applicant's interpretation read: "You can't be appointed for life you must be elected.")

2. April 12, 1963.—Shirley Ann Heigle. (Applicant's interpretation read: "You have to be elected you can not be appointed for life.")

(5) Three persons were given section 11 to interpret. The section reads: "The right of the people peaceably to assemble and petition the government on any subject shall never be impaired."

The two applicants listed gave inadequate interpretations of section 11.

1. May 20, 1963.—Ulden Tucker Jennings. (Applicant's interpretation read: "For the people of Mississippi to have rights peaceably and not to petition the government on any subject.")

2. June 5, 1963.—Mrs. Agness Arlene Hill. (Applicant's interpretation read: "A people living in the State of Mississippi is a citizen of the United State of Miss."

The applicant answered question 20 by stating: "As long as we have the constitutional use we'll have the right to vote.")

(6) Three persons were given section 14 to interpret. The section reads: "No person shall be deprived of life, liberty, or property except by due process of law."

The applicant listed gave the following interpretation of section 14.

1. June 25, 1963.—Bertrand Holloway. (Applicant's interpretation read: "All persons have the right to exercise freedom.")

C. FAILURE TO COMPLETE FORM CORRECTLY

The existence of low grading standards was also shown by the fact that some applicants were passed who failed to complete the form correctly. In some cases, applicants were passed who did not answer question 20, while in other cases, applicants were passed who signed the form incorrectly.

(1) Six persons listed left question 20 blank.

Date of application and applicant:

April 12, 1962.—Donald Lavern McFate.
April 21, 1962.—Barbara A. P. Boyd.
April 23, 1962.—Carol A. Richardson.
April 23, 1962.—Earl Lee Richardson.
January 7, 1963.—Annie Marie Cousins.
June 4, 1963.—Rose Marie Mahalite.

(2) *Improper signature.*—77 persons took the application test on the newer, more complicated form which requires the applicant to sign in two places, after the general or minister's oath depending on which oath the applicant takes, and on the line entitled "Applicant's Signature to Application." (The other 42, all of whom took the test in 1961 and 1962 on the less complicated form, signed the form without error.)

Six persons failed to sign the form on the line entitled "Applicant's Signature to Application."

January 7, 1963—Darlene May Smith.
January 17, 1963—Samuel Lee Smith.
January 21, 1963—J. D. McGrew, Jr.
January 28, 1963—Betty Jean McPhail.
April 23, 1963—Jessie Jones.
May 20, 1963—Ben Robert Blaskley.

Thirteen persons signed on the line for the minister's oath instead of on the line entitled "Applicant's Signature to Application."

January 7, 1963—Mrs. George Cousins.
January 25, 1963—Mrs. Patrick Kerr West.
January 30, 1963—Mrs. Claude Morris, Jr.
January 30, 1963—Vernon C. West.
February 30, 1963—Rachel J. Chick.
March 1, 1963—Bobby Joe McGrew.
April 12, 1963—Jean Heigle.
May 10, 1963—Alice Faye Cornwell.
May 24, 1963—Everett E. Gardner.
June 1, 1963—James D. Gardner
June 5, 1963—Mrs. Agness Arlene Hill.
June 11, 1963—Mary J. Gardner.
July 30, 1963—Harold W. Smith.

Three forms had a check (√) or X indicating the proper lines on which to sign.

February 7, 1963—Betty Massey
April 3, 1963—Harold Heigle.
May 22, 1963—P. K. Huffman.

D. PERSONS NOT QUALIFIED TO TAKE TEST

Persons not qualified to register, under Mississippi statutory requirements, were permitted to take the registration test. In all but one of these cases, the applicant signed the registration book after successfully passing the test.

(1) Twelve persons were permitted to register although they did not meet the requirement of residence in Mississippi for two years prior to the next ensuing general election. Miss. Const., Art 12 § 242 (1890). (A federal election was held in November 1962, and an election for county officers was held in November 1963).

Date of application, applicant, and period in State at time of application:
January 24, 1962, Allen George Mahalite—2 weeks.
January 26, 1962, Marjorie L. Tremaine—11 months.
April 21, 1962, Barbara Anne Boyd—12 months.
January 17, 1963, Samuel Lee Smith—9 months.
January 17, 1963, Darlene May Smith—7 months.
January 25, 1963, John Russell Tremaine, Jr.—12 months.
April 12, 1963, Sonya Coleman—14 months.
April 12, 1963, Shirley Ann Heigle—15 months.
April 12, 1963, Opal Jean Heigle—12 months.
April 30, 1963, Harold Dean Heigle—14 months.
May 2, 1963, Robert Loyd Heigle—15 months.
June 4, 1963, Rose Marie Heigle—18 months.

(2) One person was permitted to register although she did not meet the age requirement of 21 years of age before the next election. Miss. Const. Art. 12 § 242 (1890).

Date of application: April 21, 1962; applicant: Fannie Sue Boyd-Bonamour; and birth date: February 4, 1942.

EXHIBIT 56

VOTING RIGHTS OF NEGRO TEACHERS IN FOUR MISSISSIPPI COUNTIES

(By James W. Prothro and Lewis Lipsitz, University of North Carolina)

The percentage of adults registered to vote in the 11 States of the South is about half as great among Negroes as it is among whites. A comprehensive survey of political participation in the South, carried out in 1961, found that 33 percent of all voting-age Negroes and 66 percent of all voting-age whites were registered to vote.[1] Although registration has increased among both whites and Negroes in the last 4 years, the disparity between the races remains approximately the same. In the non-Southern States, on the other hand, there is almost no difference in the rates at which Negroes and whites register to vote—80 percent of the voting-age whites and 78 percent of the voting-age Negroes were registered to vote in 1960.[2]

If we go back to 1940, before the Supreme Court declared the "white primary" unconstitutional,[3] only about 5 percent of the adult Negroes were registered to vote in the South. Since 1940, this figure has increased to approximately 30 percent. Despite this great increase in Negro voter registration, the rate of increase has been highly uneven among different Southern States. As table 1 indicates, the southwide increase was 34 percentage points, from 5 percent to 39 percent. The largest increases were in Tennessee (51 percentage points), Texas (40 percentage points), Florida (48 percentage points). The smallest increase was in Mississippi (7 percentage points). Mississippi, which had the smallest increase in Negro voter registration, also started from the lowest point, with virtually no Negroes registered in 1940. The proportion of Negroes registered in Alabama, which ranked at the bottom along with Mississippi in 1940, the next to the bottom in 1964, is three times as great as the proportion registered in Mississippi.

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[1] Donald R. Matthews and James W. Prothro, *Negro Political Participation in the South* (New York: Harcourt, Brace & World, in publication).
[2] Data from a national survey conducted by the Survey Research Center at the University of Michigan.
[3] In *Smith* v. *Allwright*, 321 U.S. 649 (1944).

TABLE 1.—*Estimated percentage of voting-age Negroes registered to vote in the South, 1940–64*

State	1940	1947	1952	1956	1960	1964 (summer)
Mississippi	(1)	1	4	5	6	7
Alabama	(1)	1	5	11	14	22
South Carolina	(1)	13	20	27	(2)	34
Louisiana	(1)	2	25	31	31	32
Georgia	2	20	23	27	(2)	39
Arkansas	3	21	27	36	38	42
Florida	3	13	33	32	39	51
Virginia	5	11	16	19	23	28
Texas	9	17	31	37	[3] 30	58
North Carolina	10	14	18	24	38	45
Tennessee	10	25	27	29	[3] 48	67
Southwide	5	12	20	25	28	39

[1] Less than 0.5 percent.
[2] No data.
[3] Incomplete data; the data for Tennessee are especially unreliable.

Sources: Derived from U.S. Census data on nonwhite population and from Negro registration estimates in G. Myrdal, "An American Dilemma" (New York: Harper & Bros., 1944), p. 488; M. Price, "The Negro Voter in the South" (Atlanta: Southern Regional Council, 1957), p. 5; U.S. Commission on Civil Rights, 1959 Report (1959 Commission on Civil Rights Report) (Washington, D.C., 1959), and U.S. Commission on Civil Rights, Voting (1961 Commission on Civil Rights Report) (Washington, D.C., 1961); South-Regional Council data reported in the New York Times, Aug. 23, 1964.

THE PROBLEM FOR INVESTIGATION

The findings presented above indicate that the degree to which Mississippi Negroes exercise the right to register as voters differs, not only from whites in Mississippi, but also from Negroes in other Southern States. Many factors may influence the decision to register as a voter or to remain a nonvoter, e.g., eligibility under the formal requirements (such as age, residence, or literacy), interest in getting registered, interest in a particular election, or the feeling that one's vote would make a difference. In addition, unlikely as such a possibility may appear in a democracy, people may decide not to register because of fear or intimidation.

The purpose of the investigation reported here was to discover the reasons for failure to register and to vote among Negroes in four Mississippi counties. Since Negroes in Mississippi have low levels of education (the 1960 census reported the median school years completed by Negroes as 6.0), failure to register might stem from lack of education or interest. A southwide analysis of the relationship between the social and economic characteristics of southern counties and the proportions of Negroes registered found a strong relationship between these characteristics and Negro registration.

However, even when we take the social and economic characteristics of Mississippi counties into account, their rate of Negro voter registration is 14 percentage points below what would be expected if Negro registration in Mississippi responded to county characteristics as does Negro registration in the South as a whole.[4] The extremely low rate of Negro voter registration in Mississippi thus cannot be explained simply by low levels of education and other factors that tend to depress political participation throughout the South.

The survey reported here was confined to Negro school teachers, all of whom were college graduates, in order to insure that all members of the population being sampled were literate. In the other 10 Southern States, for example, 80 percent of the Negroes with college degrees were registered to vote in 1961. Four counties were selected for the survey by the Civil Rights Commission, with the intent of including both counties with relatively low and with relatively high rates of Negro voter registration.

[4] Donald R. Matthews and James W. Prothro, "Social and Economic Factors and Negro Voter Registration in the South," *American Political Science Review*, LVII: 24–44, March 1963; and "Political Factors and Negro Voter Registration in the South," *APSR*, LVII: 355–367, June 1963.

THE RESEARCH PROCEDURE

The Civil Rights Commission contracted with the National Opinion Research Center to draw a large random sample of respondents from lists of Negro teachers in the four counties and to conduct the interviews. In three of the counties (X, Y, and Z), the sample was drawn from all Negro teachers in the county; in county W, the sample was selected only from those teaching in the county seat, which had a relatively high rate of Negro voter registration. Respondents were selected at random from lists of those currently employed. They were interviewed, with assurances of anonymity, by professional Negro interviewers trained by the NORC staff during December 1964 and January 1965. The number of Negro teachers in each of the four sampling areas, the size of the sample, and the number of completed interviews follow.

County	Teachers in county	Number in sample	Number contacted	Completed interviews
W	225	63	48	46
X	169	41	29	26
Y	74	54	47	40
Z	73	56	50	19

The interview schedule itself was drafted by the authors of this report as consultants to the NORC. The NORC sent the completed interview schedules directly to the authors of the report for analysis; The quality of the interviews suggested the interviewers succeeded in establishing good rapport with respondents. The lack of contradiction in the interviews on questions of fact enhances confidence in the validity of the responses. Since the samples were based upon sound sampling procedures, the findings can be taken as representing the experiences and attitudes of the general populations under study.

The limitations of this study must be kept in mind in evaluating the findings. First, no inferences should be drawn on the basis of this study about Negro voting rights in other parts of Mississippi. The survey was designed, not as a sample of Negro teachers in Mississippi, but as four separate samples in three counties and one city. The different practices we found in the four counties that were surveyed strengthen this reservation. Second, no inferences should be drawn from the findings about attitudes of Negroes in general in the four study sites. The population of concern in this study was the population of Negro school teachers only. They are not representative of the Negro population as a whole. Third, guarded inferences can be drawn about voting eligibility (as distinct from attitudes) of other Negroes in the study sites. In view of the unusually high educational attainments of the population under study, one can infer that if they are judged ineligible to vote other Negroes with lower levels of education would also be judged ineligible. Such a conclusion is a logical inference, however, not an established finding.

A COMPARISON OF THE VOTING RIGHTS OF NEGRO TEACHERS IN FOUR MISSISSIPPI COUNTIES

Willingness to discuss political participation

Negro teachers vary greatly in perceptions about their political freedom or repression in the four study counties. Only in the county seat of county W do they enjoy a widespread feeling of freedom to participate in American politics. In the other three counties, the variation is from complete to partial feelings of repression.

An important, if indirect, indication of an atmosphere of freedom is willingness to be interviewed on questions about political participation. Throughout the South, less than 10 percent of all Negroes—which includes only a small percentage with a college education—have refused to discuss the question of political participation with interviewers.[5] In three of these four counties, the percentage of Negro teachers who refused to talk about political participation was not extremely high. (In county W it was about normal for the South as a whole, and in counties X and Y the refusal rate was not greatly above normal.) In county

[5] Matthews and Prothro, op. cit.

Z, however, the refusal rate was extraordinary, especially when we consider that the sample was restricted to college graduates. (The data are summarized in table 2.)

TABLE 2.—*Rates of refusal to be interviewed by Negro teachers in 4 Mississippi counties*

	W	X	Y	Z
Number approached	48	29	47	50
Refusal rate (percent)	4.2	10.3	14.9	62.0

In county Z, more than 3 out of every 5 teachers who were approached (31 out of 50) refused to be interviewed. Most of these refusals offered no explanation, but one-third (10 out of 31) volunteered the comment that they were afraid that granting the interview would jeopardize their jobs. Seven of these ten further explained that they had been instructed by their school principal not to discuss civil rights with anyone. They added that this was given to them as an order from the county school superintendent.

The high level of reluctance characterizing Negro teachers in county Z is not found in the other counties. Nevertheless, the minority who refused to be interviewed cited fear of loss of their jobs often enough to suggest that this threat is perceived by some Negro teachers in these counties as well. The number of refusals citing fear of their jobs in each of these counties is: W, 1 out of 2; X, 2 out of 3; Y, 3 out of 7.

The explanation for the high refusal rate in county Z is important in evaluating all subsequent findings. As many teachers were approached for interviews in county Z as in the other counties, but—in view of the orders of the school superintendent—the analysis that follows includes only 19 interviews from county Z. When we consider fear as a reason for not registering to vote, for example, we shall rely only upon those teachers who were willing to be interviewed. It should be kept in mind that 62 percent of the teachers in county Z were too reluctant or fearful even to grant the interview and that they are not included in the rest of the analysis.

Voter registration

Voter registration among Negro teachers also varies markedly among the four sample counties. In county W, almost three-fourths of the teachers were registered voters. And better than 9 out of 10 of those who were registered had actually voted. In county X, less than half the teachers were presently registered. County Y had only one registered teacher out of a sample of 40. In county Z, there was not a single registered voter among the teachers interviewed. (See table 3.)

TABLE 3.—*Registration of Negro teachers in 4 Mississippi counties*

[In percent]

	W	X	Y	Z
Registered	73.9	42.3	2.5	0
Not registered	26.1	57.7	97.5	100
Total	100	100	100	100
Number	46	26	40	19

Of the 19 teachers interviewed in county Z, none had ever attempted to register. Six of these 19 state that they have not tried because they fear the possible consequences—4 mentioning the fear of losing their jobs. In addition, two teachers in county Z state they have heard of Negroes who tried to register and actually did lose their jobs.

In county Y, in addition to the one teacher who has recently become a registered voter, only one other respondent has ever tried to register. This person stated that he was told the polls were closed although he saw that white people were being registered. Of the 38 other county

Y respondents who have not tried to register, 28 say that their failure to make an attempt is a result of their fear of the possible consequences. Fourteen of these 28 fear the loss of their jobs.

The 15 teachers not registered to vote in county X include 6 individuals who have tried to register and failed. Of the nine others who have not tried to register, only one person says that fear played any role in his failure to make an attempt. The others credit their failure to personal negligence or lack of interest.

The picture in county W is somewhat similar to X. Of the 12 nonregistrants, one has tried to register and is now awaiting the results of his test. Nine of the 11 others state that they have not tried to register either because of a lack of interest or because of their own negligence. One teacher, however, expresses a fear of losing his job.

TABLE 4.—*Frequency of attempted registration among nonregistered Negro teachers*

[In percent]

	W	X	Y	Z
Attempted	8.3	40.0	2.6	0
Not attempted	91.7	60.0	97.4	100
Total	100	100	100	100
Number	12	15	39	19

In summary, as table 4 indicates, the two counties with virtually no Negro registration are also those in which almost no Negro teachers have ever tried to register. In accounting for their failure to try to register, 74 percent in county Y and 32 percent in county Z state explicitly that they are afraid. For some the fears are not described in detail; others specify that they would lose their jobs, be subjected to violence, or be jailed. In county Y, however, one teacher has registered since the last election. Despite the widespread expressions of fear, several respondents reported that they had heard of a recent change of policy that would permit registration. Two teachers reported that their school principal had announced at a recent teachers' meeting that teachers would henceforth be permitted to register. Finally, one other Negro teacher in county Y describes a recent church meeting at which a white official told Negroes that they could register, as long as they were not in groups. Whether or not these reports indicate a change in county Y is not clear.

Table 5 presents the major fear expressed by each respondent during his interview. The most common fear is loss of one's job, far overshadowing every other fear in its frequency. Expressions of fear occurred in more than half the interviews in three of the four sample areas. Only 4 percent of the respondents in county W expressed any fear, but the frequency rose to 54 percent in county X, 75 percent in county Y, and 79 percent in county Z.

TABLE 5.—*Expressions of fear in interviews (categorized by major fear expressed)*

[In percent]

	W	X	Y	Z
Loss of job	2	4	11	9
Possibility of losing job		1	5	
Violence		2		
Job loss and violence			4	
Fear of interview			3	4
Fear—unspecified		3	2	2
Discrimination by registrars		4	4	
Fear of discussing politics publicly			1	
Total expressing fear	4.3	53.8	75.0	78.9
Number	46	26	40	19

Motivation to participate in politics

In terms of the motivation to participate in politics, there are some variations among the four counties, but in all four there is a considerable group that manifests high involvement. Asked, for example, about their interest in the 1964 election, a majority of respondents in counties W, X, and Y indicate great interest, and a large minority do so in county Z. (See table 6.)

TABLE 6.—*Interest in 1964 presidential election*

[In percent]

	W	X	Y	Z
Great deal	79.2	57.7	75.0	44.4
Quite a lot	13.0	42.3	20.0	22.2
Not very much	7.8		5.0	16.7
Not at all				16.7
Total	100	100	100	100
Number	46	26	40	[1] 18

[1] A respondent in county Z did not answer this question.

When interest in the 1964 election is related to whether or not individuals are registered voters, the patterns are sharply different in the four counties. In county W, more than three out of four of those who show high interest in the 1964 election are registered. In X, less than half with high interest are registered. In Y, only 1 is registered out of 37 with high interest. In Z, none is registered though 11 show high interest. Clearly, degree of interest in politics cannot explain the differing patterns of voter registration in these counties. Even when the analysis is confined to citizens with high interest, the proportion who are registered drops markedly from county W to counties X and Y and it disappears entirely in county Z. (See table 7.)

TABLE 7.—*Relationship of interest in 1964 election to registration*

Level of interest	Percent registered in—			
	W	X	Y	Z
Great deal or quite a lot	76.2 (32)	44.0 (11)	2.7 (1)	.0 (0)
Not very much or not at all	100 (2)	.0 (0)	.0 (0)	.0 (0)

A very similar pattern is found when other indexes of political interest—such as desire to vote, and general interest in politics—are related to actual voter registration. In several cases the level of political interest expressed in county Y is higher than that in any of the other counties despite its low level of registration. Though county Z teachers express a lower level of political interest than those in the other counties, even there a large minority of teachers express high levels of political interest and concern. Yet none of these highly motivated teachers has even attempted to register to vote.

The teachers in each of the four counties feel overwhelmingly that it would make a differences if more Negroes registered and voted in their county. (See table 8.) In county W, the teachers talk of better schools, Negro officeholders, more responsive white officials, and greater opportunities that might flow from increased Negro voter registration. In county X, one teacher says increased registration would be good because, "If they (the Negroes) were registered they wouldn't have the inferiority complex." A county Y teacher speaks eloquently of the fruits of greater Negro participation: "The sheriff wouldn't push you around because he would have to depend on your vote to get in office * * * If you have no ballot you have no voice. When you vote you are a more responsible citizen, not just existing, but part of an existence * * *." In county Z, where intimidation appears to be pervasive, one teacher puts the case for increased Negro registration on a very simple basis: "Maybe we would feel better about things like just talking with you."

In all four counties, a large majority of teachers would like to see more Negroes registered, and they approve the actions of Negroes who have tried to register. In all counties, a large percentage of Negroes show high interest in political matters and every respondent read at least one newspaper and magazine. Yet only in county W is even a majority of the sample of Negro teachers registered to vote. Clearly the shadow of intimidation falls between the wish to participate and the act of participation.

TABLE 8.—*Do you feel it would make a difference if Negroes (more Negroes) registered and voted in this county?*

[In percent]

	W	X	Y	Z
Yes	88.6	92.0	87.5	50.0
No	6.8	8.0	7.5	38.9
Don't know	4.6		5.0	11.1
Total	100	100	100	100
Number	44	25	40	18

EXHIBIT 60

PREPARED STATEMENT OF BURKE MARSHALL SUBMITTED TO THE U.S. COMMISSION ON CIVIL RIGHTS, JACKSON, MISS., FEBRUARY 18, 1965

INTRODUCTION

Mr. Chairman, members of the Commission, I am pleased to be here today, at your request, to discuss the experience of the Department of Justice in enforcing the Federal voting statutes and dealing with certain other problems in the State of Mississippi. From February of 1961 until January of 1965, I was Assistant Attorney General in charge of the Civil Rights Division, U.S. Department of Justice. While I am now engaged in the private practice of law in Washington, D.C. and no longer associated with the Department of Justice, what I have to say will coincide, I think, with the present views of the Department.

I have a prepared statement to read, after which I will be happy to answer any questions.

The principal Federal constitutional provision dealing with voting is the 15th amendment. Adopted in 1870, it forbids the States or the United States to deny or abridge the right to vote in any election, State or Federal, on account of race, color, or previous condition of servitude. Additional Federal power to legislate in this field is derived from the 14th amendment. Articles I, sections 2 and 4, as supplemented by the 17th amendment, also are a source of Federal power to regulate Federal elections.

Shortly after the ratification of the 15th amendment, Congress adopted legislation to permit private litigants to bring suit to protect the right to vote. During the same period criminal statutes punishing denials of the right to vote were enacted, but no civil enforcement power was given to the Department of Justice at that time.

It was no secret to anyone that these statutory remedies were hopelessly inadequate and that there were no attempts made to enforce those laws which were available. Negro disfranchisement was widespread. In many States, Negroes were not permitted to register to vote and those already registered were purged from the rolls—without significant protest from any quarter. This failure to make good on the promise of the 15th amendment cannot be laid on the doorstep of any one State or any one region. It was part of the larger historical pattern which saw our people at the end of the 19th and the beginning of the 20th centuries preoccupied with pursuits other than the meaningful grant of full citizenship to the former slaves. Thus, the practices which disfranchised Negroes flourished unchallenged for three generations.

A serious, sustained, and broad effort to deal with this problem began only about 8 years ago. For it was not until 1957 that public acquiesence in the outrageous treatment of Negro citizens in their attempts to become participants in the electoral process was abated sufficiently to permit the enactment by the

Congress of meaningful legislation to protect the rights of Negro citizens to vote.

In the Civil Rights Act of 1957, Congress empowered the Attorney General of the United States to institute suits to protect the right to vote from deprivations, because of race or color. 42 U.S.C. 1971 (a), (c). At the same time, the act also prohibited threats and intimidations for the purpose of interfering with the right to vote in Federal elections and it gave the Attorney General authority to bring suits to protect against such interference. 42 U.S.C. 1971 (b), (c).

A number of lawsuits were brought between 1957 and 1960 under the authority of the new act, none of them in Mississippi. The experience with these lawsuits quickly pointed to the need for further voting legislation. It became apparent at once that voting discrimination suits could not adequately be prepared without full access to the relevant registration papers and documents and that, even where a suit was brought to a successful conclusion, the scope of the relief had to be wider than what was being afforded by the courts at that time. In 1960, Congress set out to remedy these defects. The Civil Rights Act of that year granted to the Attorney General full powers of inspection of documents in the custody of local voting registrars. It further provided that where a pattern or practice of discrimination was found a new and more comprehensive procedure for the registration of Negroes was to be employed. This new procedure permits any Negro in the affected area whose application has been rejected by local officials to apply directly to the Federal court or a Federal voting referee for an order certifying him to vote. The orders of the court so obtained are binding upon State voting officials with respect to both State and Federal elections.

The Department of Justice brought 40 discrimination suits between the date of enactment of the 1960 act and the enactment of the Civil Rights Act of 1964. Of these 40 lawsuits, 16 were in Mississippi. In addition, 7 voting discrimination suits have been brought in Mississippi since the passage of the 1964 act so that up to date we have a total of 23 such lawsuits brought since July 1961.

I should like to describe these Mississippi lawsuits in some detail, but before I do it might be helpful if I related briefly what Mississippi law requires in the way of registration for voting, and what the statistics show concerning registration for voting in this State.

In Mississippi registration is a prerequisite to voting in any election, State or Federal. The registration laws are administered in each county by a registrar, who is the circuit court clerk, an elected official. Since the recent adoption of the Federal poll tax amendment (the 24th amendment) the payment of poll taxes is a prerequisite to voting only in elections for State offices. Payment of the tax is not a prerequisite to registration. The county sheriff, as tax collector, is responsible for collection of the poll tax.

The basic qualifications for registration in Mississippi are citizenship, residence in the State for 2 years and in the election district in the county for 1 year. The prospective voter must also be at least 21 years of age, not insane, and he must not have been convicted of any disqualifying crime.

In addition to these basic qualifications, the Mississippi constitution and laws impose the requirements that an applicant must be able to read and write any section of the State constitution and give a "reasonable interpretation" thereof to the satisfaction of the registrar; he must demonstrate a "reasonable understanding" of the duties and obligations of citizenship under a constitutional form of government.

These requirements became effective in March 1955. All persons registered prior to January 1, 1954, were exempted by law from having their qualifications to vote determined under these added requirements.

In 1960, the requirement of "good moral character" as a prerequisite to voting was added to the Mississippi constitution.

In 1962 several new statutes, including one implementing the good moral character requirement, were adopted. These laws (1) require that all blanks on the application form be completed "properly and responsively" by the applicant without assistance; (2) prevent a registrar from advising a rejected applicant of the reason for his rejection, because that would constitute assistance; (3) provide for publication of names of applicants for registration in the local newspaper and require applicants to wait for an extended period of time after publication before the applicant can determine (usually about a month) whether

he has been registered or denied registration; (4) permit any qualified elector to challenge the qualifications including moral character of any applicant whose name is published. Finally, a 1960 law permits registrars to destroy application forms.

What are the dimensions of the problem? The statistics provide some answers.

The most complete statistics for Negro registration are for January 1955, immediately prior to the adoption of the constitutional interpretation test as a prerequisite for voting. As of 1955, of 495,183 Negroes of voting age, 21,502 were registered. That represents 4.3 percent of the potential. The approximate figures for white registration as of that time are as follows: 710,639 white persons of voting age, at least 423,456 were registered, representing 59.6 percent of the potential.

As of June 1, 1962, we have accurate statistics on 34 of the 82 Mississippi counties. The statistics in these 34 counties show 295,648 persons of voting age and 231,666, or 78 percent registered. As of the same date, of 230,770 Negroes of voting age, 10,445, or 4.5 percent were registered.

As of the approximate date January 1, 1964, we have compiled accurate figures for 29 of the 82 counties. These figures show of 282,580 white persons of voting age, 227,504, or 80.5 percent were registered; of 201,849 Negroes of voting age, 12,975, or 6.4 percent were registered.

I have appended to this statement, as appendix 1 and 2, the statistics of each of the 34 counties in June 1962, and the statistics in 29 counties as of January 1, 1964. Let me simply add on that point that while our figures are generally accurate, in some instances they represent educated estimates based upon counts from the registration and poll books and the voting figures at a particular election.

I now turn to the Department's voting litigation in Mississippi. The first suit was filed in July of 1961. Since that time, 23 discrimination actions have been filed under section 1971(a). Twenty-two of these cases name as defendants individual State officials and they essentially question the improper administration of State laws by these officials. They do not directly attack the validity of the laws themselves.

In the case of *United States* v. *Mississippi* the Department has undertaken a different and more fundamental approach. The complaint, filed on August 28, 1962, named as defendants the State of Mississippi, the three members of its Board of Election Commissioners, and six county registrars. The complaint challenged as unconstitutional and in conflict with paramount Federal law most of the bundle of Mississippi voting laws I have already described.

The gravamen of the complaint is that the Mississippi constitutional and statutory provisions are themselves "engines of discrimination," as the Solicitor General put it to the Supreme Court. We contended that these laws are designed to facilitate and abet racial discrimination, that this has been their effect, and that the history of their administration demonstrates conclusively that racial discrimination is the only true purpose they serve. We also challenged the various tests on "freezing" grounds, and we urged their invalidity on the further ground that the State's educational system so discriminated against Negroes that, in fairness, complicated literacy tests could not be required.

The relief sought in *United States* v. *Mississippi* is nothing less than the substantial elimination of all the varied literacy requirements and an order requiring the registration of any Negro applicant who meets the age and residence requirements, is able to read, is sane, and has not been convicted of a disqualifying crime.

By a divided vote, the three-judge district court dismissed the complaint, holding that it failed to state a claim upon which relief could be granted. This decision, incidentally, appears to be in conflict with the judgment in a similar case brought against the State of Louisiana in which another three-judge court held invalid the Louisiana interpretation test and granted freezing relief in 21 parishes against the use of a new so-called citizenship test. Both cases have been appealed to the Supreme Court and that Court heard arguments on the appeals in January.

Let me turn now to the individual discrimination suits.

The Department has obtained effective final decrees against registrars in two counties, Panola and Tallahatchie, and the court of appeals recently directed the entry of an effective decree in Walthall County. A satisfactory order was also entered against the sheriff of Tallahatchie County in another 1971(a) case, re-

straining him from discriminatory manipulation of the poll tax requirement.

Cases from three other counties—Holmes, George, and Clarke—are pending on appeal, Clarke for the second time, after refusal of relief in whole or in part by the district court.

In the Forrest County case, which is proceeding simultaneously in the district court and the court of appeals, interlocutory relief has been granted by the appellate court and the district court has entered a decree, granting partial relief, to take effect after disposition of the court of appeals proceedings.

In three counties, Madison, Sunflower, and Jefferson Davis, cases have been tried and are awaiting decision, and a trial is currently underway in a second Holmes County case.

In Marshall and Benton Counties offers of judgment have been made and the supervisors have ordered a complete reregistration of all persons. Negotiations are proceeding with respect to the terms and conditions of the registration, particularly as concerns the rights of Negroes residing in the counties prior to 1954 who were never registered, and the problem of unequal educational opportunities.

In eight counties—Marion, Issaquena, Chickasaw, Jasper, Oktibbeha, Lauderdale, Copiah, and Hinds—the Department has filed nine lawsuits (two in Chickasaw), which have not yet come to trial, but preliminary relief adding Negroes to the registration rolls and opening the books for registration has been granted in Lauderdale and Hinds. Similar relief was also granted pending the decision on the merits in Sunflower and Madison Counties. No 1971(a) case in Mississippi has been finally decided adversely to the Government.

A mere sterile recital of the number of lawsuits brought cannot provide an accurate measure of the work and effort that went into this litigation.

At the time when most of these lawsuits were brought the Department of Justice had less than two dozen lawyers exclusively engaged in the voting litigation. Yet, in the Hinds County case, for example, departmental attorneys with clerical assistance had to analyze some 14,000 application forms and control cards based on these forms to prove that there was in fact discrimination in the selection of test questions and in their grading. This is just one of the steps necessary to prepare a 1971(a) case. Besides this, registration books must be counted, registered voters and rejected applicants identified by race, and most difficult of all, perhaps, assistance given to white applicants but not to Negro applicants must be proved. These problems require the Department attorneys to analyze large numbers of records and interview sometimes hundreds of witnesses to establish a case.

For example, in connection with the preparation of the Forrest County case, two attorneys were in Hattiesburg for almost 3 weeks sifting through newspapers, graduation yearbooks, city directories, and other documents, in order to identify and locate white persons who were placed on the rolls by the incumbent registrar. Thereafter, other attorneys, again with the help of clerical employees, analyze application forms, control cards and other records during a 16-week period. The interviewing of prospective witnesses took four attorneys well over 2 weeks, and as many as five attorneys at a time were engaged for a period of over 1 month in preparing proposed findings of fact and conclusions of law.

In short, not even counting the trial, the preparation of voting discrimination cases is a time-consuming, complex task. It is due to the dedication of the personnel in the civil rights division and their willingness to work countless hours of overtime that it was possible to make signicant progress.

The experience with the discrimination cases revealed both the effectiveness of the legislation and its shortcomings. The effectiveness was shown most dramatically in the Panola County case. Panola is a rural county in the northern part of the State. Prior to our lawsuit there, one Negro was registered to vote. After the district court entered an effective decree—following the instructions from the court of appeals—approximately 1,000 Negroes registered to vote, or about 15 percent of all those eligible. It is my expectation that, as additional lawsuits are decided, similar results may be achieved in other counties.

What about the shortcomings? The major problems were those of delay, on the one hand, and the manipulation of literacy tests, and effective relief against such manipulation, on the other. Let me explain.

Litigation takes time. There is the time provided for in the rules; there is the time required to reach the head of the calendar; there is the time required for decision; there is the time needed for the appellate process. In part, delays are inherent in the litigation system. Beyond that, however, in the first 2 years of our litigation in Mississippi, the time consumed in the preliminary stages prior to trial was far too long.

The Department has compiled some approximate statistics on the length of time necessary to litigate voting suits. Please bear in mind that rough judgments had to be made in some instances as to how much time could fairly be counted with respect to some of the cases.

Prior to 1964, the average elapsed time from the filing of a complaint until the filing of the defendant's answer was about 6⅔ months.

The average elapsed time from filing of an answer until the beginning of trial was 9 months.

The average elapsed time from the end of trial until entry of judgment was 4.10 months.

Lumping these figures, the average elapsed time from filing of a complaint until beginning of trial was 16.33 months. The actual elapsed time exceeded the average in 9 of the 15 cases included in this calculation. And the average elapsed time from filing of a complaint until entry of judgment was 17.8 months.

The average time required to complete the appeal from an unsatisfactory judgment in 1971(a) cases has been about 1 year.

As for the manipulation of literacy tests, it has been the favored device of those who discriminate. Negroes are required to furnish precise answers to complex or vague questions and they are tested by a most exacting standard. Whites, on the other hand, are either not tested at all or are given assistance as needed. The result is the great imbalance in registration figures. Litigation also may prompt the registrar to apply the strict requirements of Mississippi law to all applicants, white and Negro, or to slow down the pace of registration. Since practically all whites in the county are already registered, such methods hurt only the Negroes.

These various problems were brought to the attention of the Congress and title I of the Civil Rights Act of 1964 was the result. That act not only provides for the expedition of voting rights lawsuits, but it also specifically outlaws the permanent "freezing" of the results of previous discrimination; that is, the tightening of the registration standards (after a period when they were not or hardly at all applied to whites) so as to make them apply theoretically to all but as a practical matter only to the unregistered Negroes. The act also provides for a presumption of literacy in the case of persons who have completed the sixth grade.

Partly as a result of the passage of the act, and partly as a result of successful litigation apart from the act, satisfying progress has been made with respect to the several problems I have outlined.

Since July 2, 1964, the Department has filed seven more 1971(a) suits. The figures for these new cases show that the average elapsed time from complaint to answer was less than 1 month. One case has already gone to trial and in two others offers of consent judgments were made by the defendants within 3 and 4 months, respectively, after filing of the complaint.

It is evident that the time required to litigate 1971(a) cases is being sharply reduced. As I indicated, this is the result not only of passage of the 1964 statute but also of resolution of a variety of procedural problems which must inevitably emerge in the initial phases of enforcement of a new regulatory statute. The expediting provisions of the 1964 act promise to accelerate further the pace of litigation. Indeed, in one case, involving Holmes County, where the complaint was filed at the end of July, our discovery motion was granted within a month, the defendants answered, and a trial date was set for early November. The trial began on schedule, but was continued to this month, when it should be completed.

The Department also has been successful in securing in some of the cases an effective decree against the manipulation of literacy tests and slowdowns in administering these tests. Such a decree is one that directs a registration speedup if necessary; that invokes a freeze, so that Negroes of elementary literacy, who meet the basic qualification of State law (age, residence, lack of conviction of a disqualifying crime, insanity) may be registered at least for a period long enough to give all of the present adults in the county a fair opportunity to present themselves for registration; and that requires detailed monthly reporting by the registrar to the Federal court and to the Department of Justice. This kind of relief has been granted in Panola, Tallahatchie, and Walthall Counties. It may be expected in other cases as well, now that the court of appeals has laid down standards.

I should like to discuss now, more briefly, the problems of voting intimidation and racial violence. The Civil Rights Act of 1957 for the first time gave the

Department of Justice authority to bring injunctive action against intimidation for the purpose of interfering with the right to vote in Federal elections. This statute is codified in title 42, section 1971(b). Seven suits have been filed in Mississippi under the authority of that statute, with mixed success.

The first suit was brought in Walthall County, where, on appeal, a temporary injunction was obtained against a trumped-up prosecution of a voting registration worker. The case was ultimately settled after the State agreed to dismiss the criminal charges against the voting worker.

In Leflore County settlement was obtained in another suit to enjoin intimidation of voting registration workers by arrests and prosecutions. A second 1971(b) case, also involving intimidatory arrests and prosecutions, is still pending. The Department unsuccessfully sought interlocutory relief from the court of appeals in this action.

In Clarke County the Department obtained a decree prohibiting a State court perjury prosecution of Negro witnesses who had testified in Federal court in a 1971(a) case.

In Holmes County the Department sought injunctive relief against criminal prosecutions brought and judgments obtained against voter registration workers. Relief was denied in the district court, but the case was appealed to the court of appeals which recently heard oral argument.

In Greene County the district court denied the Department's request to restore to her job a school teacher discharged because, it was alleged, she testified for the Government in a voting discrimination case. Similarly, in Rankin County, injunctive relief was refused against a sheriff who, with his deputy, assaulted Negroes who were filling out application forms in the registrar's office. In both cases the legal issue was whether the acts done were for the purpose of interfering with the right to vote, and in each instance the Department was unable to overcome, on appeal, lower court findings of fact that the acts in question had not been done for that purpose. Hence these two judgments denying relief were affirmed.

As this summary indicates, the principal problem under the intimidation statute is that, as presently interpreted, it requires the Government to prove an intimidation or a threat which is undertaken for the purpose of interfering with the right to vote. This burden is a very difficult one to sustain. The problem might be resolved by a sufficiently broad judicial construction of the purpose requirement. Cases now pending may provide an opportunity to establish an interpretation of the law which would more effectively serve the end of guaranteeing that those who seek to vote need not fear retaliation.

Related to the problem of intimidation is that of racial violence. As I indicated earlier, the only relevant civil litigation authority of the Department of Justice lies in the field of voting. That does not mean, however, that nothing has been done. Activities aimed at neutralizing the violent efforts of the Ku Klux Klan are proceeding constantly. The staff of the FBI has been greatly augmented in Mississippi and a new field office has been opened in Jackson. Investigations have been and will continue to be conducted into reported cases of interference with Federal rights.

The truth of the matter, however, is that there is no acceptable Federal solution to this law enforcement problem. We have no Federal police force empowered or equipped to provide protection or to maintain law and order on a generalized basis. And I do not believe that the situation, deplorable as it may be in many parts, warrants the departure from the historic pattern of limited Federal power that would be implied by the creation of a Federal force having as its purpose the maintenance of internal law and order.

There are inherent difficulties, too, when the problem is what to do about excesses by local law enforcement officers. An injunction is simply not a very useful instrument for the control of the discretion necessarily vested in such officers. Courts are reluctant to issue orders binding the hands of local, elected, enforcement officials, and will do so only where no other effective means dealing with the violation are available.

In sum, some strides have been made in eradicating voting discrimination in Mississippi. But Mississippi cannot be viewed in isolation. The real, concentrated effort by Federal authorities in this State was begun only relatively recently. Progress has been made and far greater progress may confidently be anticipated. In other States, where similar efforts were begun sooner, tangible results are already more visible.

The 1964 status report, which I am submitting to the Committee with my testimony, reports in detail what has been accomplished in the litigation in all of the States in which suits have been brought.

Let me make it clear that I do not represent that an effective decree is the absolute solution. There are certain problems litigation cannot cure. Among these inherent difficulties is the inferior economic status of Mississippi Negroes and the level of literacy of many of them. The economic and social problems involved have very deep roots and will remain even after the voting problem is solved. They cannot be met by court action, and I have not attempted to deal with them. As concerns low literacy levels as they affect voting and voting rights, "freezing" decrees will provide some correction, because they will permit the registration of Negroes of a level of literacy comparable to that of registered whites. But even this is obviously not a complete answer.

In short, the purposes of the Civil Rights Acts of 1957, 1960, and 1964 were good. Some of their aims have been achieved and this progress has recently been accelerated. Yet delays and abuses of discretion continue to exist. Because time is of the essence, President Johnson and his administration are devoting intensive attention to additional voting legislation. Participation in elections is, after all, basic to American democracy, and it is important, therefore, that the right to vote be guaranteed.

APPENDIX 1

Registration Statistics by County for June 1, 1962

[34 of 82 counties]

County	Whites over 21	Whites registered	Percent	Negroes over 21	Negroes registered	Percent
1. Amite	4,449	3,532	80.0	3,560	1	0.028
2. Benton [1]	2,514	1,867	74.2	1,419	30	.21
3. Claiborne	1,688	1,440	85.3	3,969	15	.37
4. Clarke	6,072	5,000	83	2,998	1	.03
5. Coahoma	8,708	6,380	73	14,004	1,061	7.6
6. Copiah	8,153	7,533	92.0	6,407	25	.39
7. Covington [1]	5,329	4,773	89.5	7,032	202	3.5
8. De Soto [1]	5,338	3,877	72.6	6,246	11	.18
9. Forrest [1]	22,431	10,903	48.6	7,495	22	.3
10. Franklin	3,403	3,731	100.00	1,842	236	12.8
11. George [1]	5,276	3,752	71.1	580	10	1.7
12. Greene [1]	3,518	3,543	100	859	43	5
13. Grenada [1]	5,792	3,884	67	4,323	135	3.1
14. Hinds	67,836	56,363	80	36,138	4,756	13.2
15. Holmes [1]	4,773	3,731	77.9	8,757	8	.09
16. Jefferson Davis [1]	3,629	3,229	88.9	3,222	76	.3
17. Kemper [1]	3,113	2,769	88.9	3,221	30	2.9
18. Lamar [1]	6,489	5,042	91	1,071	0	0
19. Leake [1]	6,754	3,796	56.2	3,397	116	3.4
20. Leflore	10,274	7,168	70	13,657	268	2
21. Lowndes	16,460	8,312	50.5	8,362	95	1.1
22. Madison	5,622	5,458	97	10,366	121	1.1
23. Marion	8,997	9,540	100	3,630	363	10
24. Marshall	4,342	4,162	96	7,168	57	.8
25. Newton	8,014	5,700	71	3,018	104	2.8
26. Panola	7,639	5,309	69	7,250	2	.028
27. Quitman	4,176	2,991	71.6	5,673	436	6.6
28. Rankin	13,246	12,000	90	6,944	94	1.35
29. Tallahatchie [1]	5,099	4,208	82.5	6,483	5	.07
30. Tunica	2,011	1,436	71	5,822	42	.72
31. Walthall	4,736	4,219	89	2,490	2	.08
32. Washington	19,837	10,838	54.5	20,619	1,762	8.6
33. Wilkinson	2,340	2,438	100.0	4,120	60	1.5
34. Yazoo	7,598	7,130	93.0	8,719	256	2.9

[1] White registration figures for these 13 counties were arrived at by taking the total vote cast in the 1963 primary in that county and subtracting the number of registered Negroes. The number of registered Negroes was arrived at by count from the registration or pollbooks. All the registration figures for the remaining 21 counties were arrived at by count either from the registration books or the pollbooks.

APPENDIX 2

REGISTRATION STATISTICS BY COUNTY FOR JAN. 1, 1964[1]

[29 of 82 counties]

County	White persons over 21	White persons registered	Percent	Negro persons over 21	Negro persons registered	Percent
1. Benton	2,514	2,226	92.0	1,419	55	3.0
2. Chickasaw	6,388	4,548	72	3,054	1	.003
3. Claiborne	1,688	1,528	90.5	3,969	26	.65
4. Clarke	6,072	4,829	80	3,998	64	2.2
5. Copiah	8,153	7,533	92.3	6,407	25	.39
6. Forrest	22,431	13,253	59	7,494	236	3.1
7. George	5,276	4,200	79	580	14	2.4
8. Hinds	67,836	62,410	92.1	36,138	5,616	15.5
9. Holmes	4,773	4,800	100	8,757	20	.23
10. Humphreys	3,344	2,538	68.3	5,561	0	0
11. Issaquena	640	640	100+	1,081	5	.46
12. Jasper	5,327	[2] 4,500	82.2	3,675	10	.23
13. Jefferson Davis	3,629	3,236	89	3,222	126	3.9
14. Lamar	6,489	5,752	88.6	1,071	0	0
15. Lauderdale	27,806	[2] 18,000	64.7	11,924	[2] 1,700	14.3
16. Leake	6,754	[2] 6,000	88.8	3,397	220	6.4
17. Leflore	10,274	7,348	71.5	13,567	281	1.6
18. Lowndes	16,460	8,687	52.7	8,362	99	1.1
19. Madison	5,622	6,256	100+	10,366	218	2.
20. Marion	8,997	10,123	100+	3,630	383	11.
21. Marshall	4,342	4,229	97.3	7,168	177	2.5
22. Oktibbeha	8,423	4,413	52.3	4,952	128	2.5
23. Panola	7,639	5,922	77	7,250	878	12.
24. Scott	7,742	[2] 5,400	69.7	3,752	16	.42
25. Sunflower	8,785	7,082	80.1	13,524	185	1.4
26. Tallahatchie	5,099	4,464	87.5	6,483	17	26
27. Tunica	2,011	1,407	69.9	1,407	38	.6
28. Walthal	4,536	4,536	100+	2,499	4	.124
29. Warren	13,530	11,654	86.1	10,726	2,433	22.6

[1] The date is approximated, median date for tabulations covering both 1963 and 1964. All registration figures for these 29 counties were arrived at by count of the registration or pollbooks. The figures for white registration are subject to some inflation due to the fact that not all registrars have systematically purged for deaths and transfers. The figures for Negro registration are as accurate as possible from counts and cross-checks of the registration and pollbooks.
[2] Estimate.

Mr. RODINO. The Honorable John W. Macy, Chairman of the U.S. Civil Service Commission.

Mr. Chairman, do you have a prepared statement?

STATEMENT OF MR. JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

Mr. MACY. Yes, Mr. Chairman, I have a brief prepared statement which I will be happy to review if you like at this time.

The CHAIRMAN. Whatever you may wish to do, Mr. Macy, go ahead.

Mr. MACY. Mr. Chairman and members of the committee, I thank you for the opportunity of appearing before this committee on behalf of H.R. 6400 the proposed "Voting Rights Act of 1965."

In his address to the Congress on Monday evening, the President made crystal clear his determination that denial or abridgement of the right of a person to vote because of his race or color shall be eliminated.

The Civil Service Commission will support the President in this task with equal determination. My colleagues, the Commission staff and I are honored by the responsibilities we are given by this bill.

The Attorney General testified in detail yesterday on the need for this bill and on its provisions. Therefore, I am limiting my remarks

to the specific duties of the Commission and the manner in which those duties would be carried out.

My colleagues and I are not unmindful of the reasons why the Civil Service Commission was selected to perform the functions that would be given to it by this bill. As the Attorney General has testified, the Commission was named because of its long established reputation as a nonpolitical and bipartisan body.

We believe our experience equips us with the objectivity to perform the responsibilities assigned.

Let me add we recognize the magnitude and importance of those responsibilities in insuring that the intent of this legislation is realized.

I would like to summarize briefly for the committee what the Commission conceives to be its principal responsibilities under the bill.

These responsibilities are set forth in sections 4, 5, 6, and 10. Section 4(a) provides for the appointment, without regard to civil service laws, of examiners to prepare and maintain lists of eligible voters in the political subdivisions that become subject to the bill.

Under section 5(a) the Commission is authorized to prescribe the form of the application for registration, and section 6(b) authorizes the Commission to promulgate regulations concerning the times, places, and procedures for application and for listing of eligible applicants and for the removal of registrants from the eligibility list. The latter section also requires the Commission, after consultation with the Attorney General, to instruct examiners concerning the qualifications required for listing.

The basic duties of examiners are set out in section 5 and its subsections. These provide that examiners shall:

Examine applicants concerning their qualifications.
Decide their eligibility in accordance with instructions.
List promptly those found eligible.
Certify and transmit such lists and supplements at the end of each month to the appropriate election official with copies to the Attorney General of the United States and of the State concerned.
Issue a certificate to each person listed as evidence of his eligibility to vote.
Remove, under specified circumstances, the names of persons from the eligibility lists.
Accept payment of poll taxes, issue receipts therefor, and transmit such payment to authorized State or local officials.

Under section 9(e) the examiner is also charged with the responsibility of receiving complaints, made within 24 hours after the closing of the polls, from an eligible registrant that he has not been permitted to vote or that his vote was not counted.

If, in the opinion of the examiner, the complaint is well founded, it is conveyed to the U.S. attorney in the judicial district concerned.

In section 6(a) provision is made for challenges to the listing made by the examiner. The Commission is responsible under this section to provide hearing officers to hear and determine such challenges and also to prescribe by regulation rules to govern the application of these provisions.

Upon notice from the Attorney General under the conditions set forth in section 10, the Commission is required to terminate the listing procedures.

The success of this program, Mr. Chairman, like any other enterprise of this magnitude, obviously depends heavily on the quality of the people who actually perform the work.

The examiner's job, as indicated above, is one which requires people of maturity, unquestioned impartiality, and integrity.

They must have such personal qualities as objectivity, patience, and tact. They must have the ability to analyze and decide issues of fact, to exercise sound judgment, and to meet and deal effectively with applicants, local officials, and others.

They will need to be people who can represent the Civil Service Commission with dignity and who are capable of inspiring confidence in the integrity of the listing procedure. Their record of experience must have demonstrated a record of successful performance in a position of responsibility and trust.

In keeping with the temporary nature of the assignment, selection will not be based upon the usual open competitive civil service examination. However, no political test will be permitted.

As you can see, examiners will be required to possess the highest qualifications. The numbers of examiners and the specific persons designated will be carefully tailored to the particular circumstances of the local community being served.

The objective will be to use local residents when feasible. The overriding consideration, of course, will be to employ those people who will be able to function in the best interest of the purpose of this bill.

The hearing officer provided for in section 6(a) will have responsibilities of a quasi-judicial nature. He will require many of the same kinds of personal qualities and abilities which I described previously for an examiner, plus an ability to hold hearings in a judicial manner.

Mr. Chairman and members of the committee, my colleagues and I recognize the importance of the tasks to be assigned to the Commission by this bill. If the bill is enacted into law, the Civil Service Commission will perform these tasks in such a fashion as to justify the confidence placed in it.

Thank you for the opportunity to offer this testimony today.

I will be pleased to answer any questions you may have relating to these responsibilities assigned by the bill to the Civil Service Commission.

Mr. RODINO. Thank you very much, Mr. Macy.

I shall not be long but there are some questions that I would like to ask of you in view of the responsibilities that are going to be imposed upon you and your Commission in this area, and if you can answer and elucidate it will be important to the committee.

The Civil Service Commission will have the responsibility for appointing as many examiners in such subdivisions as it deems appropriate. From what sources will these examiners be appointed?

Mr. MACY. Mr. Chairman, as I indicated in my statement, it is our preliminary view that the source of the examiners should be a matter of individual consideration depending upon the circumstances in the particular political subdivision where the examiners are called for following the determination by the Attorney General.

In some instances, the source would be Federal employees in departments and agencies of the Government working in that area. In other instances it might be citizens who are qualified to do this work but are engaged in non-Government activities at the particular time.

I believe the statute is wisely written providing a high degree of discretion and a determination based upon local conditions so that

in answer to your question, the sources would be broad and discretion would be available to make individual determinations.

Mr. RODINO. Do you believe that it would be preferable to select examiners from the locality where the alleged discrimination exists or might it be preferable not to select examiners from that area?

Mr. MACY. From my study of the potential situations, it would be my view that the preference would vary from location to location.

I think if it were at all possible, it would be desirable to select the individuals from the locality in which the registration activity would occur. But as we have heard in the testimony from Father Hesburgh, in certain communities this may not be desirable in assuring fair and equitable handling.

It may be necessary for individuals to be selected from other communities to come in and to perform this work. This function is for a short term and on a part-time basis. It would be necessary therefore to work out individual arrangements.

Mr. RODINO. Mr. Macy, you will have broad authority to appoint as many examiners as the Commission deems appropriate. Do you envision the guidelines you will use in trying to determine how many examiners might be used?

Mr. MACY. This is a difficult question to answer at this time. Let me be candid with the committee. We have not had an opportunity to look into all of the factors which will relate to the determination of how many examiners are called for in administering this program.

Mr. RODINO. Mr. Macy, the bill provides that such appointments shall be made without regard to the civil service laws and the Classification Act of 1949 as amended.

Do you believe this provision is absolutely necessary here?

Mr. MACY. Yes, I believe it is necessary and desirable because, as I indicated in response to your previous question, this should be short-term and part-time work. It would be undesirable for the Federal Government to build up the kind of work force that is customary under civil service regulations in order to administer this function.

Hopefully, with the passage of time, this function can be eliminated. It is our view that there should be a special personnel system developed and administered for this particular purpose.

It may very well be that some examiners might be individuals who offer their services on a voluntary basis and where compensation would not be called for. In other instances it may be that this will be performed as an extra duty by those who have other full-time jobs in order to accommodate the best situation with respect to registration.

So the flexibility that these exceptions to established personnel statutes provide is desirable.

Mr. RODINO. In other words, Mr. Macy, these examiners would be appointed for a period of time and for certain given circumstances and then when they have served their usefulness then it is intended that their services be terminated?

Mr. MACY. That is right. There will be the opportunity for termination in the judgment of the Commission when the function has been completed and there would not be any continuing obligation on the part of the Government as an employer for these individuals.

Mr. RODINO. In section 5(a) Mr. Macy, line 17 reads:

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.

The Commission will have broad authority in making these decisions and I am wondering whether or not, again, any study has been given or will be given to the guidelines that may be used in this area.

Mr. MACY. Yes, Mr. Chairman, the Commission staff is already engaged in giving penetrating thought to just what guidelines will be developed.

We are not in a position at this point to indicate what they will be. We will of course work closely and collaborate with the Attorney General in the development of these.

Mr. RODINO. On page 6, Mr. Macy, the bill talks about the rules that the hearing officer will be guided by—such rules as the Commission shall by regulation prescribe.

What are those rules? Do we now have the rules in mind? Are they the standard rules of procedure or is it intended that we go beyond that since it states such rules as the Commission shall by regulation prescribe?

Mr. MACY. The language here would appear to recognize the unusual circumstances that are involved in adjudicating challenges of this type, the necessity for speed, the necessity for verifying facts. Again, it is our preliminary view that it would be desirable for the Commission to develop special regulations for this particular process.

Mr. RODINO. On page 7, section 6(b) provide as follows:

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

What is the reason for this consultation with the Attorney General?

Mr. MACY. The reason for the consultation with the Attorney General would be to assure that the standards used in the ascertaining the qualifications for listing are entirely in keeping with legal requirements.

The Commission would view itself as the administrative agent of the Federal Government in carrying out this program, and would have to, of necessity, work very closely with the chief legal officer of the executive branch in the development of standards that would be applied.

Mr. RODINO. On page 10, section 10 of the bill, there is reference to the listing procedures and the bill states that they "shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission," would this determination be automatic upon notice to the Civil Service Commission by the Attorney General?

Mr. MACY. As I interpret section 10, the Attorney General upon evidence that conditions 1 and 2 in the section have been met would then advise the Commission that the program of examiners in that particular locality, political subdivision, could be terminated.

I do not feel that the Commission would have any grounds to challenge the determination of the Attorney General.

Mr. RODINO. Thank you very much, Mr. Chairman. Insofar as I am concerned, I certainly feel confident that the responsibilities imposed upon you will be carried out justly and to the letter of the law and in the interest of what we are attempting to accomplish.

Mr. MACY. Thank you very much, Mr. Chairman.

Mr. RODINO. Mr. Kastenmeier.

Mr. KASTENMEIER. Thank you, Mr. Chairman. I have one or two questions.

As far as the status of the examiners is concerned, you would issue an appointment even to a person on a voluntary basis so that he would really be nominated as an examiner despite the fact that in some cases he may not accept any compensation?

Mr. MACY. That is right. He would be designated as an examiner. He would be a representative of the Federal Government under designation by the Civil Service Commission.

Mr. KASTENMEIER. In a certain community or political subdivision where it might be necessary to have more than one person, would you appoint more than one examiner or would there be deputy examiners or clerical personnel acting as his agents who would discharge certain responsibilities? How do you envision that?

Mr. MACY. Our preliminary view of that is that there would be the necessary staff selected in terms of additional examiners or support personnel for an examiner in order to meet the requirements of conforming to the law in terms of the conditions in that particular community.

In some instances such as those described earlier this afternoon more than one person would be required. It might be, in some instances, an examiner with some assistance could ride the circuit and cover a number of communities on a scheduled basis.

It would be our view that we would endeavor to plan the staffing of this function in such a way as to make it efficient and economical as well as effective.

Mr. KASTENMEIER. The probability is that he would maintain an office, and an office which would be separate from the local registrar's office, is that right.

Mr. MACY. That would be my view.

Mr. KASTENMEIER. And on election day and 24 hours thereafter the would have to be available in such an office?

Mr. MACY. He would be available to receive the challenges that are permitted under the law.

Mr. KASTENMEIER. In section 6(b) as far as authorizing the Commission to promulgate some regulations, I am wondering what latitude this might consist of in terms of State law. That is, do I understand that you would not necessarily feel obliged to follow State law where State law might thwart, let's say, the purpose of the mission of the examiners?

Mr. MACY. That is my interpretation of the authority assigned to the Commission here, that it would have an obligation under the law to set such times, places, and procedures to assure that registration took place in an expeditious and proper fashion.

Mr. KASTENMEIER. In other words you would be free to set a number of places of registration and this could take place during the evening, for example?

Mr. MACY. That is my interpretation, yes, sir.

Mr. KASTENMEIER. Even in some communities you might authorize examiners to go from door to door?

Mr. MACY. That had not occurred to me but if it is necessary it is probably possible to do it.

Mr. KASTENMEIER. If it is I hope you will do it.

Mr. CORMAN. Mr. Taylor commented a while ago on lines 2 and 3 of page 4. We all agree we want you to have the ability to name examiners from outside the subdivision and to go into a subdivision and work. He suggested we might want to change that language to appoint such examiners for such subdivisions as he may deem appropriate.

Mr. MACY. I would support that change in preposition. I believe this would make it clear.

Mr. CORMAN. Going down to section 5(a) at line 23, we say "Provided that the requirement of the latter allegations may be waived by the Attorney General."

Last night in questioning the Attorney General there seemed to even be some doubt as to whether or not that latter provision included all of the language starting with "and" on 19 and going through "color of law" on 23.

In other words, that everything that would be waived by the Attorney General except that the applicant alleged that he was not registered to vote. Would that be your interpretation of this?

Mr. MACY. I have not faced an interpretation of that particular language. I would abide by the Attorney General's judgment on that.

Mr. CORMAN. It seems to me we are talking about whether you have two allegations that you are going to have the man make, first that he is not registered and that secondly within 90 days of his application he has been denied the right to vote or has been found not qualified to vote.

It seems to me that that entire clause in there is the latter allegation and that you would not split that up and make him allege any part of that if the Attorney General suggested it be waived.

Mr. MACY. From the substantive point of view that would be my position as far as interpretation is concerned.

Mr. CORMAN. I have no further questions. Thank you very much.

Mr. RODINO. Mr. McCulloch.

Mr. MCCULLOCH. I am pleased by your statement, Mr. Chairman, where you say the objectives will be to use local residents whenever feasible. There is one draft of this legislation that limits examiners to the State in question.

Would you see any objection to that provision in the legislation?

Mr. MACY. I would believe that under certain circumstances that would be too restrictive, that it would inhibit the availability of those who would be willing to serve in some of the conditions that exist.

Mr. MCCULLOCH. Do you think that would be true in view of our 175 years of experience under the Constitution which provides that people charged with crimes shall be tried by a jury of their peers in a locality in which the crime has been committed?

Mr. MACY. I think it is a matter of confidence on the part of those who have been deprived of the registration opportunity in the past and that in some communities it will be essential to go beyond the community to find persons willing to do it.

Mr. McCULLOCH. If you had authority to go anywhere within the State do you think that might be too restrictive?

Mr. MACY. I would certainly hope that it would be possible to find within the boundary of these States those who are willing and able to serve.

It would seem to me the added flexibility and discretion which is involved in not imposing that restriction would be desirable.

Mr. McCULLOCH. Do you not see rather logical and determined objections to bringing in so-called foreigners from other States or from Washington, D.C. to judge these cases?

Is that not contrary to present thinking?

Mr. MACY. Certainly it would be desirable to have local people whenever that is possible and that would be the standard we would try to follow.

Mr. McCULLOCH. You would then not be disposed to go outside such State for examiners if it appeared that qualified examiners could be found within the State?

Mr. MACY. That would be our plan of operations.

Mr. McCULLOCH. I was interested in one of the questions of my colleague, Mr. Kastenmeier, when you were asked about the regulations that might be made or promulgated for registering, and mentioned door-to-door registration, perhaps in the evening and on holidays.

Would it be your present purpose to carry on the registration under these conditions if registration were not permitted under State law before the appointment of examiners?

Mr. MACY. If an examiner is appointed this would be on the grounds that there needed to be Federal supervision of registration.

Mr. McCULLOCH. If the law of the State required people who wanted to register, during ordinary business hours and there was no authority under State law for door-to-door solicitation for registration, would it be your purpose to expand registration times and places so that registration might be solicited and carried on in a manner not authorized by State law.

We believe in Ohio for good reason—and such proposals have been debated in the legislature—that such methods of registration may not serve the best public purpose.

Mr. MACY. I believe Mr. Kastenmeier's question was whether the language permitted the Commission to authorize times and places and procedures that departed from the State requirements.

My answer was that it was my interpretation that it did. It seemed to me that departures would only be called for if as you indicate it is necessary.

Mr. McCULLOCH. By reason of discrimination, not by reason of a desire or a satisfaction of desire or a satisfaction of those who might be registered.

Mr. MACY. As I read the statute the basic purpose is to eliminate discrimination.

Mr. CORMAN. Would the gentleman yield for a question?

Mr. McCULLOCH. Yes.

Mr. CORMAN. We have to, of course, recognize that these examiners can be used in those places only where there has been racial discrimination. As I understand the laws there are very limited periods of time within which people can register and I would think that you

would have to take into consideration the total number of potential voters and whether or not under the existing State law you could physically register in the time prescribed. As I remember one of the instances I think it was that if they registered at the rate they were able to each day it would take many, many years to register all the eligibles. Therefore, you would have to take into consideration either the number of examiners you have or the number of hours you work them and make it realistic as against the number of people who may now want to register. Would that be a fair guideline?

Mr. McCULLOCH. That might well be a fair guideline if the condition really warranted it. I would not wish, however, this legislation to be used to expand the time and places of registration to include the door yard of every home if the motive was other than to prevent discrimination by reason of race or color. I am sure you have then the thrust and taint of the legislation.

Mr. MACY. But time and place have been used as factors in inhibiting registration, and consequently there needs to be some discretion with respect to change.

Mr. McCULLOCH. I want the record to be unmistakably clear that these deviations from existing law would only come by reason of the use of the existing law for purposes of discrimination by reason of race or color.

Mr. MACY. Yes, sir.

Mr. McCULLOCH. Did I understand you to say that civil servants might be used or could be used in this matter?

Mr. MACY. Yes.

Mr. McCULLOCH. Would that include all civil servants or would any be excluded? I think particularly of the postmaster who may be under obligation to a Congressman or to a Member of the House or particularly to a Member of the Senate or a U.S. marshal or deputy marshal. Would you exclude that type of person or would you believe that that kind of civil servant should be excluded?

Mr. MACY. I believe they should be excluded. I happen to feel that postmasters are sort of sui generis as Federal employees and should remain in that category as far as this legislation is concerned.

Mr. McCULLOCH. Thank you.

Mr. MACY. Thank you, sir.

Mr. CRAMER. A couple of very brief questions. I have read your testimony, Mr. Macy, on page 2, paragraph 4, of your statement. Do you have any idea as to what is the form of the application for registration? Apparently you think you have the sole discretion to set it up, if I read it correctly.

Mr. MACY. Yes, Mr. Cramer. We have given some very preliminary thought as to what the form of that application would be. We have tried to make it simple and straightforward to elicit the basic facts that are to determine the necessary qualifications. We would feel that we have an obligation under the examiner system to have information readily available so we would endeavor to design a form that would provide us with information as rapidly and as accurately as possible.

Mr. CRAMER. Have you given thought as to what consideration should be given to present State qualifications for registration outside of those that are stricken down as defined in the testing device of the section?

Mr. MACY. No, I have really not moved in on that one as yet.

Mr. CRAMER. In other words, a lot of States have different standards that are brought out on the application form as to the years of residence in the State, some 4 months, some 6 months in the county and State, some age 18, some age 21, et cetera?

Mr. MACY. Certainly on age, citizenship, and residence it would be necessary to include in the application the information required in order to make a judgment as to State law, there would be no exception on that.

Mr. CRAMER. In other words, you would apply State law in that instance?

Mr. MACY. That is right.

Mr. CRAMER. And the application form is the means for doing that?

Mr. MACY. For determing that, right.

Mr. CRAMER. Yes. What would you do in the way of interrogating people who are attempting to register relating to other information which is required by State statute, but that is not contained in the testing device definition?

Mr. MACY. On that I believe we are really not at a point yet to respond as to how that would actually be handled. I would want to confer further with the Attorney General before giving you a precise answer.

Mr. CRAMER. As I read section 6(b), page 7, it says:

> The times, places, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission.

So you are going to have some pretty broad authority relating to what the applicability of State standards is and how they shall be conformed to, outside of those that are being swept aside under section 3(b).

Mr. MACY. My view would be that the Federal examiner would be obligated to apply qualification standards required by the State as long as they were not in conflict with those listed in section 3(b).

Mr. CRAMER. For instance, how about being required to state their age to a specific day? That is the State requirement?

Mr. MACY. That is the State requirement. Presumably the application form would call for a date of birth which would be precise. In this view that would be a requirement that the Federal examiner would fulfill.

Mr. CRAMER. The calculation of age to the exact day.

Mr. MACY. Oh, I beg your pardon. I thought you meant the expression of the date of birth.

Mr. CRAMER. Calculation of age to the exact date.

Mr. MACY. It seems to me that would be outside of the requirement.

Mr. CRAMER. That is what the State statute says is required. Do you think that would be stricken down by this definition, test or device? It does not demonstrate understanding or interpretation in any manner. It does not demonstrate educational achievement, moral character or qualification by voucher or registered voters. How could you, through your regulation, strike it down?

Mr. MACY. I do not believe we could unless it were covered in this definition of test or device. The Federal examiner would be instructed in order to make a judgment with respect to the State requirement.

Mr. CRAMER. What will you do in a State, for instance, that permits registration to take place 45 days before an election?

Mr. MACY. I believe that is covered—no, I guess it was in an earlier draft. I would assume as this is written we would not have to comply with that timing position.

Mr. CRAMER. In other words, you would have to have examiners available to go into the precincts to register the people who come forward with this?

Mr. MACY. The form of that State requirement.

Mr. ZELENKO. I wonder if the provision of section 5(b) on page 5, line 19, would apply.

Mr. CRAMER. Line 19? "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."

For example then, if in (c) you would not be able to vote in the precinct in the upcoming election, you could still register.

Mr. MACY. Right.

Mr. CRAMER. So in effect you would have Federal examiners going into the precincts and providing registration capabilities for people discriminated against. The point I am trying to illustrate is there are going to be many areas in which you have had to exercise discretion, in that the bill, as drafted, does not spell out and, as a matter of fact, does not specifically exclude a number of States. Do you feel it would be your duty to conform to the definition set out on page 2 in determining what you had a right to exclude?

Mr. MACY. That is my interpretation of the language.

Mr. CRAMER. I wish you luck because it is going to be a pretty tough job.

Mr. MACY. Let me assure you, we didn't ask for it.

Mr. CRAMER. What happens if a fellow comes in and tells you where he lives, what his age is, tells you his name but cannot write it, and the State statute says he must be able to write his name.

Mr. MACY. I am not prepared to give a judgment on that case at this point.

Mr. CRAMER. That, incidentally, is the law.

I will yield to the gentleman.

Mr. MCCULLOCH. I am thinking one probably should speak. I am of the opinion that requiring an applicant to register to state his age to the exact day is a literacy test that if we went through this room here we might find two or three people who in 15 or 20 minutes could not give their age to the exact date.

Mr. MACY. Maybe the examiner would have to provide a small computer.

Mr. CRAMER. Of course that is the type of discretion that the examiner is given the authority to exercise under this bill; to determine whether, in his opinion, a given test is one relating to intelligence, right?

Mr. MACY. Right. In accordance with instructions.

Mr. CRAMER. I have just one other question. On page 3 you deal with section 6(a) in which the examiner becomes a hearing officer or the Civil Service Commission appoints a hearing officer.

Mr. MACY. Those are two separate items.

Mr. CRAMER. I understand that.

The Civil Service Commission appoints a hearing officer. Do you believe that that hearing process would be subject to the Administrative Procedures Act?

Mr. MACY. I think by and large it would but this needs further exploration before I can really give you a definitive response.

Mr. CRAMER. I think it is rather important because if we are giving you carte blanche authority to issue rules and regulations as to how hearings shall be conducted, I for one would want to be assured that all parties would have the proper protection in the hearing proceeding, which of course is what the Administrative Procedures Act intends to accomplish.

Mr. MACY. That purpose would be our desire also.

Mr. CRAMER. On page 4, the third line from the bottom, "The objective will be to use local residents when feasible." Who is going to determine feasibility and on what basis?

Mr. MACY. The Commission will have to determine feasibility based on the conditions in the local community.

Mr. CRAMER. Like what?

Mr. MACY. Well, in most instances the effort would be to find individuals who are willing and able to perform the examiner function. If it is not possible, and tradition is such there that this is extremely difficult, why it would be indicated that the examiner should be selected from some other place.

Mr. CRAMER. Do you plan on appointing present Federal employees?

Mr. MACY. That would be one source but certainly not the exclusive source. Under the bill it would be possible to hire others, and in some instances that would clearly be the more desirable.

Mr. CRAMER. Let us take Dallas County, Ala. In exercising your discretion would you or would you not consider hiring local residents where feasible?

Mr. MACY. I have not studied the details of that situation sufficiently to really arrive at a judgment, but it would appear that probably that would be one instance where outside examiners were called for.

Mr. CRAMER. In other words, you think this legislation gives you the authority to determine on your own whether in a given area a person could be found who would not be prejudiced on his application of this bill?

Mr. MACY. That is my interpretation of the bill's language.

Mr. CRAMER. And it gives you that blanket authority to do so even if someone presented himself to you that he was impartial, intended not to discriminate and believed everybody should be registered and voting? Do you think you would have the right to say that you don't think anyone in that area should be appointed?

Mr. MACY. Yes.

Mr. CRAMER. That is all.

Mr. RODINO. Mr. Lindsay.

Mr. LINDSAY. Mr. Macy, I think on the question the gentleman from Florida asked you about whether the testing device would apply to a hearing before a special hearing officer, that that question ought to be answered by you pretty quickly for the simple reason that if this bill should go to the floor of the House of Representatives it may be

possible for you to say you are not sure, but it will not be possible for anyone who is trying to defend the bill to say that because the floor would explode. We have to know the answers to questions like this because should this bill come to the floor, it has to be defended, and we are going to have our hands full if that is the proposition we are faced with. I hope you can supply us answers to all these questions that you are not sure of before these hearings are closed.

Mr. MACY. I will, indeed.

Mr. LINDSAY. Now from the further testimony and from the testimony especially of the Attorney General and also from the Bureau of Census records you have a pretty clear idea of how much geography of the United States is going to come within the purview of this act should it be passed. We know that the administration is aiming it at seven States, chiefly.

Now, can you give me any idea as to the number of examiners that you would have to appoint to a job, under this act, should those seven States in total be covered, and how much it would cost? I can assure you again that those questions will be asked of us on the floor of the House and we will be expected to have answers.

Mr. MACY. No; I do not have any estimates as to the requirements. This will have to be estimated; it is extremely difficult to determine based even on the statistical information that is available just what the requirements are going to be and in turn what the dollar expenditure is.

Mr. LINDSAY. Well, in Selma, Ala., where there has been a good deal of debate on the question of voting rights. Just to cover the problem in Selma, Ala., should this bill go into effect, how much manpower would you have to put in there to register people to vote who have been denied the right to vote on the grounds of race. Do you have any idea?

Mr. MACY. No; I do not.

Mr. LINDSAY. Can that figure be supplied?

Mr. MACY. Well, we are endeavoring to compute it. I do not have that figure at this point.

Mr. CORMAN. Would the gentleman yield?

Mr. LINDSAY. I would hope we can get the manpower estimated under the bill and the cost of it. No one has suggested the cost, though we understand that is our obligation. Just as I put it before, we will have very difficult questions to answer that will be put to us.

Mr. CORMAN. Would the gentleman yield for a question on this point of possible cost?

Mr. LINDSAY. Yes.

Mr. CORMAN. It seems to me the dilemma is we do not know if there is going to be voluntary response to the bill. It might very well be there is never going to be an examiner—that obviously is not going to be the fact—but if there is substantial compliance on the part of the registrars after the bill is passed, there would be little or no expense involved. I would call to the attention of the committee that in the area of public accommodations it appears that there has been a minimum of litigation and a maximum of compliance with the law, and if we could hope that we have that same experience with this bill then it seems to me that we would have little expense but we would not be able to tell that until you found out how many registrars complied with the law because they do have a chance to.

Mr. LINDSAY. I am afraid my good friend from California may oversimplify the problem and be over optimistic, and that is the reason that we are faced with the importance and necessity of acting on a very drastic piece of legislation. In Dallas County, Ala., alone there are 15,115 nonwhite persons of voting age who are not registered contrasted with 2.1 percent only of the nonwhite population is registered to vote, 320 persons. I do not think the enactment of this law overnight will result in a change in that condition. I suspect it will be a very large undertaking for the Civil Service Commission to put the manpower in this area necessary to register upward of 15,000 people.

Mr. MACY. I agree.

Mr. RODINO. Did not the chairman also say that you might also be able to call on ordinary examiners that might serve?

Mr. MACY. Yes; I think this possibility should be explored as well as the use of those who would need to be appointed.

Mr. LINDSAY. On that point, what do you have in mind? Will these examiners be "full time Government employees" or will they be part time? Will they be sworn? If they are full time, would they be full time for how long? Until the job is done, or on a more permanent basis?

Mr. MACY. My view, Mr. Lindsay, would again be that this would differ from location to location depending upon the numbers, depending upon the past practice, depending on the general plan in the community, but we would view this as primarily a short-term, part-time employment in most cases.

Now where you had a massive resistance which called for extended activity, you probably would have to have full-time examiners for an extended period. I would see the examiner as a Federal employee who had taken an oath, who had met the qualifications that we referred to here. He would be someone whom we had investigated to be assured of his background, and in all instances they would be under the supervision of the Civil Service Commission. We would assure that they did perform as the statute required.

Now the actual number will have to be largely determined by each individual subdivision and the conditions that exist. We will endeavor to pull that information together and make the most intelligent estimate that we possibly can while the bill is under consideration.

Mr. LINDSAY. Did I hear you say a little bit earlier that you might be in a position to use other Federal employees?

Mr. MACY. Yes; on a part-time or a detailed basis, extra hours.

Mr. LINDSAY. Would that be the FBI, for example?

Mr. MACY. Pardon?

Mr. LINDSAY. Would that be employees of the FBI, for example?

Mr. MACY. No; I do not think we would use law enforcement officers as such. I am thinking more in terms of those who are engaged in work, for example, for the Corps of Engineers and civil activities, those who have been engaged in some form of administration and who possess administrative skill in dealing with programs of this kind, those who perhaps have been involved in a social security office or some Federal activity of that kind.

Mr. CRAMER. Would the gentleman yield?

Mr. LINDSAY. Yes.

Mr. CRAMER. I am on the Public Works Committee and we have far too few Corps of Engineers personnel. Do you think you would have power to requisition those people?

Mr. MACY. There is no requisition.

Mr. CRAMER. Draft them, ask them, what?

Mr. MACY. In any instance it would be on a volunteer basis where the individual had a desire to perform this particular function.

Mr. CRAMER. Does he have to get the approval of his boss? A lot of them might want to do it but they would be needed elsewhere.

Mr. MACY. No; this would clearly be on the approval of his employer. This might be worked on a temporary or part-time basis or after hours or some other arrangement that would not interfere with the work that had to be done by the particular office.

Mr. CRAMER. This becomes legalized moonlighting then. To do the job in Dallas County, Ala., people would have to be there full time to be available to these people at a certain place during reasonable hours for registration.

Mr. MACY. Certainly where you have a massive situation of that kind you would have to have full-time people and you could only use Federal employees if they were actually detailed or transferred to this particular function. You could not do it as an extra duty.

Mr. CRAMER. I hope you will look with some trepidation in trying to invade our Corps of Engineers.

Mr. MACY. I see I picked a good example.

Mr. MCCULLOCH. Would the gentleman yield?

Mr. CRAMER. Yes.

Mr. MCCULLOCH. Of course, there are many variables in this field and it is particularly difficult to estimate them at this time. For instance, if there were permanent registration, when it is done it may only involve a day or two of one or two people each year; but on the other hand if the registration is only for a given election, it is going to be a continuing problem and it would be multiplied over a period of 10 years at least 10 times the cost, would it not?

Mr. MACY. That is right, Mr. McCulloch. Obviously there is a great deal of very careful study that is necessary on the part of the Commission to prepare itself to perform this function if it is the will of the Congress that it should perform this function.

Mr. MCCULLOCH. If the gentleman will yield to this observation, that I was asked the very question that my colleague, Mr. Lindsay, mentioned in the debate on the Civil Rights Act of 1964 or 1960. Well, of course it involved one of those fundamental rights of a free citizen. I said I stood to provide whatever money was necessary to effectuate that right so far as money would be available. That was phrased to the effect effort, and you are of necessity going to play this by ear for a while.

Mr. MACY. That is correct. We certainly want to assist in any way we can the advocacy of this bill on the floor so that it can be passed.

Mr. MCCULLOCH. We do not want to tie the hands of the Commission, I am sure, though we are sure in its good judgment it will set down its own guidelines and be guided by the cases and the circumstances as they occur.

Mr. MACY. That is correct.

Mr. McCULLOCH. If I might have one further minute. Of course, the Commission has had such experience that they would immediately go to a registration area in Ohio or Texas that has just had registration in an entire political subdivision for everyone for the first time. That would be a pretty good example, would it not?

Mr. MACY. We would certainly use the experience of that kind to give us the guidance we need.

Mr. McCULLOCH. Come up to my congressional district and we will give you such a counting.

Mr. LINDSAY. By the way, if you undertake this problem in the District of Columbia at all, you would have your hands full for quite a while, would you not?

Mr. MACY. In the District of Columbia, yes, indeed. We have just been through a registration.

Mr. LINDSAY. Thank you, Mr. Macy. I do wish you luck.

Mr. MACY. I will need it.

Mr. LINDSAY. I hope that you will give us your best estimates of these figures, if you possibly can.

Mr. MACY. We will do the very best we can and as quickly as we can.

Mr. LINDSAY. Thank you.

Thank you, Mr. Chairman.

Mr. RODINO. Congressman Brooks.

Mr. BROOKS. I want to say to Mr. Macy first that I read his statement though I regret not being here to hear it all, I thought it was well put together. I want to commend you on your reappointment. We are proud to have you in the Government, and I think the good job that you have done in the past would reflect the pleasure with which our President has reappointed you. I know you will do a good job.

Mr. RODINO. Thank you very much, Mr. Macy. I recognize that some of the questions put to you were in a highly technical and legal nature and therefore we could not expect you under these circumstances to know all of the answers. I am sure that if you confer with the Attorney General we might be able to get some appropriate statement that might elucidate on some of this.

Mr. MACY. Thank you. I will endeavor to extend my testimony to answer as best I can some of the questions I have been unable to take care of this afternoon.

Mr. RODINO. That will be fine. Thank you very much, Mr. Macy.

(The information referred to follows:)

SUPPLEMENTAL STATEMENT OF JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

APRIL 2, 1965.

Those State prescribed qualifications for registration which are not suspended as part of a test or device by the determinations of the Attorney General would be applicable in the registration program under this bill. The Commission will endeavor, after more careful study of the existing State registration forms and procedures, to develop forms and procedures designed to insure that the necessary qualifications are validly possessed by those seeking to register. The list of eligible voters will be available for public inspection, some sort of local publication of the names also may be feasible, and of course, the bill provides for challenges and for a hearing officer to determine such challenges. We will do our utmost to make all these procedures fair and efficacious.

Under the bill as drafted, it is my view that the hearing process in section 6(a) would be subject to the Administrative Procedure Act as modified by the bill. Specifically, one modification is that under the challenge procedures in the

bill, the hearing officer's decision is final and is directly appealable to the United States Court of Appeals for the circuit in which the challenged person resides. In applying the challenge provisions of the bill, we will, of course, observe all the essential prerequisites to fairness which inhere in the Administrative Procedure Act.

On the basis of the Attorney General's testimony concerning the areas to which the bill will apply we calculate a maximum total voter registration of not more than 1,150,000 persons. We estimate that 100 examiners working full time could register this number of persons in 1 year. We envision this function, however, to involve intermittent, short-term operations and expect the number of examiners on the rolls to vary according to the volume of registrations required to be made in any given period of time.

Based upon surveys in the District of Columbia and nearby election districts of registration costs prior to the 1964 election, we find that the average cost for registration alone will be about $1 per person. Projecting this basic cost into our total responsibilities under the bill, which involve, in addition to registration, the maintenance and certification of eligibility lists, the collection and remission of poll taxes, the issuance of individual certificates of eligibility to vote, the hearing and determination of challenges, the removal of ineligibles from the lists, and the receipt of voter complaints, we estimate that the total cost per registrant will be about $2. The addition of overall operational and administrative cost such as travel, printing, communications, etc., may result in a total estimated expenditure of approximately $3.5 million.

Mr. RODINO. We have one final witness, Dr. A. Ross Eckler, Acting Director, Bureau of the Census for the Department of Commerce.

Do you have a statement, Doctor?

Dr. ECKLER. The statement is very short, Mr. Chairman, and with your permission I will read it.

Mr. RODINO. You go ahead.

STATEMENT OF DR. A. ROSS ECKLER, ACTING DIRECTOR, BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE; ACCOMPANIED BY DR. CONRAD TAEUBER, ASSISTANT DIRECTOR, DEMOGRAPHIC AFFAIRS

Dr. ECKLER. Under the provisions of the Voting Rights Act of 1965, the Director of the Census has responsibility for determining for certain States or political subdivisions of States whether less than 50 percent of the persons of voting age residing therein on November 1, 1964, were registered on that date, or whether less than 50 percent voted in the presidential election of November 1964. The act further provides that determinations made by the Director of the Census under this provision shall be final and effective upon publication in the Federal Register.

We are prepared to undertake the responsibilities involved in making the determinations called for in the Voting Rights Act of 1965. In doing so, the Census Bureau will be serving in its usual capacity as a technical agency and not in any sense as a policymaking or policy determining agency. In this respect, our role would be similar to that established in the legislation providing for the reapportionment of the Congress each 10 years, in legislation relating to clerk hire of Members of the House of Representatives, in title VIII of the Civil Rights Act enacted last year, and in certain other legislation.

We welcome this opportunity to appear before this subcommittee and I will be pleased to answer questions to the best of my ability regarding data the Bureau would expect to use and the methods that would be most appropriate in the discharge of our responsibilities.

Thank you, Mr. Chairman.

Mr. RODINO. Dr. Eckler, I have just two questions. In making your determination as to the 50-percent figure, would you be using the latest decennial census and projections?

Dr. ECKLER. We would be using the latest census and projecting the figures by the best methods we know to get an estimate for the population as of November 1, 1964.

Mr. RODINO. Has the Census Bureau presently made projections?

Dr. ECKLER. The Census Bureau has had for a number of years projections of population on an annual basis for the States. We have published those each year and we made a projection for population of voting age prior to the last election, so we have done such work and have the State figures available.

Mr. RODINO. Mr. Brooks.

Mr. BROOKS. Doctor, on this same point, which is the one that the chairman made, you will use then in effect a special census or a projection based on your 1964 rundowns?

Dr. ECKLER. We would not make a special census in the sense that we use the term. We use the term "special census" to refer to one made at the expense of a locality at any date that they wish under standard conditions. That would not be involved here since it would take a great deal of time and would cost a great deal of money. What is involved here for this determination would be based on the results of the last census with information on changes that have taken place since that time.

Mr. BROOKS. Is that available now for the various congressional districts based on your projections of 1964?

Dr. ECKLER. It is not available for all congressional districts, Congressman, but upon request from Members of Congress and on our own initiative we check those congressional districts which are approaching 500,000 in order to make the determination for the sake of the Members that are entitled to additional clerk hire under those provisions. We make those determinations for a number of districts but not for all of them.

Mr. BROOKS. Thank you, Doctor, for being here. I commend you particularly for the fine job you did in issuing the congressional districts' bluebook, that big book that you issued based on your 1960 census which I found particularly helpful in determining the various breakdowns that affect my own district and my State.

Dr. ECKLER. Thank you, Congressman. We are glad to now that.

Mr. RODINO. Mr. Kastenmeier.

Mr. KASTENMEIER. Dr. Eckler, we had a discussion this morning about what statistics were available for the purposes of including the 50-percent proposal concerning the administration bill. I am wondering whether the Bureau of Census does not now have information which would indicate the percentage or number of persons by race and color who are registered to vote in various States and other voting precincts or political subdivisions as authorized by the civil rights bill of 1964.

Dr. ECKLER. Are you referring to title VIII of the Civil Rights Act of 1964?

Mr. KASTENMEIER. Yes.

Dr. ECKLER. We do not have such figures, Mr. Congressman, and as far as I know figures on this are not available anywhere.

Mr. KASTENMEIER. What is the intention of the Bureau of Census in this connection as far as gaining such figures?

Dr. ECKLER. Under title VII we have an estimate before the Appropriations Committee for work in areas specified by the Civil Rights Commission and we presume funds will be granted for that and the work will be done at some subsequent time. We do not have the right, I think, to take the initiative in modifying that for the law calls for that information and the Civil Rights Commission has made recommendations.

Mr. KASTENMEIER. How much leadtime would you require if they passed legislation which was contingent upon knowing certain things in this connection; that is, for example, the percentage of people of any race or color who may be registered to vote in certain or in all States?

Dr. ECKLER. This is under title VIII?

Mr. KASTENMEIER. Yes.

Dr. ECKLER. We would certainly want to make a careful test of our procedures. It is a little different work from what we have done. I think a period of 6 months would probably be required from the time we got funds to the time we could start the actual enumeration. Then, of course, it would take several months more after that before the results would be available.

Mr. KASTENMEIER. Thank you, Doctor.

Mr. RODINO. Dr. Eckler, what source would you use in order to determine whether or not 50 percent of the people voted in the presidential election in November 1964?

Dr. ECKLER. The information concerning the numbers voting would be the official figures which are provided by the States on the votes cast. That is not material which we collect but which can be brought together very quickly, and is available in Washington, so that there is no particular problem on that side.

On the side pertaining to the population of voting age, as indicated before, this would be based upon the projection of earlier figures for the population of the individual States or other areas and the determination to the best of our ability of the population as of November 1, 1964. We would relate one of these magnitudes to the other and see which areas fall above 50 percent, which ones fall below. That is a very brief statement, Mr. Chairman.

Mr. RODINO. Thank you.

Mr. Corman.

Mr. CORMAN. No questions.

Mr. RODINO. Mr. McCulloch.

Mr. MCCULLOCH. Would you say this would not be a special indication of the figures you have?

Dr. ECKLER. That is right, Mr. McCulloch.

Mr. MCCULLOCH. And is that the same kind of a projection that you use to determine whether or not a Member of Congress is entitled to additional clerk hire?

Dr. ECKLER. The principles are the same.

Mr. MCCULLOCH. The principles are the same.

How much of an appropriation did you request for implementing that part of title 8 for which our colleague was responsible in the Civil Rights Act in 1964?

Dr. ECKLER. Our request was for $7½ million.

Mr. MCCULLOCH. $7½ million. Would you have any way of knowing, with what meager information you have in this initial status of this bill, the cost of such census projected in the six or seven States that we have been discussing.

Dr. ECKLER. If the projections are for the State as a whole, which seems to be the case on the basis of what I have heard of the testimony and reports, I think no additional funds would be required since this work is in line with our regular work for States as a whole and is not a substantial addition.

Mr. MCCULLOCH. If it would be for the purpose of determining the population in counties or parishes or political subdivisions, what would be your best "guestimate" of the cost?

Dr. ECKLER. Are you talking about all of the States involved?

Mr. MCCULLOCH. Yes, all of the six or seven States if it was in accordance with or detailed in counties or parishes or political subdivisions.

Dr. ECKLER. I think I should like to take advantage of the same privilege you extended to Chairman Macy and have that prepared for the record as soon as possible so that you might have it for discussion.

Mr. MCCULLOCH. Thank you very much.

Dr. ECKLER. Do you want that?

Mr. MCCULLOCH. Yes, we would appreciate that.

(The document referred to follows:)

The cost of preparing the county estimates required by this bill for the six States is approximately $50,000. Estimates needed to make the determination in the remaining 14 States to which reference has been made would be about $25,000. This cost is less because in these States fewer counties are involved than in the six States to which reference is made above.

The total cost is estimated at $75,000.

Mr. RODINO. Mr. Cramer.

Mr. CRAMER. Under this section 3(a) would you contemplate immediately starting a projection study if this bill becomes law for the 20 States that have literacy tests?

Dr. ECKLER. I believe that we should work closely with the Department of Justice and determine how far they want us to move in the direction of individual subdivisions of States. I think we would want to start at once on the task of planning the techniques for this and the procedures and so on, and if it is so extensive as to require additional funds we would have to take steps to——

Mr. CRAMER. I understand that. My question was: Do you construe the direction to you under section 3(a), page 2, lines 3 to 7, if in fact this becomes law, that in those 20 States where there are literacy tests that you would thus, by Congress, be instructed to get underway the census efforts to get that information?

Dr. ECKLER. I believe we would within the limits of our resources; yes, sir.

Mr. CRAMER. And that is your directive exclusive of any instructions or otherwise from the Attorney General?

Dr. ECKLER. After the Attorney General had named the States, then I think we have a responsibility to proceed with this task without further directive from him.

Mr. CRAMER. Apparently there is a difference of opinion between you and the Attorney General. As I recall, the Attorney General, last evening, said in answer to a similar question he thought your activities would be automatic and would relate to all 20 States and political subdivisions thereof.

Dr. ECKLER. The 20 States that he had determined. I should agree with that, but I think he has the first initiative to name the 20 States.

Mr. CRAMER. Yes; I also understand the testimony before us is that political subdivisions mean voting precincts. What are you going to do about that?

Dr. ECKLER. That I think would require some discussion with the Department of Justice because the problem of making estimates for areas as small as individual precincts is one that I would not want to comment on in detail. I would hope that because of the difficulty of making any determination for an area of that size that we would find another definition of policy.

Mr. CRAMER. But the Attorney General said that in his opinion a "political subdivision" included precincts, and the directive is that the Director of the Census shall determine whether 50 percent of the persons of voting age residing therein meet the requirements of the political subdivision or State.

Dr. ECKLER. I assume the directive was not intended to force the Census Director to do things which are not possible without a complete census.

Mr. CRAMER. Precisely. That is exactly what I am getting at. It would take a complete census to accomplish that, would it not?

Dr. ECKLER. When you get to voting precincts which may be 600 people, 2,000 people or something like that, I think we know of no method of projections on which we could rely for that.

Mr. CRAMER. Right. Therefore, to take a new census——

Dr. ECKLER. If this is necessary down to the voting precinct level, we would have no way of making this determination.

Mr. CRAMER. Now if you relate that back as if it were taken in the future to the mandate of this section, "residing therein November 1, 1964," and not when you take it in 1965——

Dr. ECKLER. If a census were to be taken to establish the population as of November 1, it could no longer be possible to do so, of course.

Mr. CRAMER. In other words, there is no way you could take a census to determine within a precinct "or a political subdivision" what number of people were residing in a precinct as of the past date of November 1, 1964?

Dr. ECKLER. I think it would be out of the question to take a census retroactively, but given the census we can determine satisfactorily the population as of a date 6 months or a year earlier.

Mr. CRAMER. I agree with you. That is why I ask the question. So far as determining who resided in the precinct as of November 1, 1964, which was the mandate of this section, you could not do it?

Dr. ECKLER. If it had to be done by census.

Mr. RODINO. Well, the question of whether or not that constitutes a precinct or what is a political subdivision, would that not be something that would be initiated by the Attorney General? Isn't that a legal determination?

Dr. ECKLER. I would hope that that is a legal determination that would be considered and recommended to us by the Justice Department, and that the decision would be made in terms of the reason of the situation in the light of what can be done in the way of providing these measures.

Mr. CRAMER. In other words, the only way this could be made effective would be if the Attorney General had sole discretion to define what a "political subdivision" would be. How about counties?

Dr. ECKLER. Counties would be feasible to estimate because the congressional districts which we certify in the case of clerk hire are typically combinations of counties, so it is possible at the county level to do this.

Mr. CRAMER. The present civil rights law on voting, section 1971, refers to certain political areas I think as "effective areas" as follows: "State"—no problem.

"Territory, district, county," no problem there you say.

Dr. ECKLER. There is a good deal of work involved and we will provide an estimate of the cost of that, but it could be done.

Mr. CRAMER. City?

Dr. ECKLER. The larger cities, yes. When we get down to the small cities, there would be considerable difficulty there.

Mr. CRAMER. Why?

Dr. ECKLER. Because of the smaller amount of stability in the smaller cities and the greater difficulty of getting information on migration and population changes.

Mr. CRAMER. What population area is considered a small town?

Dr. ECKLER. I am consulting with my colleague, Conrad Taeuber, assistant director, Demographic Fields.

Something like 50,000 to 100,000 is probably the area below which the area would be considered small for the purpose of making estimates.

Mr. CRAMER. And that would not include Selma, Ala.?

Dr. ECKLER. I believe the figures would suggest that the State as a whole would come in and get within the——

Mr. CRAMER. That is not the question. I am talking about the city of Selma, Ala. How are you going to determine whether 50 percent——

Mr. CORMAN. Would the gentleman yield?

Dr. ECKLER. We assume that the determination will be limited to the areas for which such a determination can be made by the methods we have suggested. Now if there is an intention on the part of the Congress to make this a bill which gets down to very small units, then another approach would have to be used.

Mr. CRAMER. I think it is obvious that many of the areas that have been pinpointed as the most discriminatory areas have small towns in them and those small towns are where the discrimination takes place. Now you do not have an accurate basis, as I understand it, nor the machinery by which you could make the November 1, 1964, estimate.

Dr. ECKLER. May I refer that question to Dr. Taeuber.

Dr. TAEUBER. That is correct, particularly for the areas where the situation is close, but some of the figures that were given earlier in testimony submitted by Father Hesburgh show that in many cases

the determination will be a very easy one because the number of people who voted in the last election is so small that it is obviously less than 50 percent of any reasonable estimate you would make back to November 1, 1964. So in those cases, even though the population is very small, there would be no real problem.

The determination simply is, is it more or less than 50 percent? As you know, in Selma, Ala., the population is roughly 30,000. You can very easily estimate what fraction of that is of voting age and then determine that if the number of people who voted is far below 50 percent, this determination can be made. Now when you are getting small populations and these percentages get close, then you can have real problems and you might find some situations where you would have to take a census. We would relate that to the 1960 census and make an estimate for 1964.

Mr. CRAMER. The fact is that you have an estimate and not, in fact, the number of persons residing therein as of November 1, 1964. The seriousness of making that determination triggers the right of the Federal Government to declare void, contrary to the otherwise valid State right to determine the standard for voting in that community. That is the seriousness of the consequence of making a decision as to the population. The best method you have is guessing, estimating.

Mr. RODINO. But I am sure that if——

Mr. CRAMER. Let him answer the question and then I will yield to the Chairman.

Dr. TAEUBER. May I point out the fact that there was no census of population on November 1, 1964, means inevitably that this determination will have to be made on estimates, the best estimates that can be made but still estimates.

Mr. CRAMER. I yield to the Chairman.

Mr. RODINO. As a matter of fact, the only way that you can overcome that is by having them come in with a specific figure, and if it is presented to the Bureau of the Census I am sure that the Bureau of the Census, if they are shown that the people who are voting there and who are registered are more than 50 percent—you would accept this, would you not?

Dr. TAEUBER. We would want to examine all the evidence we could get on the numbers of people.

Mr. RODINO. But if the figures were actually available, then I am sure that the Bureau of the Census, if these were thoroughly presented, would also consider those.

Dr. TAEUBER. We certainly would, sir.

Mr. CORMAN. Would the gentleman yield for a question?

Mr. RODINO. Yes.

Mr. CORMAN. As I understand the law, if a State falls under the 50 percent, then you no longer are concerned to put it in the subdivision of a State because the entire State is in. So Selma, Ala., would not be one of the places.

Mr. CRAMER. I use that as an example.

Mr. CORMAN. I may have misunderstood the Attorney General. I understood him to say he envisioned a political subdivision as a unit of government that has a registrar for voting. In my own county there are 12,000 precincts but there is only one registrar, and I would think that in most instances that would be the fact. We are not talking

about precincts, we are talking about counties or a comparable unit which in Louisiana and some other places they call something else. We are not talking about voting precincts as such, we are talking about an area over which there is a single voting registrar in that jurisdiction. That is my understanding.

Mr. CRAMER. Yes; and in some areas it is the precinct where you have voting registrars and not on a countywide basis. What I am trying to point out is that there is no definition of political subdivision. The gentleman will agree with that, will he not?

Mr. CORMAN. It is my understanding that the Attorney General gave his definition of it.

Mr. CRAMER. Will the gentleman tell me where it is in the bill?

Mr. CORMAN. I do not find it in the bill.

Mr. CRAMER. You're right. Let us set the precincts aside momentarily. Those that have already been defined in the existing law as political subdivisions. Obviously, they are going to be. What I am trying to find out is how in the world are they going to comply with this directive? This is the test. This is the crux of the whole legislation.

Let us go to a parish which is, I suppose, similar to a county, a township.

Dr. ECKLER. I would assume that in the case of Louisiana the parishes are comparable to counties, and that while this is excluded as Dr. Taeuber pointed out, if you need to go down to counties it would be our ability to go down to the parishes for estimation purposes.

Mr. CRAMER. How about the school districts?

Dr. ECKLER. We would not be able to go down to school districts.

Mr. CRAMER. That, very clearly, is a political subdivision.

Dr. ECKLER. There certainly are many examples of political subdivisions such as wards of cities, precincts, school districts, small villages, and so on, all of which would be beyond the capability of the census to make this determination.

Mr. CRAMER. I understand what you intend to do is to project the figures that you have available in making these determinations.

Dr. ECKLER. That is right for such counties as would be involved in the States outside of the six.

Mr. CRAMER. I have one other question. On line 4, of course, the question is residing; 50 percent of persons of voting age "residing." Now the law that I learned with respect to residence was the question of intent. I am thinking now in terms of Florida, California, where a thousand persons a day come into California; a big influx of people where you would have thousands of military personnel. What test do you intend to use with regard to "residing" in determining the 50-percent figure?

Dr. ECKLER. We would expect to follow the same residence rules as we have in taking the census over the years. These allocations do not depend upon voting residence, they do not depend upon certain other classes of residence, but where the person actually was at the time of the census. Now there are rules for certain classes—the Armed Forces are counted in the State where they are located.

Mr. CRAMER. So Armed Forces personnel who do not intend to vote, are not qualified to vote because they voted usually in their own States, are counted in determining whether a given State discriminates and comes under this bill.

Dr. ECKLER. That is the nature of our present estimates; however, it will be possible to exclude the Armed Forces from the determination and to base this on civilian population. I think we would accept guidance and advice either from the people framing this bill or from the Attorney General as to what would be the most appropriate definition to use. It would be possible to exclude the Armed Forces.

Mr. CRAMER. So, in effect you put in whom you wish and leave out whom you do not wish to put in, in determining whether someone is "residing"?

Dr. ECKLER. I think we should want to do this responsibly with the advice of the Attorney General and his staff.

Mr. RODINO. I think you have been using these standards for a long period of time.

Dr. ECKLER. We have been using certain standards for determining who lives in an area. Members of the Armed Forces are counted in the State where they are located and so are persons attending college. There are certain rules regarding transients and so on. These are well defined and have existed for many years. We would assume, unless instructed to the contrary, that we would be following our standard procedures.

Mr. CRAMER. That is the very point I am making, that it is not in the context of voting residence.

Dr. ECKLER. Not in the context of voting residence; that is correct.

Mr. CRAMER. That is the whole purpose of the bill.

Dr. ECKLER. That is correct.

Mr. RODINO. Mr. Lindsay.

Mr. LINDSAY. Dr. Eckler, I have only one or two questions. Of course you have a tough job on your hands, you always have. The Attorney General said this morning that he was not counted in the census. I know I was not counted, and I keep asking people in Manhattan if they were counted, and they say "No."

Dr. ECKLER. I would make a bet with you on that because many people tell us they were not enumerated who are on our records. We can make a great deal of money by making bets in every case because the information may have been provided by neighbors or provided by a member of the family who did not mention it. Many who claim they were not enumerated were actually covered.

Mr. LINDSAY. I can point out places in Manhattan where people from your place never went, and there are people living there.

The only question that I had here is, what you conceive your job to be should this bill go into effect? Do you have to wait for somebody to give you some instruction as you read this administration bill?

Dr. ECKLER. I believe that when the list of States which have tests of the kinds specified in the bill, has been provided, we have a responsibility to go ahead once the bill becomes law.

Mr. LINDSAY. On a statewide basis?

Dr. ECKLER. Certainly on a statewide basis for all the States, and I should assume that we would be expected to go beyond that to a county basis in the States which are not involved in the list of six.

Mr. LINDSAY. I think that is an important point because I have gotten the impression from the Attorney General's testimony on this point he had no discretion, that the reason an automatic test was set up, albeit an arbitrary one, nevertheless, was to avoid the problem of the Attorney General having the power to make choices.

Dr. ECKLER. He has the power to determine what State has the test or device; is that right?

Mr. LINDSAY. Yes. He has the power to send you the information as to what States have the test or device; you cannot unless he gives you that.

Dr. ECKLER. Yes.

Mr. LINDSAY. After you have done your job, based on the census, then, as I see it, he has the power to make the choices as to what areas he will appoint examiners. He has a 15th amendment problem there which gets a little complicated. There is no point in your commenting on that part of it, but apart from that, I get the impression that he expects the Bureau of the Census to make the findings that will have to be made and published in the Federal Register. In the first instance that will be those States as to which he sent you information about literacy tests.

Dr. ECKLER. Yes.

Mr. LINDSAY. Beyond that, this picks up again the question Congressman Cramer discussed, what do you do about something less than a State subdivision. You are not clear from your examination of the administration bill what you are supposed to do on that point.

Dr. ECKLER. I think my interpretation would be we would have a responsibility to look at the other States and see whether there are counties which have ratios that would bring them in this category under 50 percent and that we should certify those counties, the ones where we would make that determination, and have those published in the Federal Register.

Mr. LINDSAY. Your present reading of the bill would not lead you to conclude that you would have any responsibility. You would guess at the smaller.

Dr. ECKLER. I do not think the bill excludes that possibility, I think we would have to have discussions.

Mr. LINDSAY. Because it is a practical question as to whether you can?

Dr. ECKLER. It is a practical question as to what we do and I think that discussions between the Attorney General's staff and ours are needed to canvass this, but we would hope that this would stop at the county level.

Mr. LINDSAY. One last question. Perhaps I misunderstood you, but a little bit earlier didn't you have a comment to make as to the extent to which the Secretary of Commerce and the Bureau of Census have complied with section 8 of the 1964 Civil Rights Act?

Dr. ECKLER. I believe we have been doing everything possible in connection with that. We have prepared estimates which have been submitted for supplemental funds for 1965, we have had hearings before the Appropriations Subcommittee and I believe the report on that is to be out in the near future. So we believe we have done everything that would be called for or that we could do.

Mr. LINDSAY. So far.

Dr. ECKLER. So far.

Mr. LINDSAY. Which is to plan your program but you have not done anything of specific implementation.

Dr. ECKLER. We have not received any funds for specific implementation.

Mr. LINDSAY. Thank you very much.

Mr. CRAMER. You indicated you had certain standards which you presently employed to determine "residents," is that correct?

Dr. ECKLER. Yes, sir.

Mr. CRAMER. You have that, I presume, in memorandum form.

Dr. ECKLER. We could supply that. We could supply an excerpt from our instructions if it would be helpful.

Mr. CRAMER. Mr. Chairman, could I ask that such an excerpt follow the gentleman's testimony in the record and he be asked to provide it so it can follow?

Mr. RODINO. Yes.

Dr. ECKLER. I will be happy to do so.

(The document referred to follow:)

EXCERPTS FROM ENUMERATOR'S REFERENCE MANUAL USED IN THE 1960 CENSUS

[The reference to EDs is to enumeration districts, the small administrative areas which were assigned to individual enumerators]

HOW TO DETERMINE "USUAL RESIDENCE"

16. Official census date

The census must count all persons living in the United States at 12:01 a.m. on April 1, 1960, and must report them where they usually live. All persons who were living at 12:01 a.m. on that date should be included. Babies born after 12:01 a.m. on April 1 and persons dying before 12:01 a.m. should be excluded.

17. Residence changes after April 1

Persons who move into your ED after April 1, 1960, for permament residence should be enumerated there unless they have already been enumerated in the ED from which they came.

18. Usual place of residence

Usual place of residence is, ordinarily, the place a person regards as his home. As a rule, it will be the place where he usually sleeps.

19. General rules for enumerating persons in each housing unit

Include the following persons in each housing unit:

(a) Members of the household living at home.

(b) Members of the household temporarily absent on vacation, visiting, or on business.

(c) Members of the household who are in a hospital but who are expected to return shortly.

(d) Newborn babies, born before April 1, who have not yet left the hospital.

(e) Boarders or lodgers who regularly sleep in the housing unit.

20. Rules for determining place of residence in special cases

In order to count each person once and only once, the Census Bureau has rules for counting certain persons whose place of residence may be in doubt. These rules are listed in the paragraphs that follow. (See also first page in FOSDIC book or inside back cover of this manual for summary of residence rules.)

21. Members of the Armed Forces of the United States

Persons who are in the Army, Navy, Air Force, Marine Corps, or Coast Guard are counted as residents of the place where they are stationed. A member of the Armed Forces who lives off post in your ED is a resident of your ED and should be enumerated there. Those living on post in housing units or in barracks and similar quarters are residents of those quarters.

22. College students

A student attending college is considered a resident of the ED in which he lives while attending college. Enumerate him as a usual resident at the place where he lives while attending college. If he lives at his parents' home. Enumerate him there. If he is at his parents' home for a few days at the time of the census (for example, during spring vacation), he should be considered a visitor there.

23. Students below college level

A student away from home attending a school below college level is considered a resident of the ED in which his parental home is located and not a resident of the ED where he lives while attending school. However, if he is living in an institution, such as a school for the deaf, dumb, and blind (see par. 26), he should be counted as a resident of the institution.

24. Domestic employees

Enumerate as usual residents, maids, hired hands, or other employees who live with their employer's household and sleep in the same housing unit. However, enumerate domestic employees who sleep in separate houses, apartments, or cabins as residents of separate housing units, even though the house is on land owned by their employer.

25. Persons temporarily absent from home who are considered usual residents

Enumerate as usual residents at their homes the following:

(a) Persons temporarily absent from home, visiting friends or relatives, on vacation, or abroad.

(b) Persons temporarily absent "on the road" in connection with their jobs—persons on business trips, traveling salesmen, railroad men.

(c) Persons temporarily absent from home in general hospitals or other hospitals where patients usually stay only for a short period.

26. Persons in institutions

Enumerate as residents of the institution (regardless of length of sentence or stay) persons in workhouses, reformatories, jails, convict camps, detention homes, schools for delinquents, homes for retired soldiers, orphans, or aged; homes or schools for the blind, deaf, or feebleminded; nursing homes or convalescent homes; asylums or hospitals for the insane, incurables, tubercular, or other such institutions where the inmates usually remain for considerable periods of time.

27. Members of religious orders

Enumerate the members of religious orders as residents of the convent, monastery, or other quarters where they are living.

28. Student and trained nurses

Enumerate student and trained nurses as residents of the hospital or nurses' home where they live.

29. Officers or crews of vessels

Officers or crewmembers on a vessel engaged in coastwise, intercoastal or foreign trade (including Great Lakes) are considered to reside on the vessel if it normally engages in trips of more than 24 hours' duration.

30. Persons with more than one residence

(a) Persons who work away from home most of the week but come home for weekends should be enumerated as residents of the unit where they live most of the week.

(b) A few persons may have several homes—for example, a winter home in Florida, an apartment in New York City, and a summer home in Maine—each of which could be usual residence. In such a case, the usual residence is the place in which the person spends the largest part of the calendar year; he should be enumerated there. Note, however, that persons who spend the year moving from one resort hotel to another with the seasons have no usual place of residence and are therefore enumerated where found.

31. American civilians working or studying abroad and their families living with them

These persons will be enumerated abroad if their regular place of duty or study is there.

32. Citizens of foreign countries temporarily in the United States

In regard to citizens of foreign countries temporarily in the United States:

(a) Do not list citizens of foreign countries temporarily visiting or traveling in the United States or living on the premises of an Embassy, Ministry, Legation, chancellery, or consulate.

(b) Do enumerate as residents of your ED citizens of foreign countries living here who are students or who are employed here (but not living at the

Embassy, etc.) even if they do not expect to remain here. Also enumerate the members of their families if they are living with them in this country.

33. Persons with no usual residence

Enumerate as residents of your ED all persons who have no other residence or fixed address. For example, a man who has given up his room in a nearby city and is staying in your ED for a few days before continuing his journey to another State is a person with no usual place of residence. Persons in railroad, highway and other construction camps, convict camps, camps for migratory agricultural workers, 1-night lodginghouses, or other places that have shifting populations composed mainly of persons with no fixed place of residence, should be enumerated where they are staying on the date of enumeration.

34. Persons with usual residence elsewhere

Usual residence elsewhere means a definite house, apartment, hotel room or suite, or other living quarters held for a person and immediately available to him on his return. In addition to guests, persons with a usual residence elsewhere will include college students temporarily home on vacation, members of the Armed Forces stationed elsewhere but home on leave, inmates temporarily absent from institutions and persons who live and work most of the week in another area. Persons who claim a usual residence elsewhere and who were staying in your ED on the night of March 31 should be reported on Individual Census Reports if there is no one at home to report for them (see par. 134).

35. Doubtful cases

It may sometimes be difficult to tell whether a person is in your ED only temporarily or whether your ED is now his usual place of residence. In general, the decision is to be made on the basis of the nature and purpose of the stay. If there is still doubt, try to determine whether a person in your ED is there simply on a visit or a business trip, or whether he has a job in the community, has entered his children in school there, etc. For example, a woman staying in your ED to establish legal residence for divorce purposes who also has taken a job there or entered her children in a local school should be enumerated as a resident in your ED. In doubtful cases, count the person as a resident of your ED if his stay is expected to total 6 months or more (including time already spent there).

Mr. LINDSAY. Thank you very much, Doctor.

Mr. RODINO. Thank you very much, Doctor, and your associate.

This concludes the hearing for this evening. We will reconvene on Tuesday next at 10:30 a.m., when we will be hearing from Members of Congress.

We are adjourned.

(Whereupon, at 6:10 p.m., the subcommittee recessed, to reconvene at 10:30 a.m., Tuesday, March 23, 1965.)

VOTING RIGHTS

TUESDAY, MARCH 23, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Donohue, Brooks, Kastenmeier, Gorman, McCulloch, Lindsay, and Mathias.

Also present: Representatives Gilbert, Edwards, Tenzer, Conyers, Grider, King, Hutchinson, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and William H. Copenhaver, associate counsel.

The CHAIRMAN. The committee will come to order for further consideration on bills on voting rights.

We have the distinguished gentleman from Illinois, Mr. Yates. Mr. Yates, we will be glad to hear from you. You may proceed.

STATEMENT OF HON. SIDNEY R. YATES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. YATES. Thank you, Mr. Chairman.

Mr. Chairman, I appreciate the opportunity to testify before this subcommittee on the bill that I have introduced, H.R. 6264, which would reduce congressional representation for those States which continue voter discrimination in accordance with the provision of section 2 of the 14th amendment.

Let me say at the outset that I am not making this proposal as a substitute to the direct voting rights approach of the President's bill but as a supplement to it. I am in favor of the most direct route which is contained in the President's bill and the expeditious procedures that are outlined in that bill.

The bill that I have filed, however, would be a companion bill to that which has been filed on behalf of the administration. I support the President's bill which is filed to supplement the voting rights provisions of the 1957, 1960, and 1964 acts.

But my bill, Mr. Chairman, would make the most direct route even stronger. It would provide the States with a powerful incentive to give the right to vote to all of their citizens or suffer a reduction in their representation in the Congress. Whatever form the final right-to-vote bill takes, it will be considerably strengthened if the bill that I have filed is made a part of the law. For no matter how careful

we may be, no matter how strong the bill is that this committee approves, the possibility still exists as was pointed out by the President last week in his very eloquent address that "ingenious" methods are devised by voting registrars determined that some people shall not vote.

No matter what the provisions of this bill may be, delaying tactics can be taken. I suggest that it would be most sanguine to assume that passage of the voting rights bill would bring a change of heart and full cooperation from hostile registration officials.

There is another reason for filing my bill, Mr. Chairman. The bill is more than a bill to protect the rights of our Negro citizens; it is a bill to protect the rights of the States which comply with the Constitution. Failure to enforce the 2d section of the 14th amendment gives a number of States under-representation in the Congress. They are entitled to additional seats in the House. Therefore, this bill I am filing is a States rights bill, too. It is a bill designed to provide fair treatment to the States under the Constitution.

States which discriminate in voting are now over-represented. Those which abide by the Constitution are now penalized.

To show the validity of this argument may I refer to a study which is on file in the Federal Court for the District of Columbia in a suit filed to enforce the provisions of the 2d section of the 14th amendment.

It shows that if section 2 had been implemented following the 1960 census——

The CHAIRMAN. What happened to that case? That case was dismissed, was it not?

Mr. YATES. No; it is still pending.

The CHAIRMAN. Still pending?

Mr. YATES. Yes; still pending, Mr. Chairman.

The CHAIRMAN. For how long?

Mr. YATES. I would say about a year. Briefs are on file and arguments had. I am quite sure the case is still pending. As a matter of fact, I talked to some of the lawyers in the case no longer than 10 days ago and they gave no intimation that the case had been dismissed.

The CHAIRMAN. Is that in a three-man court?

Mr. YATES. It is pending in the district court. I do not know whether it will be heard by a three-man panel or not. A motion has been filed to dismiss the suit, but the court has not yet ruled on this motion.

The study in that case shows that if section 2 had been implemented following the 1960 census, States in the South would have lost a total of 21 seats which should rightfully have gone to States in the North and in the West.

According to that study Texas would have lost six seats; Virginia, four seats; Alabama, three; Mississippi, two; South Carolina, two; Georgia, two; Florida, one, and Louisiana, one.

Those seats would have gone to States in the North and in the West.

Mr. ROGERS. May I interrupt and ask how you would assign these to the North and the West?

Mr. YATES. Mr. Rogers, they would be assigned on the same basis as seats are assigned at the present time, on the basis of the population figures compiled by the census. The bill that I have filed indicates a

certain formula by which States that deny voting rights would have their population figure reduced in proportion to the number of voters that are not permitted to vote. The apportionment of the 435 Representatives would then be based upon these adjusted population figures.

Mr. ROGERS. Your bill permits the Bureau of the Census to make this determination?

Mr. YATES. Yes; the Constitution requires that this determination be made. What my bill does is to require the Bureau of the Census to gather the information and make the computations necessary to enforce the 14th amendment. It never has been enforced up to now. The purpose of this bill is to see that that provision is enforced and to set up a formula for doing it.

Reasons advanced in the past have been that they have not been able to do it and that they have not been authorized by Congress to do it. They do not know if a voter is apathetic.

Mr. ROGER. That is the reason I am asking the question.

Mr. YATES. You want to know the formula itself?

Mr. ROGERS. Yes.

Mr. YATES. I will get to that in a moment, Mr. Rogers.

Mr. ROGERS. Thank you.

The CHAIRMAN. In that suit pending in the district court, do you know whether or not the Government prepared any case of its own?

Mr. YATES. Yes, it has, Mr. Chairman. The defendant is the Secretary of Commerce, and he moved that the suit be dismissed.

The CHAIRMAN. Am I correct in the statement that the Government is opposing the petition?

Mr. YATES. Yes, you are correct in that statement. The representations made in the brief filed by the Government are to the effect that the executive branch does not have the authority to enforce Section 2, so that the Government is opposing the prayer of the suit.

The CHAIRMAN. May I ask: Did you state a certain number of Members of the House, should be distributed to other States?

Mr. YATES. That is correct.

The CHAIRMAN. Suppose the States thus deprivileged change their position, disclaim themselves, if I may use that term: Would they get the Representatives back?

Mr. YATES. They would, indeed, Mr. Chairman, at such time as the census is taken.

The CHAIRMAN. Then the other States would lose that Member and he would go back to those States from which he originally came?

Mr. YATES. In the same way a State loses a Member because of population changes.

Mr. ROGERS. May I interrupt there? Your bill would become effective after the 1970 census?

Mr. YATES. That is correct.

Mr. ROGERS. If I interpret your answer to the chairman correctly, after the census of 1970 if the Bureau of Census, according to the formula that you set forth here, should determine that the 25 House Members from the South come from States which had not complied with the 14th amendment those 25 would go to the North and the West.

Mr. YATES. Or to such other States that are entitled to it by population under the census.

Mr. ROGERS. Under the census?

Mr. YATES. Yes.

Mr. ROGERS. And that would remain so for a period of 10 years.

Mr. YATES. Just as it does now when the census is taken and there is a distribution of the seats.

Mr. ROGERS. Even if the States should get in line and comply within the 10 years, they do not get those Members back until the next census?

Mr. YATES. That is right. Under my bill noncomplying States would have 5 years in which to comply because the census will not be taken until 1970. That is why it is an important bill, as a companion bill, to the voting rights bill which implements the 15th amendment by providing a direct route to giving the right to vote to all Americans.

Mr. ROGERS. Would you have any objection to this being offered as an amendment to the voting rights bill?

Mr. YATES. I have no objection, but that is something for this committee to consider. You might oppose amendments of any kind because you do not want to add barriers to the passage of the bill.

My feeling is it would offer a strong incentive to all States to end voter discrimination and would thus strengthen the administration's voting rights bill.

The CHAIRMAN. You suggest that we add your bill to the voting rights bill?

Mr. YATES. Mr. Chairman, what I said a few moments ago is that I thought the administration might view it as a barrier to the passage of the bill. However, I think my bill ought to be passed now. I think it would be an important part of this bill. If it is not made a part of this bill it should be passed by this committee promptly.

The CHAIRMAN. Do you know the nature of the Government's opposition to this pending case in the District of Columbia?

Mr. YATES. To the case in the district court?

The CHAIRMAN. That you mentioned.

Mr. YATES. Yes; according to the brief that has been filed, Mr. Chairman, the basis of their opposition is that the plaintiffs lack standing to sue; that the complaint does not show that equitable relief is available; and that the complaint fails to state a justifiable controversy. The Government contends that it has not been required or authorized by the Congress to enforce section 2.

The CHAIRMAN. What about those people who are only apathetic?

Mr. YATES. Well, Mr. Chairman, later on as I discuss my formula, I point out that the formula takes a national factor of apathy into consideration in the ultimate computation as to the manner in which the seats should be allocated. I shall explain that in a moment.

Shall I proceed, Mr. Chairman?

The CHAIRMAN. Go ahead.

Mr. YATES. Mr. Chairman, the legislative history of the 14th amendment makes it abundantly clear that the Congress intended the second article to apply to all forms of voting denials, whether of literacy, moral character, nonpayment of poll tax, and other reasons.

I think that is a very good point when you consider some of the sections of the bill you have under consideration here, that the 2d section of the 14th amendment provides that none of these shall be taken into consideration at all in determining whether a person is entitled to vote.

The Congress was reluctant to provide detailed voting requirements saying that such authority remained with the State, but at the same time, and this was the time of passage of the 14th amendment, it did not want to see the Southern States enjoy an increased representation based upon people who did not have the right to vote.

You will recall, Mr. Chairman, originally, only three-fifths of the slave population was counted for purposes of apportionment. Thus, the Congress gave the Southern States a choice: either allow full Negro suffrage or suffer a reduction in your representation in Congress.

In effect, article 2 says if a State prohibits its citizens from voting, it is at the same time to that extent denying itself representation in Congress.

At the time this was passed following the Civil War, many hoped that the provisions for reduced representation would deter the Southern States from disfranchising the Negro, but the failure of Congress to enforce the provision in the last 97 years has eliminated whatever credibility the threat of reduced representation might have had.

Thus, the States which have continued their discriminatory practices and have been able to have their cake and eat it too.

Now we get to my formula, Mr. Rogers. In order to end this situation and in order to provide the rights of all citizens to vote, I have introduced this bill which will direct the Bureau of the Census to determine during the 1970 census the number of people denied the right to vote as specified in article 2 of the 14th amendment and to compute the apportionment of congressional seats accordingly.

The 1970 census is still 5 years away. I don't want any State to suffer a reduction in representation by reason of this bill; but that choice is up to the State itself.

What is proposed under the bill? As a first step, the Bureau of the Census would determine the number of nonregistered voters in each State. This information is relatively easy to obtain, but we cannot consider that all who are unregistered were denied the right to vote. Some are apathetic or indifferent, and the problem is to separate those who are apathetic from those who have actually been denied the right to vote.

My bill assumes that all Americans are equally patriotic and would register to vote in all sections of the country if they were given the opportunity and if they had the same number of years of formal schooling. Tests have shown that there is a relationship between the amount of education and registration, the number of people registered.

If we make these assumptions, and I say they are valid on the basis of available data, then the Census Bureau can then determine the nationwide percentage of registered voters out of the total number of those who are eligible to register.

The CHAIRMAN. Mr. Yates, will you clarify a point?

Mr. YATES. What do you mean, Mr. Chairman?

The CHAIRMAN. Just one or two questions I would like to have cleared up.

The section 2 of the 14th amendment speaks of the following: "Denied to any male inhabitants," and so forth, "or in any way abridged." What is meant by "abridged"?

Mr. YATES. I would think that abridge meant a limitation of some kind rather than an outright denial—I would think, however, that

a State would have the power to require registration as a condition of voting. I think that there has to be an identification of the voter with the place where he lives so that transients would not be able to vote.

The CHAIRMAN. That puts a weight on the vote, in some way. That might be deemed abridged.

Mr. YATES. Well, I think, Mr. Chairman, with due respect that you are carrying the discussion to an absurdity. You cannot have a voting system without registration.

The CHAIRMAN. I think we have no definition of "abridged" anywhere and I certainly would like to know what "abridged" really means. Does that mean any criminal could vote?

Mr. YATES. No; it is not.

The CHAIRMAN. Why not?

Mr. YATES. Because the section specifically says "except for participation in rebellion or other crime." That is in the 2d section of the 14th amendment. Those are two abridgments that are recognized in the 2d section of the 14th amendment.

The CHAIRMAN. Suppose they made the voting age 22?

Mr. YATES. Well, I believe that there are certain factors that have to go into the determination of the right to vote. Obviously you would not want somebody who is 3 or 4 years old to be able to vote rather than age 22, carrying your point a step further. Certain abridgments are recognized. Certain formalities could technically be termed abridgments.

I am talking about the abridgments that need not be placed on the books.

The CHAIRMAN. Recognized by you and maybe others but what did the legislators after the Civil War mean when they used the term?

Mr. YATES. Mr. Chairman, may I read to you? I have the legislative history right here, Mr. Chairman. May I read it to you?

The CHAIRMAN. Yes.

Mr. YATES. This will be attached as an appendage to my statement.

The 13th amendment to the Constitution, effective December 18, 1865, abolished slavery in the United States and rendered nugatory article I, section 2, clause 3 of the Constitution which provided that only three-fifths of the whole number of slaves would be counted in determining the basis of apportionment. Unless the 39th Congress took action to amend the Constitution, the 13th amendment would swell the representation of the former slave States in the House of Representatives because of a Negro population which was not permitted to vote. No result could have been less to the liking——

The CHAIRMAN. What are you reading?

Mr. YATES. I am reading from an appendix to the brief that was filed in the district court case and this goes into the question very thoroughly.

Now, answering your question about what were the debates about at that particular time: There was a committee appointed by the Congress consisting of 9 Representatives and 6 Senators, and 12 of its 15 members were Republicans.

On January 12, 1866, Representative Morrill of Vermont moved in the Joint Committee to substitute for original proposals which based representation on the number of voters, a more indirect scheme. This is what he said:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their representative number of persons, deducting therefrom all of any race or color whose members or any of them are denied any of the civil rights or privileges.

Then there were a number of amendments that were added to that original proposal and this is what followed next:

Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elected franchise shall be denied or abridged in any State on account of race or color all persons therein of such race or color shall be excluded from the basis of representation.

Now there were objections to this proposal and they developed rapidly in the course of House debate. Chief among these was the feeling that the phrase "on account of race or color" was too easily avoided by the imposition of property or educational qualifications.

Now I have the quotations from the Congressional Record that support the points that I am making and I am not quoting but they will be attached to my statement.

A general consensus quickly developed that this construction was correct. Representative Conkling of the Joint Committee on Reconstruction indicated that educational or property restrictions on voting, not aimed at race, would not cause a reduction in representation under the committee proposal. Despite the general uneasiness over this matter, the proposed amendment was passed by the House by the required two-thirds vote, 120 to 46, on February 1, 1866.

The proposal then went to the Senate. Considerable fear was expressed that the amendment would be rapidly eviscerated by the selective administration of voter qualifications such as property and education. These legislators took the position that the dominant white race by imposing educational and property qualifications for voting would disfranchise a sufficient number of the Negroes to retain control of the former slave States and, thereby, retain a greater proportion of power in the National Government than they ever before possessed.

After extensive debate, the proposal failed to obtain the necessary two-thirds majority March 9, 1866. The vote was 25 in favor and 22 opposed.

After the failure of the Senate to accept the proposed amendment, the Joint Committee on Reconstruction of the House again considered proposals for apportionment on March 9, 1866. On April 28, 1866, the committee approved a measure, 12 to 3, which was with minor alteration to become section 2 of the 14th amendment.

It provided that:

Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than 21 years of age, or in any way abridged, except for participation in rebellion or other crime—

You notice, Mr. Chairman, "or in any way abridged"—

the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than 21 years of age.

This draft differed from the earlier drafts because it did not contain the phrase "on account of race or color" as a limitation on the

types of denial or abridgement. They left out the phrase "on account of race or color."

In addition, the earlier version provided that if any individuals of a particular race were excluded from the franchise, all members of the same race would be eliminated from the basis of representation.

In other words, if any members of the Negro race were omitted from the franchise, then all members were to be omitted according to the new version.

They applied a proportional test. That proportion of the injured who are excluded from the ballot shall also be excluded from the basis of representation, just the proportion who were excluded.

The CHAIRMAN. We understand that. I am interested in the term "abridgment" and what was in the minds of the writers of the amendment. Thus far I have gotten very little enlightenment from what you have read except that abridgment is involved.

Would it be involved when you have a residence test, when you have a property test, when you have an educational test?

There are many other registration tests to which that term may apply.

Mr. YATES. May I read to you from the debates, Mr. Chairman? I am sorry my efforts to be enlightening were not more enlightening. I am reading from the debates as they appeared progressively and I am still coming to what I hope is the nub of what the chairman is seeking.

The legislative history supports the conclusion that the reduction formula of section 2 was intended to apply to all citizens over 21 whose franchise is denied or abridged for any reason whatsoever.

The CHAIRMAN. That is the answer. That is in the brief that was filed by the Court.

Mr. YATES. Yes.

The CHAIRMAN. They admit that any test would be included.

Mr. YATES. Any reason whatsoever. I suggest, Mr. Chairman, that the counsel for the committee may want to check 46 Cornell Law Quarterly, 108, 112 (1960).

The CHAIRMAN. That is where the difficulty is. It covers such a wide range of conditions that it makes it almost impractical to enforce.

Now I am in sympathy with what these amendments are. After all, we are ready to face these facts here.

Mr. YATES. Face what facts, Mr. Chairman?

The CHAIRMAN. The difficulty of apportionment.

Mr. YATES. As I understand, what the chairman is saying because of technical difficulties we cannot enforce the 14th amendment. I certainly don't agree with that.

The CHAIRMAN. Maybe you can help us; maybe I am wrong on this.

Mr. YATES. Returning to the history of the amendment, this is what Senator Howard, who was serving as floor manager of the bill was asked:

> If the Senator will pardon me for a moment, I wish to inquire whether his attention was called to the fact that if any State excluded any person, say as Massachusetts does, for want of intelligence, this provision cuts down the representation of that State.

This was Senator Howard's reply:

Certainly it does. No matter what may be the occasion of the restriction, it follows out the logical theory upon which the government was founded, that numbers shall be the basis of representation, the only true, practical, republican principle.

If, then, Massachusetts should so far forget herself as to exclude from the right of suffrage all persons who do not believe with my honorable friend who sits near me (Senator Sumner) on the subject of Negro suffrage, she would lose her representation in proportion to that exclusion. If she should exclude all persons of what is known as the orthodox faith she loses representation in proportion to that exclusion. No matter what may be the ground, whether a want of education, a want of property, a want of color, or a want of anything else, it is sufficient that the person is excluded from the category of voters and the State loses representation in proportion. The principle applies to everyone of the States in precisely the same manner and, sir, the true basis of representation is the whole population. It is not property, it is not education, for great abuses would arise from the adoption of one or the other of these two tests. Experience has shown——

The CHAIRMAN. I think we would be satisfied to have you put that petition in the record.

Mr. YATES. All right. This will be filed as an appendix to my statement, Mr. Chairman. I think that the intent of the debate was clear as to what the purpose of that amendment was and what the purpose of the provisions was, and that was that there should not be any abridgments. If we can refer to Senator Howard's explanation again, the following appears at page 2767 of the Congressional Globe, 39th Congress, 1st session.

The word "abridged" I regard as a mere intensitive, applicable to the preceding sentence. I suppose it would admit of the following application: A State in the exercise of the sovereign power over the question of suffrage might permit one person to vote for a member of the State legislature, but prohibit the same person from voting for a Representative in Congress. That would be an abridgment of the right of suffrage; and that person would be included in the exclusion, so that the representation from the State would be reduced in proportion to the exclusion of persons whose rights were thus abridged.

The CHAIRMAN. I am concerned about adding anything that might impede the passage of the administration bill.

Mr. YATES. Well, Mr. Chairman, I suggested myself earlier that you might come to that conclusion. However, even if it were not made a part of this bill that this committee should pass it as another bill.

The CHAIRMAN. Then we probably would set another date for hearing on this bill.

Mr. YATES. Mr. Chairman, I was asked to testify here this morning on my bill, H.R. 6264.

The CHAIRMAN. We are hearing you.

Mr. YATES. Yes, but——

The CHAIRMAN. We have to be brief. We have a tremendous number of witnesses.

Mr. YATES. Mr. Chairman, I was going through my statement, but several members of the committee interrogated me, including the chairman.

Mr. ROGERS. We have not begun.

Mr. YATES. Well, I'll be glad to answer questions. If the chairman wishes, I can put the remainder of my statement in the record.

I certainly think it should properly be considered as an amendment. If not, it should be passed as a companion bill, because it is a real incentive to the States to open up the registration books.

The Attorney General stated this before this committee. He suggested that, to use the President's phrase, "Some ingenious registrars may find ways of circumventing the provisions of your bill no matter how perfect the bill may be."

So I suggest to you that the remedy that I have proposed in my bill, the implementation of the 2d section of the 14th amendment, would result in the protection to voters and to the other States who now are underrepresented.

I say that it should be passed to carry out the Constitution, particularly if this voting bill encounters the same stubborn opposition and delays encountered by earlier civil rights bills.

Mr. DONOHUE. Mr. Chairman. Would your objective be obtained in 1970 when the census would be taken; that is, the representation would be based upon the population as was indicated by that census?

Mr. YATES. With the use by the Census Bureau of the formula that is suggested here, the determination of whether there has been any abridgment or denial to vote under the 14th amendment so that there can be a reduction in the number of Representatives from those States who deny or abridge the right to vote.

That is what the Census must do.

Mr. DONOHUE. Would that not impede the right of the people in those States to vote between now and 1970, or would not those States sort of hold back until, say 1969?

Mr. YATES. I do not believe so, Mr. Donohue; but even if that were to come true, at least by 1970, if the States were to open up their registration books, we will have achieved the desired result. That is the important thing.

I remember that we were told the Civil Rights Acts of 1957 and 1960 would assure the rights of the Negro to vote.

Mr. DONOHUE. Would it not be delayed, say, until 1969?

Mr. YATES. That right should not be delayed. The bill now being considered will enforce the right to vote. If it does, my bill would not become operative. That would be fine. We would have achieved our objective. If all the people in the country were given the right to vote, there would be no need for my bill. That would be the perfect solution.

I would favor that. However, in the event that it is not accomplished, if there is an evasion of the purposes of the bill just as there have been under existing laws, then my bill would become operative.

It is a companion bill. It is a remedy in reserve. It is the protection that is required in the event this bill that you are considering now, and which we hope will be passed, does not accomplish the voting rights we seek.

Mr. DONOHUE. But the effectiveness of it would not take place until 1972.

Mr. YATES. Well, it will be effective immediately because it gives each State an incentive to register all their citizens. If any of the States of the Union still want to deprive their citizens of the right to vote, they should lose a proportion of the representation in the House.

Mr. DONOHUE. Based on the 1970 census.

Mr. YATES. Yes. This interim period is important. It gives all the States the opportunity to rehabilitate their voting patterns and to comply with the action of the Congress. In some States, it might

take that long to register Negroes who have lived under fear and intimidation. If the same conditions continue to exist, then my bill would become operative.

Mr. ROGERS. I did ask you about how the Bureau of Census could aid in arriving at a conclusion?

Mr. YATES. I was going into that, but in view of the chairman's statement, Mr. Rogers, I do not know whether he wants me to continue or not.

Mr. ROGERS. The only thing I want to know: Would they go into the State of Illinois, for example, and make a determination on the age of the 21 who had not voted?

Mr. YATES. Yes.

Mr. ROGERS. And if you find that, say, one-third of such persons did not vote or showed no inclination to vote, would the representation from the State of Illinois be reduced?

Mr. YATES. Well, now, shall I take the time to answer your question and tell you what the formula is?

Mr. ROGERS. Yes.

Mr. YATES. All right.

The Census Bureau would determine on a nationwide basis the number of people who are registered to vote and the number of people who are eligible to vote and who have not voted.

Mr. ROGERS. And who may have not registered.

Mr. YATES. The number of people eligible to vote and the number of people who had registered to vote. They determine this on a nationwide basis. Their study is broken down by various educational levels, those who have 8 years of education or less, those who have between 8 and 12 years of education, and those who have 12 or more years of education.

These percentages can then be used to estimate the number of registered voters one would expect to find in a given State.

For example, assume the Census Bureau determines that on a nationwide basis 70 percent of those with a grade school or less education are registered, 80 percent with some high school education are registered, and 90 percent with some college education are registered.

Let us further assume a hypothetical State has 10 million people of which 6 million are citizens 21 or over and thus eligible to vote, and of these 6 million potential voters, 1 million have had some college education, 1 million have had some high school education and 4 million have had some grade school education.

The Bureau of Census can now compute the number of registered voters which would be expected if the State approached the national average. The Census Bureau has determined what the national average is.

Mr. ROGERS. National average of education?

Mr. YATES. No. The national average of those who are registered to vote, broken down by education. The education is a very important factor here.

Then having done that, from these figures one would expect to find that 4½ million of the State's 6 million potential voters should be registered if the State approached the national average. The Census Bureau could then compare this "expected" registration figure with the actual number of registered voters. Suppose it found only 3½

million were actually registered? From this we can conclude that the difference, or 1 million citizens were denied voting rights. The Census Bureau would then reduce the State's congressional representation by the appropriate percentage.

Now that is a formula that is susceptible of enforcement. It is a formula that has been approved by reputable experts engaged in research of this kind.

All this appears in my statement. I intend to put my statement in the record, together with the appendix from which I have read some excerpts. I think it is a good bill. I think this committee should pass this bill, if not a part of the current voting rights bill, then certainly as a companion bill to it.

Mr. CONYERS. Will the gentleman yield for a moment?

Mr. ROGERS. Yes.

Mr. CONYERS. Are you advised of the fact that the attorney general of the State of Michigan, as well as the attorney general of the State of California, have met last week and are seeking a way to pursue an enforcement of section 2 of the 14th amendment as your bill does?

I would like to just concur with you that this is a very important consideration. The Honorable Frank Kelly of Michigan has already departed into a very extensive study on this very question. I would hope that the attorneys general and any proposed legislation that you would have would be able to work in coordination as much as possible.

Mr. YATES. I agree with you, Mr. Conyers, and I thank you for that information. I was not aware of it.

It seems to me you cannot say that because of technical difficulties the Constitution of the United States shall not be observed. It cannot be said that because of the difficulties of enforcement, because of the difficulties in understanding what that language means, that we won't take any action on it. The Congress has already done that for much too long a period, for almost a century.

I think that this committee should take steps to enforce it. I think that for too long a time the Congress has just overlooked it and said, "We won't take any action in this field at all."

Mr. COPENHAVER. Mr. Yates, in the provision of section 2 in the 14th amendment which requires that a voter be 21 years of age and over and be a citizen of the United States, we have a third criteria which is that a person must not have been convicted of a crime. You do not incorporate that third provision into your bill.

I wondered whether it might not be favorable to comply with the requirements of the 14th amendment.

Mr. YATES. I do not believe so. I believe that is implicit in it, Mr. Counsel.

Mr. COPENHAVER. You follow my question?

Mr. YATES. Yes, I do. I think that is implicit in it.

Mr. COPENHAVER. I believe your formula is based upon one developed by Dr. Jaffe of Columbia University?

Mr. YATES. Yes; who is a recognized authority in the field.

Mr. COPENHAVER. That is right, and he submitted his affidavit before the Court of the District of Columbia on this case.

Mr. YATES. That is right.

Mr. COPENHAVER. But it seems to me that your formula does not take into consideration the question of persons being excluded who have committed a crime and this might be the one area whereby the——

Mr. YATES. I would see no objection to the committee including that in the bill.

Mr. COPENHAVER. They might have some difficulty in developing a satisfactory formula. In other words, your formula probably takes into consideration floaters and people of that nature.

Mr. YATES. Yes, but I'm sure that qualified experts can suggest methods of dealing with all factors.

Mr. COPENHAVER. There possibly could be a variation among States because of those who commit a crime, I do not know. For example, we do not know whether you take into consideration, in making the census, persons who are in the penal institutions. If that would be the case, that the States having a penal institution might——

Mr. YATES. This is a possibility which ought to be taken into consideration by the committee.

The CHAIRMAN. Thank you very much.

Mr. MCCULLOCH. Mr. Chairman, does that mean that we are about to dismiss the witness?

The CHAIRMAN. In the hope that we will move on.

Mr. MCCULLOCH. Mr. Chairman, in view of this very interesting proposal of our colleague from Illinois, I should like to take a few minutes, if my colleague, Mr. Lindsay, does not wish to take some time, to pursue this matter.

I am sure that the chairman remembers with pleasure title VIII of the Civil Rights Act of 1964. By Mr. Lindsay's amendment we set up the mechanics for determining the quality and type of person pursuant to section 2, article XIV of the Constitution.

It is my suggestion, Mr. Chairman, and I agree with the chairman's suggestion about time being so important right now, that we continue to look into this matter, and come 1970, when the next decennial census is had, that we then consider the advisability of writing into law the penalty which is prescribed in section 2, article XIV, of the Constitution.

I think your presentation has served a very useful purpose.

Mr. YATES. Thank you, sir.

(Congressman Yates' prepared statement and submission are as follows:)

Mr. Chairman, I appreciate the opportunity to testify before this subcommittee on the bill I have introduced, H.R. 6264, which would reduce congressional representation for those States which continue voter discrimination.

Let me say at the outset that I am making this proposal not as a substitute to the direct voting rights approach in the President's bill, but as a supplement to it. I am in favor of simple and expeditious procedures which will secure the right to vote for all Americans and I believe the President's bill, H.R. 6400, goes a long way in this direction.

Mr. Chairman, all of us were deeply moved by President Johnson's stirring message on voting rights. In this year of 1965, 103 years since the Emancipation Proclamation, it is indeed tragic that the right to vote is still subject to debate and equivocation. Voting rights for all Americans should not depend upon the grudging consent of registration officials who apparently are dedicated to the proposition that all men are created equal except Negroes. This is the only conclusion that can be drawn from the refusal to grant the equal right to vote to members of the Negro race.

The right to vote is guaranteed by the Constitution of the United States for all Americans, and that right must be made available to all Americans as promptly as possible.

Mr. Chairman, despite the voting provisions of the Civil Rights Acts of 1957, 1960, and 1964, there are places in the South where Negro voter registration is abysmally below white voter registration even though the number of Negroes equals or approximates that of the white people.

To recite three examples, Mr. Chairman, in Louisiana, 77 percent of the whites are registered. Only 32 percent of the Negroes are registered. In Alabama, 64 percent of the white citizens can go to the polls, but only 23 percent of the Negroes enjoy this right. In Mississippi 67 percent of the white citizens have been permitted to register. Only 7 percent of the Negroes have been able to obtain approval by the registrar.

I have carefully studied the voting rights bills introduced by several Members of Congress. I support the President's forthright address, and I support the purpose of the bill filed in furtherance of it. These provisions would strengthen the positions of the Civil Rights Acts of 1957, 1960, and 1964 by providing a system of registering Negro voters by Federal action whenever court action fails to bring results. These bills provide protection for their right to vote and let us hope they succeed to a much greater extent than have the previous bills that were filed for that purpose. As President Johnson pointed out in his eloquent address the other evening:

"Experience has clearly shown that the existing process of law cannot overcome systematic and ingenious discrimination."

I have filed a bill, Mr. Chairman, that will implement the bill that has been filed to carry out President Johnson's recommendation. My bill is filed to place in force and effect the provisions of the 2d section of the 14th amendment to the Constitution.

The voting rights bills filed to make effective the President's recommendation further the provisions of the 15th amendment. They offer the most direct route to assure the right to vote to those now wrongfully denied the franchise. My bill is a companion bill to the voting rights bill. It would provide the States with a powerful incentive to give the right to vote to all of their citizens or suffer a reduction in their representation in the Congress. Whatever form the final right-to-vote bill takes, it will be considerably strengthened if my bill, designed to enforce section 2 of the 14th amendment, is made a part of the law, for no matter how careful we may be, no matter how strong we make the bill, the possibility still exists, as was pointed out by the President, that "ingenious" as it may be, it cannot prevent delaying tactics that will be resorted to by hostile State and county officials. And, Mr. Chairman, I suggest that it would be most sanguine to expect that passage of the voting rights bill will bring a change of heart and full cooperation from such officials.

Certainly, such cooperation is much more likely if a bill such as mine is enacted which assures States insisting upon clinging to discriminatory patterns toward these Negro citizens that the number of their Representatives in the House will be reduced. It is conceivable that with my bill, efforts to speed up registration could be changed from a dilatory rearguard holding action to one of active assistance.

There is another reason for filing my bill, Mr. Chairman. The bill is more than a bill to protect the individual rights of our Negro citizens. It is a bill to protect the rights of the States who comply with the Constitution. The failure to enforce the second section of article 14 gives many of them an underrepresentation in the Congress. They are entitled to additional seats in the House. So that this is a States rights bill, too. It is a bill to make sure the States receive fair treatment under the Constitution.

The failure to enforce section 2 has not only penalized the qualified voters, it has also penalized the States who do not deny any of their citizens the right to vote. States which discriminate in voting are now overrepresented and those which abide by the Constitution are now being penalized.

To show the validity of this argument, let me refer to a study recently filed in the Federal Court of the District of Columbia. It shows that if section 2 had been implemented following the 1960 census, southerners in the South would have lost a total of 21 seats, which should rightfully have gone to other States in the North and West.

According to the study, Texas would have lost six seats; Virginia four; Alabama three; Mississippi two; South Carolina two; Georgia two; Florida one;

and Louisiana one. The Northern and Western States would have picked up those seats.

Mr. Chairman, the original aim of section 2 was to protect the States and to protect the individual rights of citizens when it was passed nearly 100 years ago. In fact, the framers of the 14th amendment always considered section 2, dealing with voting rights, to be the key section of the 14th amendment. However, we are much more familiar with section 1 which has been the basis of most of the decisions protecting individual and civil rights decisions of the Supreme Court.

Section 1 with its broad guarantees of due process and equal protection under the law was added during the later stages of the drafting of the 14th amendment almost as an afterthought. Mr. Chairman, such is the irony of history that section 1 has become a powerful bulwark protecting civil rights while section 2 has been all but forgotten.

Mr. Chairman, may I dust off the pages of history and read the full text of the 2d section of the 14th amendment at this time.

The section reads:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State."

Note the direct and mandatory language of this provision. When the right to vote is denied, the basis of representation shall be—not may be, but shall be—reduced. However, the Constitution leaves it up to the Congress to effect this reduction and in the 97 years since the adoption of the 14th amendment, Congress has never seen fit to comply.

Perhaps one of the reasons why Congress has never acted is due to the difficulty to enforce the provision. For example, during the 1870 census, an abortive attempt was made to tabulate the numbers of people who were disfranchised. The Secretary of the Interior, who at that time conducted the census, reported that he could find only 43,000 people who were denied the right to vote within the meaning of article 2. Such a conclusion was preposterous to anyone familiar with voting practices at that time and since then, all serious attempts to enforce the provision were abandoned.

Mr. Chairman, it is no exaggeration to say that we have seen a revolution in the science of information gathering in the last 20 years. High-speed electronic computers and modern survey and statistical techniques have had a tremendous impact on data acquisition activities. The Federal Government is now able to report in only a few days after the end of each month, the number of people who are employed and unemployed. It therefore seems reasonable to assume we have the ingenuity to count at every 10-year census the number of people denied the right to vote.

Mr. Chairman, the present procedure of apportioning congressional seats among the States is contained in the Census and Apportionment Act of 1929 as amended. This act directs the Bureau of the Census to compute the apportionment of congressional seats between the States following each 10-year census and to transmit the results to the Clerk of the House.

The Clerk of the House, acting in a purely ministerial capacity, then transmits to the States the figures computed by the Director of the Census. In arriving at this calculation the present law does not, and I repeat, does not authorize the Director of the Census to exclude the number of people denied the right to vote, even though the 2d article to the 14th amendment expressly requires that they be excluded.

Mr. Chairman, the legislative history of the 14th amendment makes it abundantly clear that Congress intended the second article to apply to all forms of voting denials, whether for reasons of literacy, moral character, nonpayment of poll tax, or for other reasons.

That evidence, Mr. Chairman, will be made clear in the exhibit which I will attach to my remarks.

The Congress was reluctant to prescribe detailed voting requirements, preferring that such authority remain with the States. At the same time, it did not want to see the Southern States enjoy an increase in congressional representation based upon people who did not have the right to vote. You may recall, Mr. Chairman, that prior to the Civil War, only three-fifths of the slave population was counted for apportionment purposes.

Thus, Congress, through article 2, gave the Southern States a choice: either allow full Negro suffrage with increased representation in Congress; or, as an alternative, Negro suffrage could be restricted but only with a refusal to permit such voting with reduced representation. In effect, article 2 says that if a State prohibits its citizens from voting, it is at the same time denying itself representation in Congress to that extent.

At the time, many hoped that the provisions for reduced representation would deter the Southern States from disfranchising the Negro. But the failure of Congress to enforce the provision at any time in the last 97 years has eliminated whatever credibility the threat of reduced representation may have had. Thus the States which have continued their discriminatory practices have been able to have their cake and eat it, too.

Mr. Chairman, in order to end this situation and in order to provide the means for achieving a recognition of the rights of all citizens to vote, and to assure proper representation in the Congress of all the States, I have introduced a bill, H.R. 6264, which would direct the Bureau of the Census to determine, during the 1970 census, the number of people denied the right to vote as specified in articles of the 14th amendment and to compute the apportionment of congressional seats accordingly. The 1970 census is still 5 years away, and it is my sincere desire that no State would suffer a reduction in representation by reason of this bill. There is still ample time to remove any remaining barriers on the right to vote and to avoid the restrictions of the 2d section of the 14th amendment.

How will the bill work? What is proposed under the bill?

As a first step, the Bureau of the Census would determine the number of unregistered voters in each State. This information is relatively easy to obtain, but we cannot consider that all who are unregistered were denied the right to vote. Some are apathetic or indifferent and the problem is separate to those who are apathetic from those who have actually been denied the right to vote.

Previous approaches to the problem have been attempted to count the numbers of people who were denied the right to vote. But it would be equally valid to determine how many are apathetic and did not vote. The remaining portion would then equal the number denied their voting rights. In effect, in this bill we are approaching the problem from another direction, but I say we are coming up with the right answer.

How can we do it? My bill assumes that all Americans are equally patriotic and would register to vote in the same proportion in all sections of the country if they were given the opportunity, and if they had the same number of years of formal schooling. This last assumption is necessary because studies have shown that registration is higher among those who have received a better education.

If we make these assumptions—and I say they are valid on the basis of factual data—the Census Bureau can then easily determine the nationwide percentage of registered voters out of the total number of those who are eligible to register. The percentages can be broken down by various education levels—such as those who have 8 years of education or less; those who have had between 8 and 12 years of education; and those who have had 12 years or more of education. These percentages can then be used to estimate the number of registered voters one would find in a given State.

For example, assume the Census Bureau determines that on a nationwide basis, 70 percent of those with a grade school or less education are registered; 80 percent with some high school education are registered; and 90 percent with some college education are registered.

Let us further assume a hypothetical State has 10 million people of which 6 million are citizens 21 or over and thus eligible to vote and of these 6 million potential voters, 1 million have had some college education; 1 million have had some high school education; and 4 million have had a grade school education. The Bureau of the Census can now compute the number of registered voters which could be expected if the State approached the national average. The following figures show this computation for this hypothetical State:

Educational group	Number of citizens 21 or over	Nationwide registration percentage	Expected number of registered voters
College	1,000,000	90	900,000
High school	1,000,000	80	800,000
Grade school	4,000,000	70	2,800,000
Total	6,000,000		4,500,000

From the figures, one would expect to find that 4.5 million of the States' 6 million eligible voters had registered if the State approached the national average. In other words, after allowing for the average amount of indifference and the States' relatively large number of lesser educated individuals, one would expect to find that 1.5 million had not registered due to apathy.

The Bureau of the Census would then compare this estimated registration figure with the actual number of registered voters in the State. Let us assume it is only 3.5 million or 1 million below the expected figure. We can now conclude that these 1 million have been denied the right to vote because we have applied the national average of apathy. We have adjusted the computation to take into account the relatively large number of lesser educated people in the State. Thus, we have a reliable figure upon which the apportionment computation can be based.

Having determined the number denied, the Bureau of the Census would then reduce the States' total population by the appropriate percentage for the purpose of calculating the apportionment of seats in Congress as is done after every census.

I suggest, Mr. Chairman, that the reduction in representation provisions of section 2 of the 14th amendment would be a powerful tool; but it would be a moderate and reasonable tool, also to end voting discrimination. Since the next census would not take place until 1970, it would give each State 5 years to remove any remaining bars on the right to vote.

In this way it implements the President's bill and the bills that have been filed to provide for the granting of voting rights. It stands as a reminder to those States which continue to refuse to abide by the provisions of proposed voting rights bills and the laws already on the books. It is not a substitute for the voting rights bills. It is not intended as such. It may never be used, and it will not be used if all States grant full and fair equality in voting to their citizens. Certainly this is our objective. However, if certain States insist upon, and are successful in their dilatory tactics, observing their unfair patterns of voting discrimination, they deserve to lose representation in the House as intended by the Constitution.

Mr. Chairman, I say that this is a moderate bill. I say that it is a reasonable bill. I say it is a bill that will protect the individual rights of all citizens of the United States which now are discriminated against because of the failure to make effective the provisions of the 2d section of the 14th amendment. For all of these reasons, I urge that this bill be enacted into law.

Mr. Chairman, I also request that the text of H.R. 6264 and a memorandum on the legislative history of section 2 to the 14th amendment be included in the record at the end of my remarks.

[H.R. 6264, 89th Cong., 1st sess.]

A BILL To implement the provisions of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6) which require that the basis of representation of each of the several States in the House of Representatives shall be reduced in proportion to the number of adult citizen inhabitants of such State whose right to vote is denied or abridged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT TO TITLE 13, UNITED STATES CODE

SECTION 1. Section 141 of title 13, United States Code, relating to decennial censuses of population, is amended to read as follows:

"§ 141. Population, unemployment, housing

"(a)(1) The Secretary shall, in the year 1970 and every 10 years thereafter, take a census of population, unemployment, and housing (including utilities and

equipment) as of the first day of April, which shall be known as the census date.

"(2) In taking the censuses prescribed by this section, the Secretary shall—

"(A) ascertain and determine the total population of each State;

"(B) ascertain and determine the total number of inhabitants of each State twenty-one years or more of age and citizens of the United States, and, with respect to each such individual, the number of his years of formal education and whether or not he is registered to vote as of the census date;

"(C) ascertain and determine for the entire Nation, the percentage which the number of registered voters twenty-one years or more of age is of the total number of citizens twenty-one years or more of age in each of the following classifications:

"(i) individuals with eight or fewer years of formal education,

"(ii) individuals with more than eight and up to and including twelve years of formal education, and

"(iii) individuals with more than twelve years of formal education:

"(D) ascertain and determine for each State, the total number of individuals which would be produced if the number of citizens twenty-one years or more of age in each of the educational classifications specified in paragraph (C) were multiplied by the national percentages for such classification as determined under paragraph (C);

"(E) if the number computed under paragraph (D) for any State exceeds the actual number of registered voters twenty-one years or more of age in such State, ascertain and determine the difference between the number of individuals computed under paragraph (D) for such State and the actual number of registered voters twenty-one years or more of age in such State. The right to vote of the number of persons in such State represented by such difference shall be considered to have been denied or abridged within the meaning of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6);

"(F) ascertain and determine for each State to which paragraph (E) applies the proportion which the number of individuals determined under paragraph (E) is of the total number of inhabitants twenty-one years or more of age and citizens of the United States.

The Secretary is authorized to inspect voting registration records in any State for purposes of this section.

"(b) The Secretary shall complete, within eight months following the census date, and report to the President of the United States the tabulation (as required for the apportionment of Representatives in Congress) of—

"(A) the total population of each State,

"(B) the proportion, if any, described in paragraph (F) of subsection (a)(2) of this section with respect to each State to which paragraph (E) of such subsection (a)(2) applies, and

"(C) the total population of each State to which paragraph (E) of subsection (a)(2) of this section applies as reduced in any such proportion described in paragraph (F) of such subsection (a)(2) with respect to such State.".

AMENDMENTS TO EXISTING LAW APPORTIONING REPRESENTATIVES IN CONGRESS

SEC. 2. (a) Subsection (a) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2a), is amended to read as follows:

"(a) On the first day, or within one week thereafter, of the first regular session of the Ninety-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing—

"(1) the total population of each State, or the total population of each State as reduced (if such is the case with respect to such State) in the proportion described in section 141(a)(2)(F) of title 13, United States Code, as ascertained and determined under the nineteenth and each subsequent decennial census of the population, and

"(2) the number of Representatives in Congress to which each State would be entitled, on the basis of total population or proportionately reduced population, as applicable, under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one member.".

SAVING PROVISION

SEC. 3. The amendments made by this Act shall not be held or considered to change the number of Representatives in Congress to which a State is entitled on the basis of the total population of such State as ascertained in the Eighteenth Decennial Census of population under section 22 of the Act of June 18, 1929 (2 U.S.C. 2a) as in effect immediately prior to the date of enactment of this Act, until a subsequent reapportionment takes effect under such section 22 as amended by this Act.

APPENDIX

BRIEF LEGISLATIVE HISTORY OF SECTION 2 OF THE 14TH AMENDMENT

The 13th amendment to the Constitution, effective December 18, 1865, abolished slavery in the United States and rendered nugatory article I, section 2, column 3 [1] of the Constitution which provided that only three-fifths of the whole number of slaves would be counted in determining the basis of apportionment. Unless the 39th Congress took action to amend the Constitution, the 13th amendment would swell the representation of the former slave States in the House of Representatives because of a Negro population which was not permitted to vote.[2] No result could have been less to the liking of the post-Civil War, Republican-dominated, 39th Congress.[3] The driving motive behind attempts to frame what was to become the 14th amendment became, therefore, to reduce former slave State representation in Congress and/or enfranchise the Negro in order to offset the threatened increase of representation in the House.[4]

Several proposals basing representation in Congress on the number of legal voters were introduced in the 39th Congress, 1st session, in December 1865,[5] and referred to the Joint Committee on Reconstruction. These resolutions were opposed successfully by Representatives from New England where the number of voters was disproportionately small in comparison with population in general.[6] This was due to much vaster number of women and children relative to the younger States in the West. The Committee consisted of 9 Representatives and 6 Senators, and 12 of its 15 members were Republicans.[7] On January 12, 1866, Representative Morrill of Vermont, moved in the Joint Committee to substitute for original proposals which based representation on the number of voters; a more indirect scheme. It stated: [8]

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their representative number of persons, deducting therefrom all of any race or color whose members or any of them are denied any of the civil rights or privileges."

A number of amendments were made and a final draft which passed the Committee by a majority of 12 to 2 read: [9]

"Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elected franchise shall be denied or abridged in any State on account of race or color all persons therein of such race or color shall be excluded from the basis of representation." [10]

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[1] Article I, Sec. 2, Col. 3, stated:
"Representatives and direct taxes shall be apportioned among the several states which may be included within this Union according to their representative numbers which shall be determined by adding the whole number of free persons including those bound to service and excluding Indians not taxed, three-fifth's of other persons."

[2] "With emancipation, the former slave States would gain an additional twelve Representatives." See Zuckerman, "A Consideration of the History and Present Status of Section 2 of the Fourteenth Amendment," 30 Fordham Law Review 93 (1961).

[3] "The vision of thirty Representatives from the South, based upon a Negro population which was totally denied the right to vote, did not rest well with the majority of members of the Thirty-ninth Congress." *Ibid.*

[4] "The Right to Vote and Judicial Enforcement of Section Two of the Fourteenth Amendment," 46 Cornell Law Quarterly 108, 109 (1960); Zuckerman, op. cit., supra, at 94.

[5] Cong. Globe, 39th Cong., 1st sess. 9, 10.

[6] Kendrick, "The Journal of the Joint Committee of 15 on Reconstruction," 41, 45. See also Cong. Globe, 39th Cong., 1st sess. 141, 357 (1866).

[7] Kendrick, op. cit., supra.

[8] Kendrick, op. cit., supra, at 42.

[9] Kendrick, op. cit., supra, p. 58.

[10] "Citizens of the United States in each State" was struck and replaced with "persons in each State, excluding Indians not taxed" for the reason that representation in many larger States was based on aliens. The exclusion of "Indians not taxed" apparently was enacted to conform with art. I, sec. 2, which excluded them from the basis of apportionment. Zuckerman, op. cit., supra, at 97.

Objections to this formulation developed rapidly in the ensuing course of House debate. Chief among these was the feeling that the phrase "on account or race or color" was too easily avoided by the imposition of property or educational qualifications.[11] A general consensus quickly developed that this construction was correct. Representative Conkling of the Joint Committee on Reconstruction indicated that educational or property restrictions on voting, not aimed at race, would not cause a reduction in representation under the committee proposal.[12] Despite the general uneasiness over this matter, the proposed amendment was passed by the House by the required two-thirds vote, 120 to 46, on February 1, 1866.[13]

As consideration passed to the Senate, the objections raised in the House fell upon more fertile ground. Considerable fear was expressed that the amendment would be rapidly eviscerated by the selective administration of voter qualifications such as property and education. These legislators took the position that the dominant white race by imposing educational and property qualifications for voting would disfranchise a sufficient number of the Negroes to retain control of the former slave States and, thereby, retain a greater proportion of power in the National Government than they ever before possessed.[14]

After extensive debate, the proposal failed to obtain the necessary two-thirds majority March 9, 1866. The vote was 25 in favor and 22 opposed.[15]

After the failure of the Senate to accept the proposed amendment, the Joint Committee on Reconstruction of the House again considered proposals for apportionment on March 9, 1866. On April 28, 1866, the Committee approved a measure, 12 to 3, which was with minor alteration to become section 2 of the 14th amendment. It provided that:

"Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than 21 years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such state shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than 21 years of age." [16]

This draft differed from the earlier version approved by the Committee by not containing the words "on account of race or color" as a limitation on the types of denial or abridgment covered by the proposed amendment.

In addition, the earlier version provided that if any individuals of a particular race were excluded from the franchise, all members of the same race would be eliminated from the basis of representation. The new formulation employed a proportional test: That proportion of the injured who are excluded from the ballot shall also be excluded from the basis of representation. It was felt that the enforcement of this formula would provide considerable incentive for the States to provide equality of education and opportunity in order to qualify the ex-slaves for the ballot as rapidly as possible and thus enlarge the State's basis of representation.[17]

The report of the Joint Committee filed in the House on April 30, 1866, stated that the three-fifth's compromise of article I, section 2, clause 3 had been abrogated by the 13th amendment, and, therefore, that the powers of the insurrectionary States would be greatly increased if the Constitution were not amended. The Committee did not believe that advantages derived from the former slaves should be available to former masters. Secondly, the Committee continued, "right of these persons by whom the basis of representation had been increased should be recognized by the general Government." As the States would not consent to surrendering their power over the regulation of the franchise, utilization of a reduction formula was recommended.

"Political power should be possessed in all of the States exactly in proportion as the right of suffrage should be granted without distinction as to color or race."

The people in each State should be permitted "all to participate" in government in order to afford "a full and adequate protection of all classes of citizens since

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[11] See, for example, the remarks of Representative Jencks, Cong. Globe, 39th Cong., 1st sess., p. 376; Representative Baker at p. 385.
[12] Cong. Globe, 39th Cong., 1st sess., 357–58.
[13] Cong. Globe, 39th Cong., 1st sess., 588.
[14] Cong. Globe, 39th Cong., 1st sess., 673–764, 1224–1232.
[15] Cong. Globe, 39th Cong., 1st sess., 1289.
[16] Cong. Globe, 39th Cong., 1st sess., 2468.
[17] Cong. Globe, 39th Cong., 1st sess., 2502, 2511, 2540.

all would have through the ballot box the power of self-protection." On the basis of these principles the Committee stated it had proposed the amendment which failed in the Senate and was proposing an amendment in another form in order to meet these ends.[18]

The debate in the House was introduced by Thaddeus Stevens who considered section 2 "the most important in the article."

"If any State shall exclude any of her adult male citizens from the elective franchise, or abridge the right to representation in the same proportion, the effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the National Government, both legislative and executive." [19]

The legislative history supports the conclusion that the reduction formula of section 2 was intended to apply to "all citizens over 21 whose franchise is denied or abridged for any reason whatsoever" (see Bonfield, "The Right to Vote and Judicial Enforcement of Section Two of the Fourteenth Amendment," 46 Cornell L.Q., 108, 112 (1960)). For example, in the Senate, Senator Howard, who was serving as floor manager of the bill, was asked:

"If the Senator will pardon me for a moment, I wish to inquire whether his attention was called to the fact that if any State excluded any person, say as Massachusetts does, for want of intelligence, this provision cuts down the representation of that State."

Senator Howard replied:

"Certainly it does. No matter what may be the occasion of the restriction, it follows out the logical theory upon which the Government was founded, that numbers shall be the basis of representation, the only true, practical, republican principle. If, then, Massachusetts should so far forget herself as to exclude from the right of suffrage all persons who do not believe with my honorable friend who sits near me (Senator Sumner) on the subject of Negro suffrage, she would lose her representation in proportion to that exclusion. If she should exclude all persons of what is known as the orthodox faith she loses representation in proportion to that exclusion. No matter what may be the ground, whether a want of education, a want of property, a want of color, or a want of anything else, it is sufficient that the person is excluded from the category of voters and the State loses representation in proportion. The principle applies to everyone of the State in precisely the same manner and, sir, the true basis of representation is the whole population. It is not property, it is not education, for great abuses would arise from the adoption of one or the other of these two tests. Experience has shown that numbers and numbers only is the only true and safe basis; while nothing is clearer than that property qualifications and educational qualifications have an inevitable aristocratic tendency—a thing to be avoided." [20]

There are numerous similar statements in the records on the proposed amendment in the House. See, for example, remarks of Representative Miller, Congressional Globe, 39th Congress, 1st session, page 2502; Representative Eliot, at page 2511; Representative Farnsworth, at page 2540. There can be no doubt that the framers of section 2 believed that they had devised a workable and forceful means of insuring equal political rights for all citizens.

On June 8, 1866, proposed amendment was passed by the Senate with only slight changes, 33 to 11. The only change was the addition of the words: "For the choice of electors for President and Vice President of the United States, representatives, the executive and judicial officers of a State or the members of the legislature thereof," inserted to insure that the penalty could not be invoked when a group of citizens was excluded from purely local elections.

The House concurred in this amendment, 120 to 32.

The 14th amendment was proclaimed in force on July 28, 1868, after ratification by three-fourths of the States.

The CHAIRMAN. Gentlemen, I am just going to sound a warning. If we do not finish this morning, we are going to have to meet tonight. The Chair wants to expedite this hearing. We hope to finish these witnesses before noon so we do not have to meet tonight.

Mr. Gilbert, did you want to say anything?

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[18] Committee report, Joint Committee of Fifteen on Reconstruction, p. XIII.
[19] Cong. Globe, 39th Cong., 1st sess., 2459.
[20] Cong. Globe, 39th Cong., 1st sess., 2767.

STATEMENT OF HON. JACOB H. GILBERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. GILBERT. Thank you very much, Mr. Chairman.

I find this morning that I am a person with two hats being on one side of the fence and now on the other.

I want to thank the chairman and the distinguished members of Subcommittee 5 in permitting me a few moments.

I am only going to take a few moments to indicate my enthusiastic support for the administration bill in spite of the fact that I, myself, have introduced a voters rights bill, H.R. 4427.

I did wish to take the time of the committee and discuss an important question affecting a large segment of the population, particularly in the State of New York. I am talking particularly about almost a million Puerto Rican people that are in effect disenfranchised in the State of New York because of the literacy test within the State of New York.

This, in a sense, is an act of discrimination. I do not wish to encumber or clutter up the administration bill by introducing an amendment to the bill which would in effect eliminate this discriminatory barrier.

I have another bill pending before this committee which I introduced on February 3, H.R. 4249. In essence, this bill provides for the elimination of a literacy test in the event that a person has completed 6 years of public, or private schooling, whether it be in the United States, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

We all understand that Puerto Ricans are American citizens by virtue of their birthright and the schools of Puerto Rico are bilingual in the sense that they teach in the schools in Puerto Rico in Spanish and English is a secondary language.

These American citizens of Puerto Rican birth are American citizens, they are literate and conversant in Spanish. By having a literacy test only in English for these American citizens we are discriminating against them.

Now, as I say, I do not wish to encumber the bill by offering an amendment to the bill during the course of the hearings, but I would most respectfully ask the chairman——

The CHAIRMAN. May I ask you a question at that point?

Mr. GILBERT. Surely, Mr. Chairman.

The CHAIRMAN. I sympathize with what you are saying. Would you say that this is deliberate discrimination?

Mr. GILBERT. No, I would not say it is a deliberate discrimination, Mr. Chairman. No.

Mr. MCCULLOCH. Would the chairman yield to a question?

Is it felt by a good many New York people, of discernment, that it is used as an intentional weapon of discrimination against Puerto Ricans?

Mr. GILBERT. I would not say that it is felt it is an intentional discrimination.

Mr. MCCULLOCH. Have you ever heard any discussion?

Mr. GILBERT. Well, you are going to hear discussions about almost anything, Mr. McCulloch. You are going to hear people say it is

intentional but equally I know there are very many prominent people within the Puerto Rican community who may be affected and do not feel this is an intentional discrimination.

Mr. CONYERS. Would the chairman yield for a question, please?

Mr. Gilbert, in view of the fact that the President, in the consensus of the Nation, has charged us with the responsibility of eliminating any voter disfranchisement in the country once and for all, why would you consider it to be encumbering the bill to attach this very vital consideration to it?

Mr. GILBERT. No, I did not say I would consider it as encumbering the administration bill, Mr. Congressman. If members of the committee felt that way, I most certainly would ask that this be considered as a separate bill.

Mr. CONYERS. So, if it is a companion bill or attached to the voter rights bill, because, unless perhaps, Puerto Ricans ever mount up an issue that caught the Nation's attention like Selma, we may be some 90 years getting around to redressing this road, whether it was intentional or otherwise.

Mr. GILBERT. That is the reason, Mr. Conyers, I brought this to the attention of the committee this morning. I ask the chairman whether he would consider my bill as a separate bill or as an amendment to the administration bill pending before the committee.

Mr. CONYERS. I think this is a very vital subject that should be resolved in the whole course of voter registration and voter rights. I think it is very significant that you have chosen to raise it at this time.

Mr. GILBERT. Thank you, sir.

The CHAIRMAN. May I ask you this: It is not really determined, as yet, whether or not this bill, H.R. 6400, would apply to election districts?

Mr. GILBERT. Well, even if the present administration bill under consideration would apply, there is another subdivision of the bill that states you must have at least 50 percent of the people not registered or voting as of November 1964.

I do not think that we would give relief in the areas in the city of New York and the State of New York that are affected for the reason that I do not know how many election districts are involved. I am sure the chairman makes reference to districts where they would have less than 50 percent of those people registered or voting.

Mr. LINDSAY. Would the chairman yield?

I am not sure whether the chairman was in the room when we heard that portion of the testimony from the Bureau of the Census to the effect that it would be unlikely, if not impossible, for the Bureau of the Census to supply the 50 percent figures from any subdivision smaller than a county.

The CHAIRMAN. That is what I say.

Mr. LINDSAY. In that case, I think that a great many cities would be excluded from the bill. If you got down to the election districts you would have another problem.

I think the record already shows that the Bureau of the Census cannot come up with figures that would apply to any subdivision less than a county.

Mr. GILBERT. I thank the gentleman for his observation. I was not in the room when this comment was made by the Bureau of the Census. Therefore, to respond again to the chairman's question, it

appears that the bill, as proposed at the present time, would give no relief in this area.

Mr. KASTENMEIER. Would the chairman yield?

I would like to first of all reflect Mr. Conyers' sentiments that I do not think correcting this would necessarily encumber the bill and we might well consider it. I am curious. The State of New York is a progressive State. You indicate that the effect of this is unintentional in New York.

How do you account for the fact that the State of New York has done nothing, really, to correct this unintentional limitation of the franchise?

Mr. GILBERT. This is written in the State constitution, the literacy provision, and I understand that many bills have been offered in the State legislature, and for one reason or another, they have not been acted upon.

I do not want to get involved in a political discussion because this is exactly what would occur. Suffice it to say, there is a wrong that requires a redress and I think that we, here in the Congress, ought to at least recognize the rights of these citizens who are being discriminated against; I would prefer to use the word "unintentionally."

The CHAIRMAN. Most of the Puerto Ricans are Democrats. That is why we understand we get no relief for them.

Mr. GILBERT. I will stand on the chairman's remarks.

Mr. KASTENMEIER. The possibility is that it cannot be redressed within the State of New York?

Mr. GILBERT. I do not say that it cannot be redressed within the State of New York but up to the present time no action has been taken.

Mr. ROGERS. May I inquire, do you advocate in your bill, H.R. 4427, that tests of literacy should not be required in the State of New York.

Mr. GILBERT. No; I am talking about H.R. 4249, Mr. Rogers.

Mr. ROGERS. Yes.

Mr. GILBERT. I say that if any person has a sixth grade education in a public or private school in any State or territory, or the Commonwealth of Puerto Rico, that would be presumptive evidence of literacy.

Mr. ROGERS. In other words, you are interpreting the New York law which says that you must read and write the English language?

Mr. GILBERT. That is what the New York law provides.

Mr. ROGERS. That is what the law of my State provides but you would think that any other literacy test, at least which would require more than a sixth grade education, should not be applied, but that we should pass a law somewhat like the 1964 act in which a presumption arose that a person who had a sixth grade education was qualified to vote, but that presumption would be rebuttable.

Mr. GILBERT. That is correct.

Mr. ROGERS. And that is what you wanted to incorporate?

Mr. GILBERT. Yes.

Mr. ROGERS. Now you recognize that the administration bill does not in any manner remove the literacy test?

Mr. GILBERT. Correct; that is why I am anxious about this bill.

Mr. ROGERS. Do you think that we should amend the administration bill?

Mr. GILBERT. That is correct.

Mr. ROGERS. So as to set forth at least any requirement in excess of sixth grade education should not be required and if it is required by the State law, then that State law should be stricken down.

Mr. GILBERT. That is correct.

Mr. ROGERS. And we should spell that out either from your bill or amendment to the administration bill?

Mr. GILBERT. That is correct.

Mr. ROGERS. Thank you.

Mr. MCCULLOCH. Would you yield for a question?

Mr. ROGERS. Yes.

Mr. MCCULLOCH. Would you have any objection to making a sixth grade education in an accredited school conclusive evidence of the literacy?

Mr. GILBERT. I would have no objection to that at all. The only reason I worded the bill in this fashion was that under the 1964 act we provided that it should be presumptive evidence. If you get into a conflict of the one instance where you say it is presumptive, and another instance you say it is final, you may run into difficulties.

Unless we can amend the 1964 act to the extent and along the lines that you have just suggested, Mr. McCulloch, then I certainly would say that 6 years of education is sufficient evidence of literacy without having to say rebuttal presumption.

The CHAIRMAN. Mr. Gilbert, would you not say that your idea is incorporated in the administration bill because on page 1, section 3(a), is the following:

"No person 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"——

Mr. GILBERT. What page are you reading from?

The CHAIRMAN. Page 1.

Mr. ROGERS. Section 3(a).

The CHAIRMAN. There is no test at all. In other words, a man may be registered whether he has 3d grade schooling or 6th grade schooling or 12th grade schooling or no schooling.

Mr. GILBERT. Well, this is a bill based upon the formula of the 50 percent.

The CHAIRMAN. That is right.

Mr. GILBERT. So that if, for example, in the State of New York you do not find that there is 50 percent or you can't find that there is 50 percent of those that are eligible to vote or register, this bill does not come into effect. That is the reason I press my bill here and I would offer it as an amendment at the appropriate time.

The CHAIRMAN. So that amendment would cover all States, would it?

Mr. GILBERT. Yes, absolutely. It would not be confined to the State of New York.

Mr. ROGERS. I think that there is some misinterpretation placed on section 3(a) that the chairman has just read. The only thing that section 3 says is that if the Attorney General finds that they did on November 4, 1964, maintain these tests and the Bureau of Census arrives at a conclusion that 50 percent did not vote, then the Attorney General may move under section 4.

Therefore, the question of a literacy test is the standard given to

the Attorney General to make his determination. Once having made an affirmative determination, then under section 4 we authorize the appointment of examiners.

Therefore, we have nothing to do with literacy tests nor do we tell the examiners to have anything to do with them. He makes the determination of whether they are otherwise qualified under the State law. That is my interpretation.

Mr. GILBERT. That is my understanding.

Mr. MCCULLOCH. That is my interpretation, too. That interpretation raises the fear in my mind that this legislation does not, as was so aptly pointed out time and time again last week, that it does not cover well over a hundred counties in the United States where there is known to be discrimination, solely by the reason of race or color.

Mr. GILBERT. May I thank the Chairman, and members of the committee for the opportunity to appear this morning and I ask the Chairman for an opportunity to submit an additional statement with respect to other aspects of the bill.

May I say in conclusion that I want to thank the gentlemen for their comments and that I will offer my bill, 4249, in substance as an amendment to the administration bill.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Gilbert.

Mr. Lindsay.

STATEMENT OF HON. JOHN V. LINDSAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. LINDSAY. Mr. Chairman, and my colleagues on the subcommittee, I shall try to be as brief as I can. Many of us, I am sure all of us on this subcommittee, have long been aware of the need for additional legislation to fill the gap which I suspect all of us knew existed in the 1964 act at the time that we drafted it and submitted it to the full House of Representatives. It has been clear to all of us who have introduced legislation early in this Congress that we are seeking to reach the same end.

Our means may be a little different and that is the principal reason why I want to testify this morning. The recent testimony of the Attorney General, of course, reinforced our belief that we need legislation. And I think his testimony also demonstrated that the administration had strived to put together an effective bill.

The consensus for a voting bill must not be taken to mean a consensus for every section, provision and phrase of this bill, or indeed for the basis for its formula. Certainly a basis which is more effective can be discovered, devised, and written.

To that end, I do think that it is important that we not allow ourselves to be so rushed that we do not do the most effective job. Those of us who have attempted to formulate proposals, guaranteeing 15th amendment rights, have certainly been impressed with the difficulty of the drafting problem. To devise a trigger that will combine the dual virtues of rationality and certainty is no mean feat. By rationality, of course, I refer to the constitutional requirement that any bill we enact must be appropriate to enforce the 15th amendment, and that is the basis of any bill. By certainty, I mean this Congress must finally

be satisfied that its mandate will not be frustrated and that blatant cases of discrimination will not again escape our legislation. We should not take another half step where we have the opportunity to take a full step.

Our mutual goal is to attack denials of the right to vote because of race or color. The administration bill, as the members of the subcommittee, I am sure, realize because of their attentiveness at these hearings, only goes part of the way. It also has some anomalous effects.

We know that Arkansas, Florida, Tennessee, and Texas are not covered. We know that many, many other States in the United States where there are 15th amendment problems are not covered. We know that if a subdivision of a State can be covered we have the anomalous situation of neighboring counties or other subdivisions, one of which is just over 50 percent, the other just under 50 percent. One would be included and not the other.

The bill includes the State of Alaska, perhaps, because the climate is too cold to vote there. Far more distressing, however, it fails to affect counties that have proven themselves able to abridge 15th amendment rights, without resort to so-called tests or devices, by using scare tactics, harassment, delay and technicality. Although the means may be difficult, the result is the same—Negroes have been discriminatorily treated. The 15th amendment, however, strikes down all denials of the right to vote based on race or color. This Congress must do the same. In fact, as we all know, the command of section 2 of the 15th amendment is that Congress may take such steps as are necessary in order to protect the right to vote.

I think that I should point out right away a gap in the bill that has not yet been pointed out and which I view as quite serious. It is possible that in dire course States may overcome the impact of this bill simply by registering Negroes but then denying them the right to vote.

Certain critical provisions of the administration bill only guarantee the right to vote to those listed under the provisions of the act, and do not cover those registered under State law. So we may be creating a loophole for States which we all recognize are sometimes ingenious at devising new ways and methods and techniques of avoiding national legislation.

We could have the situation of States immediately taking steps under State law to register Negroes and then using other techniques to deny the vote.

This bill would not cover that case because its remedial provisions, particularly sections 7 and 9, protect only those persons who are listed pursuant to the provisions of this act by a Federal examiner.

Now, the administration's trigger is certainly attractive to the extent that Congress can be certain about the geographical scope of the bill. That is comforting in some respects, but Congress cannot be certain about the scope of discrimination, and unlike the invidious discrimination it seeks to uproot once and for all, this bill is shockingly frozen and inflexible.

I have some misgivings about a bill attacking discrimination which uses as one-half of its only test the percentage of eligible voters who were registered or who voted in a certain election. Mind you, I do think that Congress could reasonably find, that in view of the record of the use of tests or devices, the combination of such tests or devices

and a 50-percent vote in the election is prima facie evidence of abridgment of 15th amendment rights.

I believe Congress has that power constitutionally under the 15th amendment. Certainly empirical data bears out this finding, but empirical evidence also tells us that this is not the only test.

Consequently, it is the reliance on this single trigger that bothers me most. I have qualms about a bill that seems to assume that violations of the 15th amendment are occurring and will occur only in several areas designated at a single point in time. Perhaps a wider trigger can be devised.

We all know this simply is not true. If we are going to enforce adequately this constitutional demand, we must make our bill conform to this truth. I think in addition one must think twice before enacting national legislation which sets a national standard of behavior but which applies to less than the whole Nation.

I believe, Mr. Chairman, it is possible to fashion a broader bill containing a more flexible test that would be workable and speedy; would do the job immediately and would embrace every area in the United States where there are 15th amendment problems.

I do not know at this moment whether this should be done as an addition to what has been suggested as an effective and immediate means for seven States, or whether it should be done as an alternative.

In any event, I think it is possible to devise such an arrangement. I believe that the constitutional 15th amendment test would be met for example, should we define our objective standard which would give rise to a presumption of an areawide pattern of voting denials because of race.

For example, a pattern or practice would be presumed where the Attorney General shows that there are 25 persons, or you could use a different number who have been denied the right to vote in spite of the fact they met objective qualifications.

At this point you could have a court test of this issue. You could draft the bill in such fashion that the examiners' findings as to whether the objective standards were met by a three-judge court, or by the court of appeals. The locality would have this burden. Meanwhile, the examiner would keep right on enrolling.

I am suggesting, therefore, an approach which would eliminate totally the 50 percent requirement and which would have application in every area of the United States where there is a pattern of the denial of vote on the basis of race.

Now, Mr. Chairman, in view of the short period of time that we have, I do wish to point out a couple of areas where there are also problems in the bill which ought to be examined by us with great care.

For example, in section 9(c) of the administration bill there is machinery for the application to a court by a person who acknowledges to an examiner within 24 hours of the closing of the polls that he has either been denied an opportunity to vote or that his vote has not been counted. Court enforcement here is really not going to work unless there is supervision of the actual voting.

In fact, you won't be able to tell anything, you won't be able to discover whether the votes have been counted or not, or whose votes. You may not be able to determine the existence of ballots; you will have great difficulty proving who was denied the right to vote or whose votes were not counted.

I think if this section is going to be effective at all, it will have to be amended to provide some kind of supervision by the Federal examiner.

Next I should like to say a word about the elimination of the poll tax. I support the elimination of the poll tax by statute. I argued this to the point of desperation when we had the constitutional route up in the committee and on the floor of the House; in fact, I surprised many of my colleagues when I wound up voting for the constitutional change after I had taken the floor of the House to argue that this was the wrong way to do it; that we had the power under the Constitution to abolish poll taxes by statute. The least we could have done in amending the Constitution was to have abolished all poll taxes.

Reasonable men may differ on this point, I know, and I will be prepared to submit later—I do not want to go into it now—briefs on the question in order that the record may be complete, backing my view that this may be done by statute.

The denial of the vote is associated with poverty and our effort must go to the root of the problem. We should hit it squarely on the head. If we can resolve the constitutional point in our own minds, which I at least am convinced that we can, it seems to me that we ought to get rid of this unnecessary nuisance by fixing our bill to eliminate the poll tax once and for all.

There are a couple of other points that I think ought to be mentioned. For example, I find that the requirement in the bill that a person applying for Federal listing must first apply to a State registration authority, unless waived by the Attorney General, is unnecessary.

I think we ought to face the fact that to require persons in these hard core areas to walk into the sheriff's office first is too much.

Next, the provision revoking registration if a person fails to vote for 3 years is perplexing. At the least it seems to me a 4-year requirement, coinciding with the period for presidential elections, is more appropriate. But more important, if State law provides for permanent registration, why should a Federal registrant have any less rights? His registration is in no way inferior. Federal law here should follow State law unless the State requires continuous voting for less than 3 or 4 years. The Federal requirement then would be a minimum.

The CHAIRMAN. Mr. Lindsay, are you opposed to the administration bill?

Mr. LINDSAY. No, I am not opposed to it, Mr. Chairman. As I said at the outset, I think the administration has tried to put together an effective bill and I think that insofar as the administration bill has geographical impact on hard core areas, we have to give it careful consideration.

I am wondering, however, whether we can devise a formula that is more effective and has effect countrywide. That is what I am suggesting.

The CHAIRMAN. As you know, it has been testified that the administration bill is really aimed at States which I would say have been insidiously and grossly guilty of massive discrimination for over 100 years.

The administration bill I think answers an immediate problem where there is that massive bigotry, violence, intimidation, discrimination; and your bill, while I think it is meritorious, would cover the whole Union, would cover all the States.

I wondered since we are in an emergency situation whether or not we should concentrate on this and try to improve it as much as we can?

Mr. LINDSAY. I cannot quarrel with the Chairman as to the design of the administration bill, and therefore I think it is a very important suggestion. All I am saying is that it may be possible for us to devise something just as fast, and just as effective in these hard core areas and yet at the same time remove the arguments that those covered areas and persons can make: Why us alone? There are other areas in the United States, also.

The CHAIRMAN. In other words, your target is much broader.

Mr. LINDSAY. Yes, itwould be. I think also, that the administration bill suffers from the limitations of the definition of "test or device" even in the hard core areas.

The CHAIRMAN. But the standard is either less than 50 percent voting or registered.

Mr. LINDSAY. That is true, but you can get over the 50 percent figure and still have massive denials of the right to vote.

The CHAIRMAN. But you must remember that there is another commitment that the 50 percent applies to those registered as of November 1, 1964, or those voted in the presidential election of 1964.

Mr. LINDSAY. Right.

The CHAIRMAN. It must be that particular election.

Mr. LINDSAY. Yes, that is true.

Mr. BROOKS. Would the gentleman yield?

The CHAIRMAN. Yes.

Mr. BROOKS. What I wanted to comment on, Mr. Lindsay, is that this 50 percent preoccupation I do not think is really as significant as some folks believe because in the State of Texas in the November election, 44 percent of the people voted and we do not have a literacy test and our effort is a very definite one.

In January, where we still have a State poll tax, we still have and we make a determined effort in January—December to register everybody without any prejudice as to their race, color or creed, and this determination still has not resulted in enough registrations to get 44 percent of the vote.

We are increasing that steadily but I just want to point out there is no allegation of discrimination in my district which has more than 90,000 Negroes in it, 21.6 percent in my particular district. It is an old east Texas district. We make a determined effort to get not only Negroes but white people to register and after they are registered, to vote; and in that particular district we did exceed I believe 50 percent slightly in all voting, but statewide, we didn't.

So I would point out as Mr. Katzenbach pointed out, most of the hard core areas of discrimination will be taken care of by this legislation. To say that 50 percent will be registered, more people, and they are voting more, it would not alter our nondiscriminatory practices.

If we do not have them now, we won't have them as we increase our registration.

Mr. LINDSAY. I will not quarrel with my distinguished colleague that this bill can be effective in hard core areas. I would compliment the gentleman on the purity of registration and voting patterns in the State of Texas. It is too bad all the other States in the Union can't make that claim, because there is discrimination of various kinds in most of the other States.

I would suspect that the gentleman might find, if he examined his State of Texas with care, not just his own constituency, which I am sure is free of any bias, but others. He might possibly find that there were areas where Negroes were denied the right to vote or register or both, because they were Negroes.

I might suggest, also, that if the gentleman would like to cover the State of Texas it might have been helpful if the administration bill amended the existing 1964 act to cover local and State elections as well as Federal elections.

I think this could be a constructive step forward in respect to those areas that are not covered by this bill, and certainly I am sure that the gentleman would support such an amendment to the 1964 act were it to be made in the subcommittee.

Again I would like to commend the gentleman on the absence of bias from his own constituency. I think that speaks well for the gentleman's leadership.

The CHAIRMAN. Mr. Powell is still waiting and I would like to hear him.

Mr. LINDSAY. Section 8 of the bill sets forth the procedure under which a State may not change its election law requirements without coming to court. I think that as a practical matter it might be sensible to amend that to provide that the Attorney General of the United States could agree to amendments of various kinds in State procedures without having to start a court proceeding. I think that this might be a sensible thing.

Mr. MATHIAS. Would the gentleman yield on that? I think he has pressed on an important point which will provoke, to a great degree, some of the public reaction to this bill among the State legislators. These people are going to be baffled by the fact that their enactments are really put on ice, or that their State legislatures are put in trusteeship during the period under which they may be subject to this bill.

I think that if the gentleman's suggestion were considered, so that the States do not believe that they are in trusteeship in matters of procedural law, it would be very helpful.

Mr. MCCULLOCH. Mr. Chairman, I would like to ask one question.

Mr. Lindsay, do you know of any Federal statute that requires a validating opinion as to the legality of State legislation before it becomes effective?

Mr. LINDSAY. No; I do not, except I suppose the ordinary procedures of declaratory judgment procedures can be used. Again I am guessing on this point because I do not know its application to State laws.

Mr. MCCULLOCH. Well, as a matter of fact, being the very able lawyer that you are, a declaratory judgment would not be effective in the absence of this legislation until the State legislature had passed the law and it was in effect and encroached upon some alleged Federal superior authority.

Mr. LINDSAY. Yes.

Mr. MCCULLOCH. I just wish to say, Mr. Chairman, I cannot think of any precedents for this proposal.

Mr. LINDSAY. No; I can't. It may be well to explore that point and have counsel examine that question for us and see whether there is any precedent.

The CHAIRMAN. Yes.

Mr. LINDSAY. Then lastly, Mr. Chairman, I wish to state once again that I think that we will not be taking the full step that we should take if we do not provide in this legislation a remedy for the protection of individuals in the exercise of ther first amendment rights from police brutality.

I think that Selma itself points out the intimate relationship between voting and the right of peaceable assembly to petition the Government for a redress of grievances.

The CHAIRMAN. That is what you call the part 3.

Mr. LINDSAY. That is the part 3, although I would limit it once again to first amendment rights. In 1957 when the House passed the old part 3 as submitted by the Eisenhower administration, it was a much broader part 3; it went to all constitutional rights.

I would limit this to first amendment rights because I think this is the area of need. I expect to make some specific suggestions on that point. I think if we had included a first amendment part 3 in the 1964 act, the bill would have had no difficulty in going through the Congress when you look at the size of the majority by which the bill passed.

The CHAIRMAN. It troubles me because I want to get a bill through. If we are weighted down with so much, it may have much trouble.

Mr. LINDSAY. No; I really think that the country is in a mood to do what is right and I think the Congress is in a mood to do what is right. I think we could have gotten it through in the 1964 bill without difficulty. I do not want to have a situation where there is a cry in the country to complete a good bill, and later find we have left out a significant area of attention.

I do not think we should be faced with that kind of an omission again. For that reason I think it is important that we think very seriously before reporting a bill out that does not include a first amendment protection.

Finally, my disinguished colleague, Mr. McCulloch, has pointed to title 8 of the 1964 Civil Rights Act where we began procedures for future implementation of section 2 of the 14th amendment relating to representation in Congress where there are demonstrable denials of the right to vote because of race.

Obviously, it is not possible to implement such a provision unless you have exact information and statistics, and that is why, principally, we put title 8 in the 1964 act.

At such time as the Bureau of the Census can come up with reliable statistics, the Congress will be able to take action under section 2 of the 14th amendment. But this will require implementing legislation which I think we ought to consider.

Thank you very much.

The CHAIRMAN. May I make a suggestion, Mr. Lindsay. We want to hear Mr. Powell this morning. Would you care to return at some subsequent date for questioning by the members?

Mr. LINDSAY. Yes; of course I am available full time on this subject.

The CHAIRMAN. Thank you very much, Mr. Lindsay.

Mr. Powell.

STATEMENT OF HON. ADAM C. POWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. POWELL. Mr. Chairman, I want to congratulate you and the committee on the expeditious way you are moving this legislation, and on a bipartisan basis also, which is as it should be. However, I subscribe completely to the views just offered by my colleague from New York, Mr. Lindsay. This bill is but a step.

The Congress and the Nation are in the mood now for something far more reaching than what you have before you. I was the first one to offer such type of legislation (along with my colleague from Michigan, Mr. Conyers, and members of the Mississippi Freedom Party) when I offered H.R. 2649 on January 13. The present bill is woefully inadequate.

I believe that everything Mr. Lindsay has said and everything Mr. Gilbert has said should be a part of this legislation and that the Congress will pass it because the Nation is ready for it.

I read carefully the statement of the Attorney General. Although he did not directly state it, yet paragraph after paragraph indicates that he is proposing that we consider the abolition of the literacy test completely from this entire Nation. For instance, in connection with the Mexican-Americans vote, there is no literacy test in California.

In New York, as Mr. Gilbert pointed out—and I represent the largest number of Puerto Ricans, I believe 150,000 in my district—1 million Puerto Ricans are disfranchised. Therefore, I believe that many things should be done to strengthen this bill. I believe the felony provision should be very carefully examined because there is no way of stopping mass arrests, which already have taken place in many areas of this land—charging those arrested with felony, getting suspended sentences as a result and they do not have the right to register or vote.

I believe that the poll tax should be a part of this bill and it should not be a requirement. I believe also, and this is very important, for I speak now as the chairman of the House Committee on Education and Labor, there should be a new provision requiring new elections to be held in those areas affected by this bill.

Alabama would not have an election until 1968; Arkansas, 1966; Florida, 1968; Georgia, county offices, 1968—general elections, 1966; Louisiana State and power offices—election in 1968; Mississippi, for all offices except municipal, the election will not take place until 1967, and the municipal offices will not take place until 1969; North Carolina, the election will not take place until 1968; South Carolina, the election will not take place in the county offices until 1968; Virginia, mayoralty will not take place until 1968.

The country cannot wait and the masses that are marching now, black and white, are not going to wait. I speak again as the chairman of the Committee on Education and Labor based on facts that I know within these areas. The war on poverty program is completely stymied by these local officials. This program is a war on poverty for white people only.

Tomorrow we start consideration in the House of the first Federal aid to education bill for elementary and secondary schools. We

will pass it, but in these areas that I've mentioned they do not affect the black boys and girls one bit. I say it is ridiculous and ironic for me to be chairman of the Committee on Education and Labor and developing education legislation to the place where we are about to provide, by the conclusion of this fiscal year, $9 billion annually. And in these States I have just mentioned, we are still going to be giving the money basically to white people.

Black people and the increasing number of white people marching with them are not going to wait. We have had one summer of violence—do you want another one? Can we besmirch the image of our Nation any longer? Therefore I say this measure before you is not adamant; it is a great and noble step. However, in its present form, it will be totally inadequate, Mr. Chairman, unless the remarks Mr. Lindsay and I have made, and the remarks that others are going to make, are taken into consideration so we will have something to apply to this entire country and to apply now.

Thank you ever so much.

The CHAIRMAN. Any questions?

No questions.

We want to thank you very much, Mr. Powell.

We have 10 minutes for you, Congressman Lindsay. Anybody have questions?

Mr. CONYERS. May I ask a question, Mr. Chairman, please? I am sorry to be so late.

The CHAIRMAN. Go ahead, Congressman.

Mr. CONYERS. I think the remarks made by the distinguished chairman have been very well received here. I have not heard before now any discussion in this committee about the possibility of new elections following the passage of a voter rights bill that is now under contemplation.

Would you elaborate just briefly on this necessity that you feel for that?

Mr. POWELL. I will give you an example almost within the shadow of the White House; Cambridge, Md. There, under Gloria Richardson, they marched and marched. It was not until I went there and spoke that I found the local county commissioners of Dorchester County refusing to allow surplus food into Dorchester County where the Negro unemployment was 32 percent. I made a direct appeal to Governor Tawes, the gentleman from Maryland will remember, and Governor Tawes had to override the local elected officials to get Federal surplus food into starving Negro people almost within the shadow of this Capitol.

This cannot be rectified unless elections are held for local offices where there is a chance for black people and right-thinking white people to run for office.

Mr. CONYERS. Do you foresee, Mr. Powell, any increase in violence——

Mr. POWELL. Yes, sir.

Mr. CONYERS. Between the passage of a voter rights law and the next election which might sufficiently intimidate considerable numbers of people who might otherwise be registered to vote?

Mr. POWELL. Yes, sir.

Mr. MATHIAS. Would the gentleman yield at that point?

I wonder if the distinguished chairman of the Education and Labor Committee realizes that Maryland, of course, will not be covered by the bill which is before the House?

Mr. POWELL. That is right.

Mr. MATHIAS. This concerns many of us here on the committee for we are dealing with a bill which is so constructed that while the Attorney General said massive injustice will be dealt with, there will be many areas of injustice left unaffected.

Mr. POWELL. You take massive injustice in pockets. You take massive injustice for the entire Nation, and it exceeds the massive injustice in these pockets like Selma.

The gentleman from Maryland is a great fighter for civil rights. He is correct.

The CHAIRMAN. Any other questions?

Thank you very much, Mr. Powell.

The Chair wishes to state that we will meet tomorrow morning at 10 o'clock to hear Mr. Roy Wilkins, of the NAACP, and Members of Congress.

We will also assemble at 8 o'clock tomorrow to hear additional Members of the Congress.

The meeting will now adjourn until morning.

(Whereupon, at 12 noon, the subcommittee recessed, to reconvene at 10 a.m., Wednesday, March 24, 1965.)

VOTING RIGHTS

WEDNESDAY, MARCH 24, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10:10 a.m. in Room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Donohue, Brooks, Kastenmeier, Corman, McCulloch, Cramer, Lindsay, and Mathias.

Also present: Representatives Gilbert, Edwards, Conyers, Grider, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and William H. Copenhaver, associate counsel.

The CHAIRMAN. The committee will come to order.

We have scheduled this morning Mr. Roy Wilkins, the executive director of the NAACP.

Mr. Wilkins, we are glad to welcome you, and we know of the very fine work that you have been doing for a very renowned and creditable organization.

Whenever I have called upon you, you have responded readily. We are very happy to welcome you here this morning and also Mr. Ruah who is on your left, who is a lawyer of distinction who is likewise familiar with this matter. I am sure he will make a good contribution.

STATEMENT OF ROY WILKINS, EXECUTIVE DIRECTOR, NAACP, AND CHAIRMAN OF THE LCCR, ACCOMPANIED BY: JOSEPH L. RAUH, JR., COUNSEL FOR THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. WILKINS. Thank you, Mr. Chairman. I want to thank you for the opportunity to be here this morning.

The Weather Bureau does not have much respect for the U.S. Government. In New York City, with which you are familiar, it was raining and low ceiling and we had a hard time getting down here today. I am sorry to have delayed you and the subcommittee members for even a little bit.

Mr. Chairman, and members of the subcommittee: I am Roy Wilkins, executive director of the National Association for the Advancement of Colored People and chairman of the Leadership Conference on Civil Rights. The leadership conference is a cooperative group of 90 organizations united for freedom and justice in our country.

Accompanying me is Mr. Joseph L. Rauh, Jr., who is counsel for the leadership conference and is well known to the Congress.

We are here today because the best efforts of sincere men and women have not yet eradicated the blight of racial discrimination in voting. President Lyndon B. Johnson is in the forefront of those who recognize that this discrimination in voting still exists as was evidenced by his magnificent speech and pledge of March 15. Our organizations deeply appreciate the leadership of the President on this matter.

Influential Republican spokesmen in both Houses and among the leaders of the party outside the Congress have likewise urged strong and sweeping legislation to correct this discrimination.

Also, several Republicans have introduced their own bills and a number of others have joined in bipartisan sponsorship of the administration bill.

The history of the struggle for the right to participate in Federal, State, and local elections goes back to the period of Reconstruction. Some of the impediments imposed by State legislatures have been removed by court action on the part of the Federal Government and private organizations such as that which I have the honor to serve as director. Examples are the grandfather clause.

Restriction which was removed in *Guinn* v. *United States*, 232 U.S. 347 (1915); incidentially, the first case in which the National Association for the Advancement of Colored People participated in the Supreme Court after its organization in 1909.

There was the white primary series of cases beginning with *Nixon* v. *Herndon*, 273 U.S. 536 (1927); *Nixon* v. *Condon*, 286 U.S. 73 (1932); and the final one in the white primary, *Smith* v. *Allwright*, 321 U.S. 649 (1944); and the racially exclusive preprimary party caucus *Terry* v. *Adams*, 345 U.S. 461 (1953).

Now, Mr. Chairman, in 1957, the Congress passed a statute which gave the Attorney General the power to institute civil actions on behalf of those who were deprived of the right to vote.

At that time, the men and women of good will assumed that the right to vote would be safe in the hands of the Federal judiciary. In some measure this was not a vain hope. Because of this statute, the courts struck down voting discrimination in Georgia, *United States* v. *Raines*, 362 U.S. 17, Terrell Co., Georgia (1960); Alabama, *United States* v. *Alabama*, 192 Fed. Supp. 677, Macon Co., Alabama (1961); and Tennessee, *United States* v. *Beaty*, 288 F. 2d 655, Fayette Co., Tennessee (1961).

On March 8, 1965, the Supreme Court in *United States* v. *Mississippi*, 33 U.S.L.W. 4258, and *Louisiana* v. *United States*, 33 U.S.L.W. 4262, made further inroads against voting discrimination in Louisiana and Mississippi.

Yet, Mr. Chairman, it is clear that the legal technicalities, the slow pace of court decisions and in some instances complete judicial hostility have combined to restrict the participation of voters in National, State and local elections.

In 1960, Congress strengthened the 1957 voting rights law. Only last year Congress tried again to make the 1957 law more effective. All three laws put together have not done the job of making the 15th amendment a living document. In too many areas of the Nation, Negroes are still being registered one by one and only after long litigation. We must transform this retail litigation method of regis-

tration into a wholesale administration procedure registering all who seek to exercise their democratic birthright. The time is long overdue to sweep the last vestiges of voting restrictions into the sea.

Our Nation has paid a great price for these restrictions. It has paid the price of getting into office public officials who are not responsive to the will of all the people. It has paid the price of mayhem, riots, and murder because those who sought the right to vote were opposed by those who were willing to suppress rights with violence themselves or at least stand by while others perpetrated unspeakable crimes against American citizens.

The latest of these, of course, is the one that is still fresh in our minds, the wanton and brutal clubbing to death of the Reverend James Reeb in Alabama earlier this month.

It is the hope of those who constitute the leadership conference that this time, by placing the executive branch of the Federal Government in a position to expedite registration and voting, we will have a formula for ending this long-standing evil.

The administration bill introduced by the distinguished chairman of the committee, Congressman Celler, is a good bill. It goes further than any other bill ever introduced on this subject and obviously it is an effort to correct disfranchisement on a wide scale.

However, in our opinion, the bill is not enough. More is needed if it is to do the whole job. The Leadership Conference on Civil Rights strongly urges Congress to strengthen this bill in at least the following four respects:

1. The total elimination of the poll tax as a restriction on voting in State and local elections as well as in Federal elections.

2. The elimination of the requirement in the bill that a prospective registrant must first go before the State official to attempt to register before going to the Federal registrar or examiner. The prospective registrant ought not to be put to the delays, the hardships, and the indignity of attempting to satisfy hostile State officials before he can come to the Federal registrar.

3. Extended coverage of the registrar or examiner provisions of the bill, so that persons who have been wrongfully denied the right to vote, regardless of their geographical location, will have the benefits of these provisions of the legislation.

4. Further and maximum protection of registrants and voters both those who will be registered under the bill and those already registered, and prospective registrants, from all economic and physical intimidation and coercion. In extending such protection, the Federal Government should use the full range of its powers, criminal, civil, and economic, to protect the citizen from the beginning of registration process until his vote has been cast and counted.

I would like to make special reference to the poll tax because this is complicated by developments in recent years. Our organization has traditionally insisted that the poll tax should be eliminated by the statute. Others have argued that it should be ended by constitutional amendment. Those who favored the constitutional amendment approach prevailed.

Although we did not favor this method we made a good faith attempt to see that the 24th amendment was ratified by the States of the Union. It is a sad commentary on the vision of those who control the States that they have grudgingly acceded to the requirements of

the constitutional amendment by continuing to charge a poll tax in State and local elections. Here we see the ultimate in absurdity.

It is possible for a citizen to vote for a presidential candidate in Virginia without paying a poll tax but, if one is to vote for a member of the State legislature or alderman in a separate election, he must pay a poll tax.

The practice in Mississippi illustrates more strikingly how the poll tax payments can be manipulated to deter voting by Negro citizens and poor people generally. Dr. Aaron Henry, president of our Mississippi State Conference of branches of the National Association for the Advancement of Colored People, who lives in Clarksdale, uses the following language to describe the process:

> The poll tax is a great deterrent to voting in Mississippi. It must be paid on or before the first day of February in the year that one intends to vote. A voter must pay the tax for 2 years before he can vote. You cannot pay back taxes. During the month of January we are at our peak in unemployment. This is the most likely time of the year not to have the $3 necessary to pay the poll tax in Coahoma County (in many counties the tax is $2 but in Coahoma County it is $3). Our experience here in Coahoma County is that one cannot pay taxes for another except in the immediate family. A man may pay the poll tax for his wife or she for him but not for one not living in your household.

Historically, the poll tax is clearly a device used for attempting to prevent Negroes from voting. There are those who have constitutional reservations and for this purpose, Mr. Joseph L. Rauh, Jr., who serves as counsel for the Leadership Conference on Civil Rights, is prepared to present views. We urge that the Congress approach this matter with the intention of doing the whole job at last.

The President has set an outstanding example by his appeal to the Nation on March 15, but legislation, Mr. Chairman, must match the boldness of the President if we are to come to grips with this problem.

We have reviewed quickly here the recent attempts at corrective legislative action. It is apparent to all that the 1957, 1960 laws and title I of the 1964 Civil Rights Act, while good efforts, did not by any means reach the heart of the problem. We now know the extent of the evil and our experience at attempts to enforce legislation for the past 7 years have made clear the ingenious evasions which must be rooted out.

We therefore urge that the pending administration bill be strengthened to such a degree that it will not be necessary in the next 2 years or 4 years or 7 years to come back and add another patch in an effort to guarantee the basic American right to vote and to live under a Government by consent of the governed.

Attached is a list of the cooperating organizations in the Leadership Conference. It is compelling evidence of the broad support for voting legislation that although our organizations had only 3 days in which to consider the views I have expressed and many of them had to call emergency meetings of their boards in order to obtain authorization to add their names, more than 70 signified their endorsement. At least three other organizations not in the conference have asked that their names be added, as their way of indicating their deep concern for swift passage of a strong and effective bill.

Therefore are attached, Mr. Chairman, the names of the 70-odd organizations which I will place in the record but not take the time of the committee to read.

The CHAIRMAN. You shall have that privilege, Mr. Wilkins.
(Document referred to follows:)

THIS STATEMENT IS ENDORSED BY THE FOLLOWING COOPERATING ORGANIZATIONS OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

AME Zion Church
Alpha Kappa Alpha Sorority
Amalgamated Clothing Workers of America
Amalgamated Meat Cutters and Butcher Workmen
American Civil Liberties Union
American Ethical Union
American Jewish Committee
American Jewish Congress
American Newspaper Guild
American Veterans Committee
Americans for Democratic Action
Antidefamation League of B'nai B'rith
B'nai B'rith Women
Brotherhood of Sleeping Car Porters
Catholic Interracial Council
Christian Family Movement
Christian Methodist Episcopal Church
Church of the Brethren Service Commission
Citizens Lobby for Freedom and Fair Play
College YCS National Staff
Council for Christian Social Action—United Church of Christ
Delta Sigma Theta Sorority
Episcopal Society for Cultural and Racial Unity
Improved Benevolent and Protective Order of Elks of the World
Industrial Union Department—AFL/CIO
International Ladies Garment Workers Union of America
International Union of Electrical, Radio and Machine Workers
Iota Phi Lambda Sorority
Japanese American Citizens League
Jewish Labor Committee
Jewish War Veterans
National Alliance of Postal Employees
National Association for the Advancement of Colored People
National Association of Colored Women's Clubs, Inc.
National Association of Negro Business and Professional Women's Clubs, Inc.
National Association of Real Estate Brokers, Inc.
National Catholic Social Action Conference
National Catholic Conference for Interracial Justice
National Community Relations Advisory Council
National Council of Catholic Women
National Council of Churches—Commission on Religion and Race
National Council of Jewish Women
National Council of Negro Women
National Federation of Settlements and Neighborhood Centers
National Newspaper Publishers Association
National Student Christian Federation
National Urban League
Negro American Labor Council
North American Federation of The Third Order of St. Francis
Phi Beta Sigma Fraternity
Pioneer Women

ORGANIZATIONS

Presbyterian Interracial Council
Retail, Wholesale and Department Store Union
Southern Christian Leadership Conference
State, County, Municipal Employees
Union of American Hebrew Congregations
Unitarian Universalist Association—Commission on Religion and Race
Unitarian Universalist Fellowship for Social Justice
United Automobile Workers of America

United Church Women
United Packinghouse, Food and Allied Workers
United Steel Workers of America
United Transport Service Employees of America
U.S. National Student Association
U.S. Youth Council
Women's International League for Peace and Freedom
Workers Defense League
National Board, Young Women's Christian Association
Zeta Phi Beta Sorority
United Presbyterian Office of Church and Society
Congress of Racial Equality

OTHER ORGANIZATIONS OUTSIDE THE CONFERENCE ENDORSING STATEMENT

Central Conference of American Rabbis
General Board of Christian Concerns of the Methodist Church
Randolph Foundation

The CHAIRMAN. We appreciate your coming down here to give us your views. As you know, this bill provides an automatic way without complicated judicial process to root out the problem in those States where there is massive discrimination.

You will agree with that, will you not?

Mr. WILKINS. Yes, indeed. We recognize that as a purpose of the bill.

The CHAIRMAN. Now on page 3 of your statement you ask for—

extended coverage of the registrar or examiner provision of the bill, so that persons who have been wrongfully denied the right to vote, regardless of their geographical location, will have the benefit of these provisions of the legislation.

I deeply sympathize with that objective, naturally. But I wonder whether or not that could employ the automtaic coverage of this bill. Would not that involve the judicial process in those States which have no literacy tests? Would you not have this great difficulty all over again of going through the courts?

Mr. WILKINS. Mr. Chairman, at first blush it would seem that this language would mean that, but our intention here was to suggest that in the same way that the original bill was drafted so as to eliminate the tiresome and repetitive and complex judicial determinations and to make it more automatic that standards might be devised in these additional cases so that you would not have to go through the judicial process that you properly mentioned.

The CHAIRMAN. We have great difficulty doing that now. However, if there is any language that can be devised readily to accomplish that, I would be very glad to receive it. However, that is a comment I must make on your suggestion.

Now, secondly, you make the following observation:

The elimination of the requirement in the bill that a prospective registrant must first go before the State official to attempt to register before going to the Federal registrar or examiner. The prospective registrant ought not to be put to the delays, the hardships, and the indignity of attempting to satisfy hostile State officials before he can come to the Federal registrar.

Now, if you will read page 4 of the administration bill, H.R. 6400, you will find at the bottom of page 4, line 23, the following: "*Provided*, That the requirement of the latter allegation may be waived by the Attorney General." So that criticism that you make, I take it,

is protected against in this bill by authorizing a waiver of this requirement by the Attorney General.

Mr. WILKINS. Yes; Mr. Chairman, that, too, would seem to be obvious but in our judgment the Attorney General, of course, cannot waive this instantly at the outset. He has to await some developments or else he would be subject to the charge, which he obviously wants to avoid, of attempting to direct the election from the outset.

It would seem to us that while the present Attorney General, both from his own conviction and from the stimulus of the times, might be more alert than others. There might come Attorneys General who would never waive this. All it says is he may waive it.

The CHAIRMAN. When we get that kind of Attorney General you have no bill at all because he would not carry out the other terms.

Also, you recommend:

Further and maximum protection of registrants and voters, both those who will be registered under the bill and those already registered, and prospective registrants, from all economic and physical intimidation and coercion.

I think that is in the bill already on page 7, section 7—

No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this act.

That is pretty broad language and I think it meets your objective there.

Mr. WILKINS. Mr. Chairman, our feeling was that again that this section 7—especially in its mention of the specific methods of intimidation, threat, or coercion—did recognize the condition of which we complained.

Here again it is our feeling, and I only transmit this as a result of some agonizing appraisals on the part of a good many people, that the full protections are not really guaranteed under the language, that a great deal more protection is guaranteed than is presently available.

Our feeling is, and this particular language, this particular point 4, occasioned a half a day of debate among a good many debaters, some of whom are good and some of whom just talk, but nevertheless, they debated this and it was their feeling that an effort ought to be made to strengthen and add to the protection guarantee.

Now I am not certain that it can be done, I only suggest that the committee explore it. We would welcome the chairman's assurance that if any language can be found which is stronger than this and which does not defeat the main purpose of the bill, then the committee will welcome its submission.

The CHAIRMAN. We will undoubtedly go through the bill carefully with a fine-tooth comb and if we can strengthen it, we will. But I only saw your statement 3 minutes ago——

Mr. WILKINS. I only saw it 2 minutes ago. [Laughter.]

The CHAIRMAN. I do believe, however, that we do extend the protection of Federal Government to protect voting rights.

Now with reference to the poll tax, you raise a rather difficult question. I deeply sympathize with you. I authored a constitutional amendment on the poll tax which would have abolished poll taxes in

both State and Federal elections. But we had to eliminate the provision reference to State elections. It was pretty sad but that was one of the practicalities that we had to meet.

As I often say, if you want the rose, sometimes you must put up with the thorns. That is one of the thorns we have had to put up with.

Now the question is argued whether we can eliminate the poll tax which presently exists with respect to State elections by statute or only by constitutional amendment. I am inclined to believe we can do it by statute but there are very eminent authorities which say that we cannot.

Now Mr. Katzenbach, in a statement before this committee, said the following, and we have a great respect for Mr. Katzenbach's opinion:

Mr. WILKINS. So have we.

The CHAIRMAN. He says as follows: I asked him—

Can you do this by statute without a constitutional amendment?

Mr. KATZENBACH. I think it is very difficult, Mr. Chairman, to do it by statute. There is presently pending in the Supreme Court a case which the Supreme Court will hear at its next session and may do that job.

Mr. Rauh, what is that case? Do you know?

Mr. RAUH. Yes, sir, Mr. Chairman. That involves the Virginia law which provides that if you do not pay the poll tax, you have to get a certificate of residence; that operates as a discrimination against the people who do not pay the poll tax.

In my judgment that case will knock out that particular requirement but it will not knock out the State's ability to have a poll tax for State elections.

I really feel that the Attorney General is wrong in asking Congress to wait for a case where there is no reasonable likelihood that it will settle the basic problem, although it will probably deal with the particular discriminatory problem I mentioned.

The CHAIRMAN. He went on to say further that:

A constitutional argument can be made that the poll tax, as a condition precedent to voting, is a restriction against voting which is unwarranted by the Constitution, whether applied discriminatorily or not.

That argument is being made to the Court. Of course, if the Court should come to the conclusion, as I think it might, then poll taxes would be eliminated at State elections.

He apparently does not agree with you, Mr. Rauh.

At the moment, the laws as laid down by the Supreme Court are to the contrary. It holds that poll taxes can be used. This bill is based on the 15th amendment and to eliminate poll taxes on the basis they have been used to discriminate, I think, would be a difficult case constitutionally to prove and establish.

The reason for that is somewhat ironic, Mr. Chairman. The reason for that is that while you can find evidence that they have had poll taxes in a number of the States that discriminate, and that they enacted them with discrimination in mind, they have, in fact, used the other tests and devices which I have described to eliminate Negroes from voting, to prevent them from voting.

It makes it difficult for us to establish in those areas, by evidence that we could present to Congress, that the poll tax has been used for that purpose.

What, in fact, happened is that Negroes who cannot register because of other tests, have not had any incentive to pay their poll tax. It is for that reason we knock out the cumulative or the back poll taxes because I think there we can make the constitutional case, there being no incentive for a Negro to pay a poll tax since he could not register anyhow, and that should not now be used, nor in the future, to bar him from voting.

I have no doubt as to the intent of poll taxes. I think personally they are bad. I think one can make a 14th amendment argument and that is being made before the Court, but I think there is some difficulty on the present state of the evidence to make a 15th amendment argument.

What concerned people who worked on this bill, Mr. Chairman, was the fact that if the Supreme Court should in the case next year determine in accordance with the past law on this subject, that poll taxes or payment of poll taxes, can be a condition precedent to voting, and if we then took care of it by eliminating the poll tax on the 15th amendment basis, and if we were then to lose that particular provision in Court, we would not be able to get people registered to vote in the coming elections.

Those were his views. Now, apparently we have a different point of view. We would be glad to hear from you, Mr. Rauh.

Mr. RAUH. I am glad to address myself to this because I find a great deal of confusion here. I do not even consider this a close question because I think the people who are talking about it do not reckon with the fact that the Supreme Court has never in recent history questioned Congress judgment in this area.

If Congress makes a judgment under either the 15th or 14th amendment, I believe it will be accepted.

Now let me just give you five reasons, each of which I believe fully support this position and together make an overwhelming case. Before I do that, I want to make clear what we are dealing with here. We are dealing with the States of Alabama, Mississippi, Texas, and Virginia. The State of Arkansas has recently passed a constitutional amendment providing for the withdrawal of the poll tax, and the secretary of state of Arkansas, on March 18 when questioned about this subject, said that a statute implementing that constitutional provision would be promptly forthcoming.

The CHAIRMAN. So Arkansas will be eliminated, leaving only four States with poll taxes.

Mr. RAUH. In effect, it is four States with the fifth State in the gray area, but the secretary of state says under the constitutional amendment it will be rather automatic to end the poll tax. So we are dealing with four States, two of which are the primary States where the bill that you are about to pass will operate; namely, Alabama and Mississippi, which are the worse discriminators.

I wanted to settle what we are really dealing with on the poll tax.

Now I believe, first, that the poll tax can be invalidated by Congress under the 15th amendment because its purpose in these four States is one of racial discrimination and its operation in these States is one of racial discrimination.

Mr. BROOKS. Would the gentleman yield at this point, Mr. Chairman?

Mr. Rauh, I do not want to quarrel with you. I am not for the poll tax in my State of Texas where we have one. I have voted for and supported the recent constitutional amendment abolishing poll taxes in Federal elections.

When you say that the poll tax is used as a pure matter of discrimination for discriminatory practices in the State of Texas, which you just intimated in your statement, I want to say that this is not always the case. Since I live in Texas, though I was born in Louisiana, and am very familiar with the electorate in that district, I state right now for the record and for you to know in your future testimony that in my district Negroes and white people alike are encouraged to pay their

poll tax and to register in accordance with the law, a determined effort is made for them to do so.

Many Negroes and many white people spend a lot of time with poll tax books going and talking and interviewing people and getting them to pay their poll tax and participate.

I want to make it clear to this subcommittee and anybody that wants to listen to it that the State of Texas does not use poll tax to discriminate against any class of people. I personally share your feeling that it is in general a factor which does not encourage anybody to vote, whether they are white or black or whether they are Latin American or whether they are anything, but I do not believe that the State of Texas should be accused of using a poll tax to discriminate against Negroes or Latin Americans or any neighbors in that State.

I would like to point that out at this point with the hope that you will concur.

Mr. RAUH. I would concur, as you said, that the poll tax is not always an instrument of discrimination, but I think there is some history here, a great deal of history. What I said is almost a direct paraphrase of the Senate Judiciary Committee's report of October 27, 1942, Senate Report No. 1662, 77th Congress, 2d session, from which I now would like to quote.

The CHAIRMAN. I want to say this, if I may. Will you yield a minute?

Mr. RAUH. Of course.

The CHAIRMAN. Father Hesburgh of the Civil Rights Commission testified here but I do not recall him saying that the poll taxes were used for the purpose of discriminating. He did not say anything along those lines at all.

Mr. RAUH. In a moment I would like to give some information I received from the Civil Rights Commission to the effect that the poll tax has been used to discriminate, but I would like to read this sentence from the 1942 report which I was paraphrasing when Congressman Brooks——

Mr. BROOKS. Pardon me. That is 1942?

Mr. RAUH. Yes.

Mr. BROOKS. I was just about ready to join the Marine Corps then so I was not really participating then.

Mr. RAUH (reading):

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

The CHAIRMAN. That is 1942, you say?

Mr. RAUH. Yes, sir.

Mr. MCCULLOCH. Mr. Chairman, may I again inquire the source of that quotation?

Mr. RAUH. The Senate Judiciary Committee made this report after the most thorough study of the poll tax ever made. I quoted from the hearings before the Senate Committee on the Judiciary in the following Congress in which they put the Senate report of the previous Congress.

Mr. MCCULLOCH. And that was under date of 1942?

Mr. RAUH. Yes, sir. That was the last complete study of this subject, I believe.

The CHAIRMAN. In 1942 more than five States had poll taxes.

Mr. RAUH. That is correct.

The CHAIRMAN. There might have been a number of them.

Mr. RAUH. They were all Southern States at that time.

Mr. MCCULLOCH. Mr. Chairman, since we have had the State of Texas mentioned in particular, does the report from which Mr. Rauh reads have any study or conclusions on Texas?

Mr. RAUH. It refers to the State of Texas in a list of States that passed the poll tax after the Civil War and includes it in the general statement of purposes.

A most interesting study is on the State of Virginia. The report quotes greatly from the constitutional convention of Virginia. Carter Glass made a brilliant speech pointing out that the poll tax was the way to prevent Negroes from voting. It does not have a similar study of the convention of Texas where this occurred.

Mr. LINDSAY. Would the gentleman from Ohio yield for three questions?

Mr. MCCULLOCH. Yes.

Mr. LINDSAY. Why the franchisement of Negroes 2 years ago? Why did we want to abolish the poll tax? What was that exercise all about, do you suppose?

Mr. RAUH. I agree with the implication of the Congressman's question.

Mr. CORMAN. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes.

Mr. CORMAN. Mr. Rauh, I wonder if you would not concede that insofar as the poll tax may be a device to deny people the vote it has been the method of collecting that has been used for that purpose. This bill does repeal the method of collection so we are not faced with that problem. We are faced solely with the amount and existence of tax and I think there would be the burden on the Congress to establish that that constituted a device for discrimination.

I do think we have to keep the method of collection in our minds. Would that be a fair statement?

Mr. RAUH. Yes, precisely. I am not critical of this bill in any general way. This is a fine bill for which the civil rights movement is very, very grateful. It has also made certain steps forward on the poll tax, and the point you make is one of those steps forward on the poll tax. We say that when a Mississippi Negro now comes to the Federal registrar for which he has waited for years, he should not first be greeted by "three bucks, please."

It is for that reason that I would like to develop why I feel this is constitutional because everybody you talk to all over the Congress says, "I want to get rid of the poll tax."

I would like to lay out the five reasons why I feel that this can be done constitutionally in the hope that, if we can lay that question to rest, we can at long last end the poll tax. Now I have quoted what the Senate report indicated was the object of the poll tax, but there is also evidence of the discriminatory operation of the poll tax. I asked the Civil Rights Commission yesterday because this point had not been mentioned in their testimony.

They cited three lawsuits against tax collectors in Mississippi to compel the acceptance of poll taxes from Negroes. I can give you those citations. Tallahatchie County, *U.S.* v. *Cox*, filed November 27, 1961; Chickasaw County, *U.S.* v. *Allen*, filed September 3, 1964. There is a case at Humphreys County; we are still looking for the citation. What I am saying is the poll tax has been used discriminatorily and we can find evidence and we will produce evidence.

We are testifying here this morning on a 3-day-notice basis; we are happy at the speed you are going. We will, however, produce more evidence of the operation of the poll tax. That is just one argument; there are four others that have got to be considered before you can rule out passing the poll tax under statute rather than constitutional amendment.

The CHAIRMAN. Before you go to those four, would you care to read from that Senate report of 1942 the States that had poll taxes at that date?

Mr. RAUH. I do not believe this is actually in that report. This is in the hearings before the Judiciary Committee the following year, but it does give the States that then had it, sir, and it gives also the dates on which they adopted it, of the States that still had it.

The CHAIRMAN. What are those States?

Mr. RAUH. Tennessee, 1870; Virginia, 1875; Florida, 1885; Mississippi, 1890; Arkansas, 1892; South Carolina, 1895; Louisiana, 1898; North Carolina, 1900; Alabama, 1901; and Texas, 1903.

The CHAIRMAN. They are all Southern States.

Mr. RAUH. At the time in 1942 when this study was made; yes, sir. I cannot say at an earlier date there were not some others as Congressman McCulloch implies.

Mr. MCCULLOCH. Mr. Rauh, do you know of any Northern States which had a poll tax effective in 1942?

Mr. RAUH. I do not believe there were any, sir, but there certainly have been Northern States in the past which had a poll tax.

Mr. MCCULLOCH. And, of course, those taxes were not levied for the purposes of discrimination by reason of race or color?

Mr. RAUH. Certainly not.

Mr. MCCULLOCH. As I recall from high school study of political science, these were sometimes assessed for the purpose of having people who were not freeholders or not the holders of personal property subject to taxes thereon make some contribution for schools, for instance.

So the original assessing of some poll taxes in this country was not always bad.

Mr. RAUH. That is correct, sir.

Now the second reason, still under the 15th amendment, is the obvious discriminatory effect of the poll tax because of the previous segregation of Negroes. What you had in the four poll tax States was a history of segregation and lack of economic opportunity.

Under those circumstances, $3 in Coahoma County, Miss., works differently on Negroes and whites. The effect of the State's action in past discrimination is carried forth in the requirement that both white and Negro must pay $3 for the right to vote there.

In other words, if Congress finds, just as you are doing on the literacy test, that past educational differences make the literacy test unfair, so past economic differences, resulting from State inaction

or State action against the Negroes' equality of treatment economically, make the poll tax a discrimination in and of itself resulting from the prior discrimination.

Thirdly, and here I do not think there is any question about action against the Mississippi and Alabama poll tax, and I would challenge anybody even to raise a serious problem about it. Under your bill, Mr. Chairman, setting up Federal registrars in those two States, the Federal registrars that you create are put in there as a remedy for discrimination. Congress has the right to give them the duties that will best further their action. Poll tax collection will impede the work of these Federal registrars.

Indeed, insofar as the poll tax is a revenue-raising measure, the Federal Government is about to do the work for the States, they are about to do the registration. If a poll tax is a revenue measure to defray the cost of the election process, the Federal Government is about to undertake a substantial part of the election process; namely, the registration.

Why should the system that you are now setting up collect money and turn it over to the States when Congress is forced to set up this Federal system because of the discriminatory conduct of the States involved?

So in Alabama and Mississippi where you have Federal registrars, certainly Congress has the power to direct those registrars to act in such way as Congress feels appropriate.

This would not deal with the Tennessee-Texas problem if the statute is limited as it is today to the seven States, but it would solve the problem in the two worst States.

Mr. MATHIAS. Would the gentleman yield?

Governor Stafford points out that the bill that he, Mr. Lindsay, and I have introduced, specifically provides that a poll tax shall be disregarded as a prerequisite to vote.

Mr. RAUH. Thank you, Congressman, for pointing that out.

I would like to insert here a table in which we point out that the Lindsay bill, to which Congressman Mathias and Governor Stafford refer, did come out for abolishing the poll tax. So does the Resnick bill, so does the Douglas-Case bill in the Senate where 10 Senators agreed to it.

In other words, the abolition of the poll tax is before the Congress in many bills as Mr. Mathias points out. We have here a table, sir, that might well go in the record here of your bill, the Douglas-Case bill, the Resnick bill, and the Lindsay bill to which Congressman Mathias refers, in which we point out that all the other three bills do ask for the elimination of the poll tax.

It might be of value to you.

The CHAIRMAN. We will be glad to accept that.

(Documents referred to follow:)

Provision	Administration bill (Celler—H.R. 6400)	Douglas—Case bill (S. 1517)	Resnick bill (H.R. 4509)	Lindsay bill (H.R. 4552)
Prohibition of literacy tests.	Automatically prohibited in States and subdivisions covered by bill's formula.	Automatically prohitited in States and subdivisions covered by bill's formula.	Not prohitited, but 6th-grade education deemed to meet literacy test requirements in those areas where Federal Voting, Registration, and Elections Commission (created in bill) finds after a hearing on the record that a pattern or practice of voting denial or abridgment exists.	Not prohibited, but 6th-grade education will fulfill any literacy test where registrar is appointed.
Other tests	Tests of moral character, vouching, automatically prohibited in States and subdivisions covered by bill's formula.	Tests of moral character, vouching, automatically prohibited in States and subdivisions covered by bill's formula.	Other State tests permitted unless Commission finds after a hearing on the record that they further a pattern or practice of voting denial or abridgment.	Other valid tests permitted.
Poll tax	Collection of current tax permitted as prerequisite to State and local elections. Payment allowed at time of registration up to 45 days before election.	Poll tax prohibited as prerequisite to voting in all elections.	Poll tax prohibited as prerequisite to voting in all elections.	Poll tax to be disregarded where registrar is appointed.
"Triggering" formula for prohibition of tests.	Automatic where tests are applied and less than 50 percent of potential voters were registered or did not vote in the November 1964 election, unless State could affirmatively show in D.C. court that it did not discriminate and that no final judgment on voting discrimination against it or any subdivision had been entered in the last 10 years.	Automatic where tests are applied and (1) less than 50 percent of potential voters in State voted in November 1964 election; or (2) less than 50 percent of potential voters of any race were registered to vote in November 1964.	Administrative finding by new Commission of pattern or practice of discrimination would apply 6th grade presumption.	Appointment of registrar would apply 6th grade standard.
How "triggered'	Finding by Director of Census	Certification by President on basis of best available statistical information. (To be made within 60 days of passage.)	Finding of practice or pattern of discrimination after a hearing on the record by the Commission.	Registrar to be appointed by a court finding of pattern or practice of discrimination based on denial of right to vote to 50 or more persons of racial group. If court fails to make finding within 40 days of request by Attorney General, the President shall appoint registrars upon affidavit of 50 persons that they have been denied the right to vote .

Areas affected	Automatic in Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia, and political subdivisions of any other State to which the formula would apply (Alaska "in," but procedure for getting "out").	Automatic in same States as administration bill, plus North Carolina and plus political subdivisions of any State in which registrars are appointed (under registrar provisions).	Areas found by Commission after a hearing to deny or abridge vote pursuant to pattern or practice.	Where registrars are appointed.
Termination of prohibition.	Same tests as would exclude coverage (through court action).	When President certifies that discrimination in registration and voting has ceased and there is no substantial risk of its renewal.	Not specifically dealt with	On finding by court that pattern or practice has ceased.
Enforcement of prohibition.	Civil action by Attorney General	Civil actions by Attorney General (3-judge court) or by appointment of Federal registrars.	Upon a determination by Commission of a pattern or practice of denial or abridgment of the right to vote, after a hearing on the record, the Commission may take appropriate action including: (1) Establishment of a system of officials to conduct and make returns of elections in the area. (2) Appointment of supervisors to oversee elections. The Commission could give them the power of U.S. marshals to arrest and bear firearms. (3) Establishment of a system of registrars, who could register people on a house-to-house basis. (4) Issuance of a cease-and-desist order, enforceable in the Federal circuit court of appeals if the Commission after a hearing on the record finds the test to be a discriminatory election practice.	Appointment of registrars.

Provision	Administration bill (Celler—H.R. 6400)	Douglas—Case bill (S. 1517)	Resnick bill (H.R. 4509)	Lindsay bill (H.R. 4552)
Formula for appointment of Federal registrars or examiners.	Automatic in areas covered by literacy test formula above, upon non reviewable certification by Attorney General that he has received complaints of discriminatory voting denial from 20 residents of a ploitical subdivision and that he believes complaints are meritorious or that in his judgment the appointments are necessary (without complaints).	Automatic (1) in voting districts where less than 25 percent of the potential voters of any race were registered to vote in November 1964 election or where it drops below that figure in future elections; or (2) upon petition of 20 or more persons of district if President has reason to believe their allegations are true and the district is one in which less than 50 percent of the potential voters voted, or is in a State in which less than 50 percent of the potential voters voted in the November 1964 election. Covers, in addition to areas covered by administration bill, areas in Florida, Arkansas, Tennessee, etc., where less than 25 percent of eligible Negroes were registered in November 1964.	Commission may make appointments where it finds after a hearing on the record that a pattern or practice of denial or abridgment of voting has occurred.	As noted above.
Who and how appointed.	Examiners appointed by U.S. Civil Service Commission.	Registrats appointed by President from anywhere within Government service from grades GS-12 or above.	Registrars appointed by Commission.	Registrars appointed by court from a panel of 10 or more Federal officials or employees from judicial district. Appointment by President when court does not act.
Standards applied by registrars or examiners.	Examiners shall apply State standards of age. residence, citizenship, mental competency, absence of felony conviction, payment of poll tax, and others not prohibited by bill. Civil Service Commission to establish rules and prescribe forms to be used. New standards after November 1964 must be proved nondiscriminatory in court before they can be applied.	Registrars shall apply only standards of age, residence, citizenship, mental competency, absence of felony conviction in effect in state on May 17, 1954. Information may be given orally.	Registrars shall apply State regulations (except poll tax). 6th-grade education will satisfy literacy test requirements. Commission may after hearing in specific cases prohibit use of other standards if found to further a practice of vote denial or abridgment. Commission may prescribe forms to be used.	State standards, except poll tax. No literacy test for those with 6th-grade education.
Termination of Federal registrars or examiners.	Upon certification by Attorney General that all persons registered by examiners have been listed on voting rolls and that there is no cause to believe further discrimination will be permitted.	When President determines denial of right to vote in district has ceased, but may be reappointed under formula.	Not specificially dealt with.	Upon finding by court of end of pattern or practice of discrimination.

Duration of Federal registration.	So long as registrant votes once every 3 years in which examiner is in office.	So long as registrar is in office. After termination of office of registrar, until allowed to register without discrimination.	Not specifically dealt with.....	For longest period for which applicant could qualify under State law, but not less than a year or court finds pattern or practice to have ceased, whichever is longer.
Time of registration.....	As determined by rules and regulations issued by Civil Service Commission, up to 45 days before election.	As determined by rules and regulations issued by President.	As determined by Commission, up to 30 days before election.	Every working day up to 30 days before election.
Attempted registration with State officials as prerequisite to Federal registration.	Before registration by examiner applicant must try to register with State officials within 90 days. This requirement can be waived by Attorney General.	No requirement to try State official..	No requirement.....	No requirement.
Enforcement of right to vote.	Civil injunction suits by Attorney General in U.S. district court to enforce right. Suit by United States to enjoin certification of election results. Votes must be cast and counted before election is certified.	Any person registered shall have the right to vote. Enforceable in U.S. district court by action brought by Attorney General. Court shall issue order authorizing them to vote and staying certification of election result pending determination. Applicable to all elections.	Assessment of $300 civil penalty by Commission for each denial against official and the State or political subdivision. Commission, if it finds substantial denial of right to vote, may declare election void, and order and conduct new election. Voiding provision not applicable to presidential or congressional elections.	Overseeing of election by registrars. Contempt action where court has found pattern or practice of discrimination. Voiding of election by court or by President where 50 or more persons registered by registrar are denied the right to vote, except presidential or congressional elections.
Challenges of registration.	Heard by hearing examiner. Appeal to court of appeals. Challenges must be made within 10 days and be supported by affidavits of 2 persons on personal knowledge. Any person registered shall be allowed to vote pending appeal.	All challenges are within jurisdiction of U.S. court of appeals. Challenges must be made within 5 days of registration. Registrant will be allowed to vote pending determination. Person denied registration may appeal to circuit court of appeals.	No specific challenges provided on registration. Actions of Commission may be appealed by any aggrieved party within 60 days to U.S. circuit court of appeals. Stay may be granted by court pending determination.	Not specifically dealt with.
Criminal penalties.....	Threatening or intimidating registrants, denying right to vote, tampering with ballots or records, conspiring to deny rights, etc., punishable by 5-year imprisonment, $5,000 fine.	Penalties of existing law expressly applied to all threats of intimidation or coercion of persons seeking to register or vote.	Existing law preserved.....	No provision.
Changes in existing law...	No basic change.....	Provisions of present voting law (42 U.S.C. 1971) extended to State and local, as well as Federal elections.	.....do.....	Provisions of present voting law (42 U.S.C. 1971) extended to State and local elections.
Legal attack on provisions of bill.	Any action against execution or enforcement of act must be brought in U.S. district court for District of Columbia.	In any case of challenge of constitutionality court shall issue order authorizing application of act to continue in effect pending determination.	Decisions of Commission appealable to circuit court of appeals. Shall remain in effect unless stayed by court.	Unless stayed by Supreme Court, action of court or registrar shall be in effect pending appeal.

Provision	Administration bill (Celler—H.R. 6400)	Douglas—Case bill (S. 1517)	Resnick bill (H.R. 4509)	Lindsay bill (H.R. 4552)
Other provisions			Creation of a Federal Voting, Registration and Election Commission to administer the act, composed of 6 members (bipartisan) appointed by the President with advice and consent of Senate. In addition to duties and authority noted above, the Commission could: establish a system of voter education and information centers, distribute publications, hear and determine complaints of discriminatory election practices, and issue cease and desist orders against such practices. The Commission would have subpena powers.	

Mr. GILBERT. May I say to the gentleman that I also introduced a bill for the abolition of the poll tax.

Mr. RAUH. Thank you.

Mr. ROGERS. May I inquire, sir, you believe that under the 15th amendment we can eliminate any poll tax by statute?

Mr. RAUH. Yes, sir.

Mr. ROGERS. Section 5(b) of the bill provides: "Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b)" shall be registered.

Do you believe that if we can constitutionally provide that no poll tax should be required; that the Attorney General should advise the examiners to register regardless of any poll tax at all?

Mr. RAUH. Under the conditions you describe; yes, sir.

Mr. ROGERS. Of course, this gets into a question of interpretation of the 15th amendment. Do you feel that we can enact any piece of legislation furthering the right of a person to vote regardless of his color under the 15th amendment?

Mr. RAUH. The key word in the 15th amendment is "appropriate." I would believe you can pass any appropriate legislation which I would interpret to mean any reasonable legislation; namely, that reasonably calculated to the end you seek.

I think the elimination of the poll tax is reasonably calculated to the end that Congress is seeking in this bill.

Mr. ROGERS. And you think section 2 of the 15th amendment gives that power to the Congress?

Mr. RAUH. Yes, Congressman.

Mr. ROGERS. If I may, since we are talking about the 15th amendment here, do you believe that we have authority to eliminate the determination of the Director of the Census required under section 3(a) of the bill and leave the entire determination strictly to the Attorney General? Do we have constitutional authority under the 15th amendment to leave it strictly to the Attorney General?

Mr. RAUH. I am not certain, sir, I understand the question. As I understand the bill, there are two triggers; one is the existence of a test and the second is the 50 percent. Are you suggesting that you take out the 50 percent?

Mr. ROGERS. Yes.

Mr. RAUH. Or are you suggesting that the Attorney General do it instead of the Bureau of the Census?

Mr. ROGERS. I am suggesting that we put the authority in the lap of the Attorney General and forget the Bureau of the Census.

Mr. RAUH. In your suggestion would the Attorney General make the decision on the 50 percent or would that be eliminated?

Mr. ROGERS. Could we eliminate that statistical determination and leave the matter with the Attorney General; would that be constitutional under the 15th amendment? I ask that question because there has been some criticism directed at this bill because in certain areas more than 50 percent may have voted or may have been registered to vote, yet there is discrimination, and this bill would not cover those particular areas.

Mr. RAUH. Sir, may I ask a favor which is to let me finish the poll tax and come to the broadening of coverage, because I think that will

be a better presentation. I can finish the poll tax in 1 minute and come to the broadening of coverage and your question.

May I have your indulgence on that?

Mr. ROGERS. Yes.

The CHAIRMAN. You have yet to give us the fourth point.

Mr. RAUH. If I may summarize.

The CHAIRMAN. Give us the fourth point first.

Mr. RAUH. I believe this is what Mr. Katzenbach was saying when he testified it might better be done under the 14th amendment. I do not believe the poll tax is a qualification in the usual sense. It is a payment, not a qualification. In the normal sense of the word "qualification," I believe, means age, residence, and matters of that kind.

Therefore, I believe under the 14th amendment if Congress were to find this were an arbitrary restriction——

The CHAIRMAN. Why would that not be a qualification?

The gentleman from Ohio indicated that at one time it was thought that ownership of a certain amount of wealth or a certain amount of real estate was a proper prerequisite for voting, and a poll tax or something similiar was used as a a qualification.

Mr. RAUH. A property qualification could well be a qualification but a poll tax is not a property qualification. You could have $10 million in the bank, but if you do not pay the Coahoma County Treasurer $3, you can't vote.

It is not in that sense a qualification; it is not a standard as to who you are, it is in essence a tax. Now, whether it is a tax or a qualification—I believe it to be a tax and not a qualification—I think Congress under the 14th amendment has the authority to treat this as an arbitrary restriction and outlaw it.

Now Mr. Katzenbach says that will be argued in the Virginia case, but how much stronger would it be in the Virginia case if there were a declaration of Congress that Congress deems a tax on voting an arbitrary deprivation of due process under the 14th amendment? How much stronger would the case be in Court if Congress had made a finding under section 5 of the 14th amendment as well as under section 2 of the 15th amendment?

In other words, the idea that the Court is going to override Congress on all of these points, I find very unlikely.

Fifth and finally, of course, there is the well-known doctrine that under section 2 of the 14th amendment, Congress could say to the four poll tax States that there will be a reduction in representation by the number of people denied the right to vote because of the poll tax.

You have therefore, as I say, five independent grounds. It does not seem to me that there can be any question in the areas of Mississippi and Alabama where we are the most concerned with this problem of the poll tax. We simply do not feel you can do the complete job by having the first person that comes to the Federal registrar in Mississippi, after waiting for a century, hear "For this three bucks, please."

The CHAIRMAN. Isn't there another reason, and I may be on your side for a moment——

Mr. RAUH. Thank you, sir.

The CHAIRMAN. I say for a moment.

For argument's sake, we asked Mr. Katzenbach the following: You are eliminating cumulative poll taxes by statute. Well, if you elimi-

nate part of the taxes, why can't you eliminate the entire tax by statute?

Mr. RAUH. I subscribe to that, too, sir.

Now if I may come to Congressman Rogers' question, here I think I better be careful to say that I am now speaking personally. I think everything I have said on the poll tax I could speak for the 70 groups that signed Mr. Wilkins' statement. We are united on the poll tax problem.

Now, I think I should say that I am going to give a personal opinion on the coverage problem, because there are differences among the civil rights groups on that subject, which there are not on the poll tax.

Mr. ROGERS. Well, you have been in this movement for many years and I think you are well qualified to venture an opinion.

Mr. RAUH. Congressman Rogers, I think that under section 2 of the 15th amendment, Congress can avoid judicial review only if it makes findings that show the need for a registrar, or if it sets up an administrative agency to make such findings.

In other words, I do not think Congress could say we will put a Federal registrar in X, Y, and Z without setting any standards which show the need for that registrar.

Now the Attorney General set up two standards in the administration bill. He said where there is a test and where less than 50 percent voted, that is enough to show the relationship with the denial of the right to vote on the grounds of race or color.

I agree that is enough; there is a causal nexus between what you are saying and what you are doing. If you were to take out the 50 percent, I would be troubled by the fact that you do not have enough to show a causal nexus and you do not have an administrative procedure to show it.

Now you do have 20 people showing that they were denied the right to vote, but you have no administrative procedure for those 20 people. You have the Attorney General simply saying, "I think the complaints are meritorious."

What I am afraid of is that if you were to take out the 50 percent you would thereby create a situation where everybody would insist you put in some administrative procedure, which would then be, exactly, what we do not want. We want it absolutely automatic.

I would, however, like to say that there are other ways of getting at the problem which still leave an automatic test. In other words, just to give one of them—I do not mean this is the exclusive way—the Douglas-Case bill in the Senate which 10 Senators put in found another test. You have covered seven States in this bill beautifully and we salute you, but there are other areas where there will be discrimination which you have not covered.

Now I am speaking only as an attorney and not for the 70 groups that are in argument over this. I would feel that you would have to have another standard for these other places. You would either have to have a judicial standard, an administrative standard, or a congressionally found standard.

You could, for example, say that where less than 25 percent of the Negroes are registered that will automatically trigger it with 20 people complaining or, where the ratio of white to Negro registration is more than 2 to 1, that will automatically trigger it with 20 people.

I would, myself, feel that if Congress did not itself put a standard into the bill showing why you needed registrars, didn't have any administrative procedure, and didn't provide for any court procedure, if it did not have any of those three, I would be concerned that Congress had not provided a constitutional system.

I think you can do it in any one of those three ways, but just to remove the 50 percent would then cause concern that you had not provided a constitutional nexus.

Mr. ROGERS. In other words, there must be some standard prescribed for the action of the Attorney General or any other person who may be given authority under this law to meet the requirements under the 15th amendment?

Mr. RAUH. Yes, sir.

Mr. ROGERS. Now, as you know under section 4 the Attorney General can certify the need for Federal examiners in an area, either because has has received complaints from 20 or more residents of a political subdivision, or because in his judgment the appointment of examiners is otherwise necessary to enforce the 15th amendment.

In other words, he would have discretion, regardless of 20 complaints, to go ahead and make the determination.

Mr. RAUH. Yes, sir; where the 50-percent test and the literacy test were met. I think that is perfectly constitutional, sir, because, what you are protecting against is intimidation that will prevent 20 people from coming in to ask for the registrar.

Mr. ROGERS. I know, but under section 4 the Attorney General has discretion to make the determination whether examiners should be appointed. Once he makes an affirmative decision, then the Civil Service Commission must appoint examiners for that particular area.

Mr. RAUH. Yes, sir.

Mr. ROGERS. In all prior civil rights acts that we have passed we have more or less left the voter qualifications to the States. Now do we do the same here in directing the examiners here to qualify applicants according to the qualifications prescribed by the State law?

Do you believe that we could go further than that and set out voting qualifications in this bill contrary to the State law?

Mr. RAUH. I believe that under the 15th amendment, if Congress found that previous discrimination was such that the best way to remedy it was to set Federal qualifications for voting, it could do so.

However, I do not advise that. I do not see any necessity for going that far when you can satisfy a great deal of the need by what you have done in H.R. 6400. Here you have said State qualifications apply, but you cannot have State qualifications that are discriminatory, and you cannot have new ones until you prove that they are not discriminatory.

It seems to me that this bill dealt with the problem constitutionally and avoided the political problem, because I think you would have a greater political problem setting Federal qualifications than utilizing State qualifications and limiting them to the nondiscriminatory ones.

Mr. ROGERS. That leads to this question. Suppose the Attorney General should conclude that a particular State law as applied and interpreted in that State discriminates because of color, do you believe that the Attorney General then could instruct the examiners to disregard that particular part of the State law?

Mr. RAUH. Yes.

Mr. ROGERS. If it actually did result in discrimination?

Mr. RAUH. Yes, sir; and then it would be up to the State to show that it did not. I think he has this power under the bill and I think you can give it to him under the Constitution.

Mr. ROGERS. One other question as to constitutionality. I direct your attention to section 8 of the bill which provides that no State, covered under section 3(a), shall enact any law or ordinance which imposes qualification or procedures for voting different than those in force and effect on November 1, 1964, unless they come to the District of Columbia and get permission to do so.

Now, do you believe that section is constitutional; can it be enforced?

Mr. RAUH. Certainly. I may take a broader view of the powers of the gentlemen who are looking down on me than some do, but I have no doubt that this Congress under the 15th amendment has the power to stop ways around its voting legislation.

You are about, I take it, to pass legislation to remedy previous discrimination. All you are saying here is, "We are not going to permit new evasive devices, we are going to freeze the situation as it is today unless new tests have been brought to court and found to be nondiscriminatory."

I would say this provision is simply self-defense of Congress. The States you are now seeking to prevent from discriminating—this is a way of preventing those States from finding a new method of discrimination. I think this is a necessary part of the self-defense of the bill you are about to enact.

Mr. ROGERS. That would require that, if the Legislature of Alabama or Mississippi enacted any other voting law it would have to be shown not to deny or abridge 15th amendment rights, if that was established then the State would have the right to proceed.

Mr. RAUH. Well, suppose, for example, Alabama where they have a 21-year-old qualification for voting suddenly decided they wanted to reduce it to 18, which is what Georgia has? I do not think anybody is going to challenge that change, sir. I think they would move in the District of Columbia, the Attorney General would consent, and you would have a decision in no time at all that the change was perfectly proper.

I think that is a fine way to protect your bill against evasion but it will not hurt legitimate changes in qualifications such as the one I have mentioned.

Mr. CONYERS. Will the gentleman yield?

Mr. ROGERS. Yes.

Mr. CONYERS. Might I inquire, sir, that whether or not you have drafted legislation that will improve the bill that you have been speaking about this morning. Have you had an opportunity to revise the language so that you might be able to consider some of these very important improvements that I think you and Mr. Wilkins have made, particularly with reference to the poll tax?

Has there been any work in that area yet?

Mr. RAUH. I do not want to suggest to this body that one can find any wisdom in the other body but title II of the Douglas-Case bill does outlaw the poll tax, so does the Lindsay bill, so does the Resnick bill. I have no desire to urge a particular formula upon you, but I do refer to all three bills now before the Congress, including the Douglas-Case bill—I should not refer to it that way since there is a

Conyers bill and there are a number of other Congressmen here who have put in the same bill.

Mr. CONYERS. Are all the improvements that you have suggested, and I am very impressed with them, already embodied in suggested legislation?

Mr. RAUH. No, sir; that would not be correct, sir. The elimination of the requirement of going first to the State registrar is a possible proposal and extended coverage is one. I have yet to see a very good proposal on intimidation, I have to concede. I do not think that we have yet offered anything that I am particularly proud of. I do feel that section 7 is too limited. For example, it does not cover registration, it only refers to voting under the authority of this act, and you might be voting under the authority of any other law.

I think section 7 is obviously too limited and I can criticize that. I regret to say that the civil rights groups have not yet made an adequate proposal on intimidation and I hope we can do that before you start marking up the bill.

Mr. LINDSAY. Would the gentleman yield?

The CHAIRMAN. One question.

Mr. LINDSAY. Just one question.

Mr. Rauh, you take a broad view of the powers of the civil rights legislation under the 15th amendment. Do you think it is possible to draft legislation that is equally fast and effective as what is suggested by the administration bill, but which does not have limitation and covers any area of the country where there is a 15th amendment problem?

Mr. RAUH. Yes, sir.

Mr. LINDSAY. Thank you.

Mr. MCCULLOCH. I should like to ask, in view of that question, if the distinguished witness, Mr. Rauh, would be ready and willing to provide suggested amendments which would attack the weakness in the bill which leaves untouched discrimination in some 5 or 10 or maybe 15 other States.

Mr. RAUH. We will provide drafts of the four points that Mr. Wilkins has made and we will be honest about it. We will tell you just how many people support it, and where there are differences we will tell you the differences. We will provide by Saturday or Monday exact language of the kind that you suggest.

We will tell you the truth, how many agree on each particular point of the 80-odd constituents that we have.

Mr. MCCULLOCH. We would be glad to have that information. I am pleased to say that members of this subcommittee and members of the full committee, as well as Members of the House in general, have been interested in trying to find a safe and effective way to reach these pockets which I have described.

Mr. RAUH. Sir, we feel, and we said this to the Department of Justice and we say this to this committe, that basically we are going along the same track that you are, that there is no basic difference in beliefs between what you are trying to do and what we are trying to do.

We have four things that we have been strongly urging upon you but certainly we are going in the same direction as this committee.

The CHAIRMAN. Mr. Rodino.

Mr. RODINO. Mr. Wilkins, first of all, I would like again to welcome you to this committee. I would like to compliment you on your statement. However, this morning you leave me in a dilemma. When I read your statement, and note that on page 3 you say:

> However, in our opinion the bill is not enough, more is needed if it is to do the whole job.

I recall that I questioned the Attorney General in his appearance before this committee and my first question to him was:

> Mr. Attorney General, do you envision that with the enactment of this bill into law that it delays an obstruction and delay will pass away?

The Attorney General stated, and I quote:

> I do, Congressman, after what I am sure will be one test of the constitutionality of this bill. Then I think after that this bill provides the means necessary to protect the right to vote and to guarantee it within all of those areas where delay and obstruction so long denied it.

Then I went further and asked him whether or not he felt that with one test of the constitutionality there would be no further question as to guaranteeing of the right to vote.

The Attorney General again confirmed his opinion that this bill would do the job. We did get into the question of poll taxes, and he did raise some questions there.

His testimony before this committee was to the effect that what he sought to do and what the administration sought to do is to bring before this committee a bill that would effectively, expeditiously, and constitutionally guarantee and protect the right to vote.

He seemed to feel very strongly as to the question of constitutionality on some of these matters that are being discussed here this morning.

Now my dilemma is this: Can we bring a bill before this committee and will we be able to enact in this Congress a bill that will be constitutional. A bill that will do the job that we, all who are interested in this vital question, want to do?

I recognize Mr. Rauh as a constitutional expert. But are we now going to raise questions that may belabor this problem and cause delays in bringing about that which you and I are interested in seeing?

Now, although I share your doubts on the question of poll taxes, I realize that this question is before the Supreme Court today.

My dilemma is: What do we do under these circumstances?

The CHAIRMAN. Pass the administration bill, that is what you should do; you will it all over with.

Mr. RODINO. On the other hand, Mr. Chairman, I do recognize the fact that the administration itself, speaking through the Attorney General, cited the history of denials of right to vote; the delays and obstructions and new devices being used. They recognized each time that this was going to take place; yet we never came out with a total bill that would meet this question.

The CHAIRMAN. If we have long questions like this, we will never get the bill through.

Mr. RODINO. With that, Mr. Chairman, I will yield the floor, but I would like to hear what Mr. Wilkins has to say.

The CHAIRMAN. Be very brief, Mr. Wilkins.

Mr. WILKINS. Congressman Rodino's question has given me the opportunity to reiterate what Mr. Rauh said. First of all, we are

going in the same direction and it is not our purpose here to question the integrity or the intention of the Attorney General in his opinions on this bill.

We can have, we believe, some differences of opinion without fighting with the Attorney General or fighting the administration bill. This has been, as we have said over and over again, an excellent effort to get at some of the evils in this question.

I think Congressman McCulloch mentioned just a few moments ago that there do remain not only in our opinion on this side of the table, but in the opinion of members of this committee, pockets of discrimination not reached by this bill and I am sure the sponsors would be the first to agree.

We commend again the efforts, some personal, on the part of Members of the other body and of the Republican Party on bills that have been introduced, sections of which may well be favorably considered by anyone seeking, as Congressman Rodino has indicated, to pass an effective bill.

Mr. Chairman, I want to reiterate or underscore only two things I said in my original presentation. The first is that the President of the United States, who is the President of all of us regardless of our geography or our political affiliation, has gone the ultimate in his declaration and support of this type of legislation.

I do not think we have in our history a record of any President speaking as Mr. Johnson did on March 15. In that respect it would be a tragedy and a great embarrassment if the bill representing his administration should lack everything that could be put into it to vindicate the President's declared and openly declared and emotionally declared objective.

In other words, I do not want to see this committee or the Congress or anyone concerned with this legislation working on an administration bill. This does not preclude, of course, anyone offering amendments or his own version, but if anything emerges as the administration bill it ought to closely approximate the great distance which the President reached on March 15.

The second point, Mr. Chairman, is that we believe that the past history in deprivation of the right to vote has shown the ingenious evasions of the past and the loopholes have been plainly outlined for any observer, even a casual observer, and any student who has gone into this matter has noted, as Mr. Rauh has indicated from the 1942 report, the intent of this type of deprivation.

It has been racial, everyone knows that. Even a legislator from the State of Alabama admitted the other day openly in the State legislature that the voting restrictions were for the purpose of keeping the Negro from voting. This is no secret, it is open.

Therefore, we believe that all people who wish to eliminate this evil genuinely will take this opportunity when you have such a momentum behind this type of legislation, when the times demand it, when you have such support as you never had before, that no comma will be omitted, no semicolon and no clause and no phrase, and that we will once and for all attempt to eliminate most of them.

The CHAIRMAN. Mr. Wilkins, of course you must remember that the purpose of this bill is to eliminate, in an automatic way, massive discrimination.

There may be pockets of discrimination in other States. But this bill primarily applies to South Carolina, Georgia, Mississippi, Alabama, and Louisiana, and certain counties in North Carolina and one county in Arizona. Now these pockets that exist in other States, the Attorney General very properly and cogently indicated that the Federal Government could deal with such situations under the Civil Rights Acts of 1957, 1960, and 1964; that there would be released from South Carolina, Georgia, Mississippi, and Alabama, sufficient personnel to concentrate on these situations in those other States.

Now I would say also that I am very happy with this bill. I might be even happier if I could get some other bill, which was stronger, but we have to be practical. If we load this bill with too much we may get into real difficulty.

Mr. WILKINS. Yes, Mr. Chairman, I am aware of that, but I am also aware of the chairman's and of this committee's diligence and great experience in this field and in getting things done. All our organizations are urging is that the committee explore every possibility of stretching to its ultimate length the coverage here within the purpose that you have in mind. All we want is that nothing shall be considered good enough until it has reached the limit of constitutional interpretation and of practical and pragmatic possibility that you mention.

The CHAIRMAN. We will certainly do that. I want to thank you and Mr. Rauh for a very splendid contribution to this hearing.

Mr. CRAMER. Mr. Chairman, I have a question I want to ask.

The CHAIRMAN. I will be glad to have the gentleman ask the question but we have three Members of the Congress who are waiting and if they do not appear before 12 o'clock or submit their statements, they will have to come back tonight. I do not want to inconvenience them so I am going to ask you to be brief.

Mr. KASTENMEIER. I have a question.

Mr. CRAMER. Our side of the aisle has had little opportunity to ask questions.

The CHAIRMAN. We have four Members and we have to be expeditious. Otherwise, we may go on like Tennyson's brook.

Mr. CRAMER. I have no objection to the gentlemen coming back tonight if there is no time to ask them reasonably short and pointed questions now.

The CHAIRMAN. I am going to ask the gentleman to ask a few questions and then I am going to call on the Members of Congress who have been waiting patiently.

Proceed, Mr. Cramer.

Mr. CRAMER. As I understood the thrust of your testimony you would like to have this bill, but at the same time you acknowledge that there are many areas outside of the 20 States involved where there is discrimination which it should be covered by some type of legislation. Is that correct?

Mr. WILKINS. Well, it is desirable that it be covered by some legislation.

Mr. CRAMER. Secondly, that your position is that the present law does not give an adequate and expeditious remedy regardless of where discrimination takes place.

Mr. WILKINS. I think it only refers to that, Congressman Cramer, in one particular, the particular of having to go to the State first. There is no across-the-board condemnation of this law as not providing a remedy.

Mr. CRAMER. I am talking about the present law. As it has been suggested by the chairman, the Attorney General said that the act of 1964 would be utilized in those places outside of the States covered by this proposal, and of course it only applies to Federal elections.

Mr. WILKINS. That is right.

Mr. CRAMER. My understanding is that this new approach is needed because that was not adequate.

Mr. WILKINS. That is right.

Mr. CRAMER. And it is needed all over the country, not only in these 20 States, is that correct?

Mr. WILKINS. I would not quarrel with the Attorney General's opinion that he can use certain sections of the 1964 act in other sections of the country.

Mr. CRAMER. That is not responsive to my question. My question is, as the chairman has suggested, that outside of the States covered by literacy tests and the 50-percent voter or registration qualification, there is the 1964 pattern or practice method of relief.

Now, it was my understanding that the whole purpose for having this bill before us is that the 1964 bill did not provide adequate relief.

Mr. WILKINS. That is correct.

Mr. CRAMER. Within or without those States.

Mr. WILKINS. That is correct.

Mr. CRAMER. So in effect, there is not adequate relief, in your opinion, in those areas outside the 20 States with literacy tests.

The CHAIRMAN. Would the gentleman yield? One of the reasons was that the Department of Justice lacked sufficient personnel and they lacked the appropriations to get the personnel. This bill is aimed at the so-called hard core.

Mr. CRAMER. As I understand the Attorney General's testimony, it was that these proceedings take a great deal of time. Regardless of the number of personnel, they take years to process through the courts. It does not give you an adequate remedy.

Mr. WILKINS. Yes.

Mr. CRAMER. Do you now mean to say you are satisfied with the remedy outside the literacy States?

Mr. WILKINS. Of course not, because we say this method requires years and years of litigation.

Mr. CRAMER. Precisely. That is what I wanted to make sure the record was clear on.

Mr. WILKINS. Right.

Mr. CRAMER. And this bill is drafted in such a manner that a number of States in which there is discrimination—for instance, Tennessee, Arkansas, Texas, and Florida—are not included because there is no literacy test.

Mr. WILKINS. That is correct.

Mr. CRAMER. Therefore, obviously that is a weakness of this approach, is it not?

Mr. WILKINS. Well, it depends. It is a weakness in a sense, but there is also a question as to whether it is a weakness with respect to

the bill's limited objectives. It might well be a weakness in an overall attack on the whole question.

If you mean the latter, then of course it is.

Mr. CRAMER. For instance, Arkansas has nine counties in which there is not a single Negro registered, yet, Arkansas is not covered. That is an example of what can happen under the 50-percent formula which is being imposed.

You have another example in Arkansas. Take the county of Columbia as an example. There are 10,600 whites and 4,800 Negroes of voting age. But the figures show that while approximately 7,000 whites are registered, only 1,500, or 31 percent of the Negroes are registered. You can have all the discrimination in world relating to two-thirds of the Negroes in that county.

The CHAIRMAN. Where is that?

Mr. CRAMER. Columbia County, Ark.

You would not have any relief under this bill for the simple reason that over 50 percent of the people, as an aggregate, are registered. Right?

The CHAIRMAN. It is true it would not be covered.

Mr. WILKINS. Well, Congressman Cramer, this is precisely the reason for our recommendation on page 3 of the testimony for extending the coverage and the point 4.

Mr. CRAMER. Right.

Mr. WILKINS. This is right in line with our testimony.

Mr. CRAMER. That is what I wanted to get confirmed with a specific example on the record. I thank you for it.

Now let's take a contrary situation. Let's take the situation where, in a given area, there are not 50 percent of the people voting and they do have a literacy test, but there has never at any time been any evidence whatsoever of discrimination. Still, as I read the bill, the mere triggering of 3(a) alone would lead to the application of section 8. This provision would require that a community, changing from a written ballot to voting machines, would be required to come to Washington to get approval of that local ordinance or resolution.

Mr. WILKINS. Why not, Congressman?

Mr. CRAMER. Maine is an example?

Mr. WILKINS. Why not?

Mr. CRAMER. Why should they? The question is a constitutional question.

Mr. WILKINS. Yes.

Mr. CRAMER. It is a constitutional question.

Mr. WILKINS. Yes, of course.

The CHAIRMAN. Will the gentleman yield?

The gentleman in one breath says the bill is too weak, now he says it is too strong.

Mr. CRAMER. I think this clearly illustrates that the bill is weak in both directions. It discriminates against areas in which there has been no discrimination and where there is no reason to bring them under the bill, but leaves out areas where there is discrimination. Of course when we deal with constitutional questions relating to the power of a community to pass ordinances or regulations when they have not, in fact, discriminated at any time, I think you get into a serious constitutional question.

Mr. WILKINS. It may strike you as serious, but there is not anything to prevent a community which has never discriminated from suddenly adopting a regulation that may prove to be discriminatory. Is there any reason why they should not go to court and say so?

Mr. CRAMER. I call your attention to the fact that the November 1, 1964, date contained in the act, as the date for a device or test being in existence, would not prohibit any State not now covered among those 20, to pass any literacy test, discriminatory or otherwise, that it wishes. Is that correct?

Mr. WILKINS. That is true.

The CHAIRMAN. I am afraid, Mr. Cramer, I have to recognize Mr. Kastenmeier.

Mr. CRAMER. I would like to ask that these gentlemen return because I have not had a reasonable opportunity to ask reasonable questions. You know my attitude on this legislation. I would like to see a bill that covers all areas.

The CHAIRMAN. You would not vote for the bill no matter what form it took.

Mr. CRAMER. The gentleman is totally incorrect, I say, Mr. Chairman.

Mr. BROOKS. Regular order, Mr. Chairman.

Mr. WILKINS. May I, Congressman, support these strengthening amendments that we propose.

The CHAIRMAN. The gentleman from Wisconsin.

Mr. CRAMER. The gentleman from Florida asks that if discrimination exists in Florida, in any of the counties listed in the 1963 Civil Rights Commission Act, that it be included in whatever bill is voted out of this committee. I think that speaks for itself.

Mr. WILKINS. I do not see any point—in fact, we are not having an argument, all you are doing is supporting the position I brought here. I appreciate it.

Mr. CRAMER. I am trying to find out how we can make a good bill out of what appears to be one that is not too good.

Mr. WILKINS. Mr. Chairman, may I say on behalf of my organizations that we will certainly appreciate the Congressman from Florida offering language that he deems would strengthen this bill for our inspection, so that we could perhaps join him in his crusade.

Mr. CRAMER. I would hope to respond to the gentleman in all seriousness, because this is a serious problem. I believe that anyone should have the opportunity if he wishes to register to vote and to have that vote counted regardless of race, color, or creed under basic constitutional concepts. I shall strive on this committee to come up with a bill that will do it, and not one that makes second-class citizens of the Negroes outside the 20 States with literacy tests and penalizes areas within the 20 States that have not in fact discriminated.

The CHAIRMAN. The chairman recognizes the gentleman from Wisconsin, Mr. Kastenmeier.

Mr. KASTENMEIER. I support the motion of having Mr. Wilkins and Mr. Rauh come back after they have submitted whatever amendments they have so this committee may have a chance to consider them. I think it might be well for them to return at the very end of our proceedings.

I did want to ask this one question of Mr. Rauh.

Earlier, Mr. Mathias referred to a number of bills which apparently ban the poll tax, including Mr. Stafford's, Mr. Lindsay's, as well as his own. Mr. Lindsay's and Mr. Mathias' bills read: "The Federal registrar shall disregard any poll tax as a prerequisite to vote." This would appear to be only a moratorium; enforced only for such time as Federal registrars are present.

Another bill, introduced by Congressman Edwards and by Senators Douglas and Case in their key sections states:

> No State shall require the payment of poll tax as a condition or prequisite to voting in any election conducted under its authority.

I assume you would prefer the latter language; would you not?

Mr. RAUH. You are precisely correct, Congressman Kastenmeier. About the only way we would feel there is reason to limit the abolition of the poll tax to places where the registrar is appointed, would be if Congress were to feel that that was the limit of its constitutionality.

You will recall that I suggested you could deal with the poll tax more easily where you had a registrar. I do not believe that is the limit of your power and we would strongly urge its total abolition.

The CHAIRMAN. Thank you very much, gentlemen. We appreciate your coming.

Mr. Stratton.

Mr. LINDSAY. Mr. Chairman, have we concluded? There are other members of the committee who had questions to ask of the witness.

The CHAIRMAN. Do you care to come back at a subsequent date, Mr. Wilkins?

Mr. WILKINS. At a subsequent date, Mr. Chairman, but at a later date than tomorrow. I am going to a certain State south of here that has been in the news much lately.

The CHAIRMAN. Could you come back at some subsequent date?

Mr. LINDSAY. Is there any reason why we can't allow the members of the subcommittee to ask questions that should be asked?

The CHAIRMAN. I have Members of the Congress who are waiting. They should have been called before.

Mr. LINDSAY. That decision should have been made at 10 o'clock this morning. I do think especially you should give them a chance to ask questions.

The CHAIRMAN. Mr. Wilkins will you come back at some subsequent date convenient to the committee?

Mr. WILKINS. I will be very happy to do so.

Mr. LINDSAY. I think we ought to do that, because I think we are in the line of questioning here which is designed to bring about action and I think we should be given a chance to pursue it.

The CHAIRWAN. You will have an opportunity.

Mr. Stratton.

STATEMENT OF HON. SAMUEL S. STRATTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. STRATTON. I shall be very brief.

I recall some 2 years ago, Mr. Chairman, having the privilege of testifying before this committee at the time that the civil rights bill offered by President Kennedy was before the committee.

I remember saying at that time that I felt that the time for talk was over, that we had talked for a hundred years and that it was the

time for action. I remember at the time some members of the committee being perhaps a bit critical that this appeared to suggest that I wanted to rule out the opportunity for discussion and questioning by members of the committee, and of course, the committee did deliberate quite extensively on that legislation.

Now, we have another bill before us and the President of the United States has himself said that the time for talking has ended and the time for action is here.

I just want to appear here this morning, Mr. Chairman, as one who has joined in sponsoring the administration's bill to urge the committee's full support for that legislation.

I recognize that of course the committee does have to deliberate to some extent on the bill, but I think it is clear that there have been informal discussions on both sides of the political aisle and in both Houses of the Congress before this bill was introduced.

I think this bill does represent a broad consensus and goes directly to the pressing problem that has been very much in the news and in our minds and hearts of recent days. I believe it is a good bill, a relatively simple bill, and an effective bill, and I am wholeheartedly in favor of it. I urge the committee to report it favorably and speedily to the House.

The committee has also invited me, Mr. Chairman, to testify on another piece of legislation which I had introduced prior to the time I testified before this committee 2 years ago, and which I have introduced again in this Congress as H.R. 683. This is a bill designed to implement the 14th amendment, more specifically the 2d section of the 14th amendment, which provides that if States are in fact denying or abridging the right to vote, then their representation in the House of Representatives shall be curtailed.

I remember urging 2 years ago that that section might be included in the omnibus civil rights bill of that day. But I recognize the point that you have made this morning, Mr. Chairman, that we do not want to load too many things into this particular legislation, and I remember 2 years ago agreeing that perhaps it should not be included for reasons of speed.

I am still very much in favor of my bill, H.R. 683. I wish it could be included today. I recognize perhaps the reasons why it cannot be included in this voting registrars bill. But in those 2 years, Mr. Chairman, and particularly recently, there seems to have been a good deal more interest in developing this kind of legislation, recognizing that perhaps the adoption or at least the favorable reporting of this kind of a bill, which would begin the machinery to take away the congressional representation of those States which continue to deny the right to vote to Negroes in the South, might be one of the most effective ways of bringing pressure on these States to get the job of registration done and avoid the evasion and foot dragging to which Mr. Wilkins and others have already testified.

The CHAIRMAN. If I may interrupt, the committee has agreed to work wholeheartedly with the Bureau of the Census on that very matter and to arrange with that Bureau for legislation along the lines you suggested.

Mr. STRATTON. I am delighted to hear that, Mr. Chairman. I might say my bill was prepared in consultation with the Bureau of the Census and at that time they indicated to me they had available

the necessary statistics. All that was needed was to put legislation on the books that would empower them to report these statistics to the House for their use under the 14th amendment.

We have been putting pressure on the North Vietnamese to get them to end their subversion and infiltration in South Vietnam, and I think perhaps this legislation could likewise bring pressure on Alabama and Mississippi and some of the other States to end their discrimination against Negroes down there.

I recommend very favorably the approval of this bill, Mr. Chairman.

I appreciate the time and courtesy that you have extended to me.

The CHAIRMAN. Thank you very much, Mr. Stratton.

We will be glad to receive any extension of your remarks for the record.

Mr. STRATTON. Thank you very much.

The CHAIRMAN. Our next witness is the Honorable William S. Moorhead, of Pennsylvania.

STATEMENT OF HON. WILLIAM S. MOORHEAD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, it is an honor to be accorded the privilege of testifying before this subcommittee which is considering the most important and the most basic problem which is facing our Nation. That problem, in the words of President Johnson, is "the dignity of man and the destiny of democracy."

It is the "destiny of democracy" because the right to cast a meaningful vote is the essential right which distinguishes a democracy from other forms of government. It is the "dignity of man" because any democracy which denies to one man an equal opportunity to vote with other men denies his essential human dignity.

I support H.R. 6400 because it is designed to promote the destiny of democracy and the dignity of man.

In addition to supporting H.R. 6400, I say that I would oppose any amendment, however beneficial, that would jeopardize the passage of H.R. 6400.

Having said that, I now propose an amendment for the subcommittee's consideration.

H.R. 6400 is grounded on the 15th amendment to the Constitution of the United States. However, the 15th amendment is not the only provision of the Constitution designed to prevent denial of voting rights.

Section 2 of the 14th amendment provides as follows:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

H.R. 6400 provides the mechanics whereby the right to vote can be obtained. H.R. 6400 recognizes, however, that attempts may be made to prevent persons from making use of these new techniques, and provides criminal penalities for such action.

Mr. Chairman, I suggest to you that effective ways of preventing voting could be made so subtle that successful criminal prosecution for a violation of section 9(a) could never be made, even if we disregard the jury system under which such prosecutions would be tried.

Mr. Chairman, if the recent events in Selma and Montgomery have taught us one thing about the Civil Rights Acts of 1957, 1960, and 1964, it is that in these acts we erred by not going far enough. Let us not make that same mistake in 1965.

What is needed, Mr. Chairman, is legislation which will cause the white power structure to want to register as many Negro voters as possible. What is needed is an excuse which will permit the moderate leadership to come to the fore.

I submit that legislation to implement section 2 of the 14th amendment would be the best method to accomplish these objectives.

On March 9, 1965, I introduced H.R. 6029 to provide for the enforcement of section 2 of the 14th amendment to the Constitution of the United States. I did this not as an alternative to the 15th amendment legislation which I knew that the administration was preparing, but with the hope that legislation along these lines would be included as part of the voting rights package.

I now urge this subcommittee to make this legislation a part of the voting rights bill of 1965. I believe that this can be done without jeopardizing the chances of the passage of H.R. 6400. I believe that the necessity of passing three civil rights bills in 8 years should show us that our errors have been in doing too little rather than too much.

I think that the climate in the country is such that, insofar as the right to vote is concerned, the people of America want the Congress to do everything that is constitutionally possible to insure the right to vote, and not merely a portion of that which is constitutionally possible.

Despite the fact that I feel that H.R. 6400 would be greatly improved by the addition of H.R. 6029 to it, I believe that the passage of H.R. 6400 has the highest priority and if it should be the judgment of this subcommittee, whose dedication to the cause of civil rights is unquestioned, that such an amendment would jeopardize the chances of the passage of H.R. 6400. I think the judgment of this subcommittee should be given great weight by all civil rights supporters.

The CHAIRMAN. Our next witness is the Honorable William F. Ryan of New York.

Mr. RYAN. Mr. Chairman, I do not know what the time situation is. I have a prepared statement which I would like to present to the members of the subcommittee. Perhaps if the chairman intends to adjourn shortly, it would be better for me to return tonight.

The CHAIRMAN. We have James Farmer for tonight and three Members of the House. I will be glad to sit and listen to the gentleman.

You may proceed.

STATEMENT OF HON. WILLIAM F. RYAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. RYAN. Very well, Mr. Chairman.

Mr. Chairman, there is no more important legislation before the Congress than that which this distinguished committee is considering. It is especially gratifying to me that Congress at long last is confronting the issue of voting rights for all our citizens.

Ever since I have served in Congress, I have been deeply concerned with the establishment of voting rights. In the 87th Congress and the 88th Congress, I introduced legislation—H.R. 7142, 87th Congress; H.R. 6028, 88th Congress—to provide for the appointment of Federal enrollment officers by the President upon the recommendation of the Commission on Civil Rights. And in this 89th Congress, I introduced H.R. 6023, which would establish a system of Federal registrars. I will outline the provisions of the bill later in my testimony.

I have also introduced in each Congress bills to abolish the poll tax and the literacy test in all elections—local, State, and Federal. Throughout these years, I have repeatedly spoken on the floor of the House for effective voting rights legislation.

We are now on the brink of a new age—an age in which racial discrimination at the ballot box will be eliminated. Let us remember that we are at this critical juncture in our history because of the courage and dedication of thousands of American citizens. Those who have risked their liberties and lives represent the highest ideals of our society. They are in a true sense the protectors of our Constitution and our democratic system. But they cannot and must not stand alone.

It is tragic that, when they began, they were alone. It is tragic because the struggle for civil rights is a struggle for existing rights. The right to vote regardless of race or color has been established for nearly 100 years.

In the eloquent words of Mr. Justice Goldberg:

> These rights are present rights; they are not merely hopes to some future enjoyment of some formalistic constitutional promise. The basic guarantees of our Constitution are warrants for the here and now.

The time has now finally arrived when the Congress is ready to exercise its responsibility to insure that the longstanding right to vote is fully guaranteed and protected. The question no longer is whether Congress should act, but in what manner Congress should act.

I have introduced H.R. 6023, which I believe would secure the rights guaranteed by the 15th amendment once and for all. This bill deals with the right to vote, empowering the Federal Government to act quickly and effectively.

The operative finding of disfranchisement would be made by either the U.S. district court or the U.S. Commission on Civil Rights. Where either agency finds the right to vote has been denied because of race, color, or national origin, it would be mandatory for the President to create Federal registration offices and appoint Federal registrars. The Federal registration offices would be in operation for a minimum of 1 year.

The CHAIRMAN. Mr. Ryan, how long is your statement? I think the bells have rung.

Mr. RYAN. There are several points, Mr. Chairman, which I would like to make in regard to this bill, if I may continue.

The CHAIRMAN. I am afraid not. I thought it would be a brief statement but you have a rather long statement, I take it.

Mr. RYAN. I do.

The CHAIRMAN. How long will you take?

Mr. RYAN. I would think I can summarize it in 10 minutes.

The CHAIRMAN. Nevertheless, I think we now have no right to sit. I am afraid you will have to come back tonight. I will call you as the first witness.

Mr. RYAN. Thank you, Mr. Chairman.

The CHAIRMAN. The Chair wishes also to submit for the record a statement of the Honorable John D. Dingell of Michigan, the statement of the Honorable Charles C. Diggs, Jr., of Michigan; the statement of the Honorable James G. O'Hara of Michigan; the statement of the Honorable John R. Schmidhauser of Iowa, and the statement of Leonard S. Brown, member of the Alexandria City Democratic Committee.

(Statements referred to follow:)

STATEMENT OF HON. JOHN D. DINGELL, U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

Mr. Chairman and members of the committee, for the record, my name is John D. Dingell; I am a Member of Congress from the 16th District of Michigan.

I strenuously support the provisions of HR.. 6400. I am a sponsor of an identical bill H.R. 6510.

I do not believe that we can justify denial of the right to vote to large numbers of our citizens of any race, creed, or color in any part of this Nation. The difference between a democracy and a tyranny is that the citizenry has the right to participate in the selection of their rulers and in the making of their laws through the ballot. Denial of this most fundamental right negates the fundamental existence of a republican form of government. If this group can be denied participation in their nation's affairs it is equally possible for any and all others to suffer the same denial.

I hope the committee will report to the floor as expeditiously as possible the administration's bill H.R. 6400 and/or some other substantially identical legislation.

STATEMENT OF CHARLES C. DIGGS, JR., U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

TESTIMONY OF CONGRESSMAN CHARLES C. DIGGS, JR., DEMOCRAT, OF MICHIGAN, BEFORE HOUSE JUDICIARY SUBCOMMITTEE CONSIDERING VOTING RIGHTS LEGISLATION, TUESDAY, MARCH 23, 1965

Mr. DIGGS. Mr. Chairman, members of the committee, we have a crisis in America today regarding the frustration and deprivation being experienced by Negroes in southern areas who are pursuing their constitutional right to vote. This fact is accepted by thinking people in the public and private sectors. It is underscored by the extraordinary actions which have been taken by the President in recommending corrective measures and the top priority accorded by this committee to translate this urgent call into appropriate legislation. The Congress has worked its will in the past, but its action has not been fast or broad enough. It is time to stop dealing with civil rights, especially in the field of voting, on the installment plan. Domestic tranquility cannot be maintained if we continue to try to tighten a nut here or a bolt there. We need to jack the vehicle up and put in a whole new motor. To this end, I urge the committee to provide a remedy which will once and for all provide all of the legal assurances necessary to expedite the right to vote by all citizens. The

President made it clear in his historical address to a joint session of the Congress, that he welcomed and anticipated our suggestions to improve the legislative proposals which he was about to submit. I am delighted that the President is this flexible. Now that there has been an opportunity to review the administration's bill, it has become obvious that the President exercised great wisdom in avoiding a posture of omnipotence. I hope this committee and the Congress finish the job which he has so skillfully begun.

Specifically, I urge that the provision regarding the poll tax be revised to eliminate it altogether by statute. The same rationale which prompted the enactment of a prohibition against the poll tax in Federal elections should logically apply against the same condition precedent to local elections.

Secondly, the present bill does not seem to deal adequately with those situations wherein candidates for certain offices are nominated by party convention rather than a direct primary by the people. It is particularly important that this be clarified because nomination in recalcitrant one-party areas is equivalent to election.

Additionally, there is serious question about the feasibility of limiting the coverage of this proposal to those areas where the hard core of resistance is being experienced. The "50 percent formula," below which is triggered the intervention of the Federal Government, seems unnecessarily complicated and is not consonant with our desire for a simple operation, such as prevails in my State, where a person only has to satisfy the age and residency requirements.

Another important point that should be strengthened relates to those instances where intimidation of one form or another by police officers is exercised to discourage Negroes from applying for the franchise. It would appear to me that remedies should be provided, as suggested by legislation already introduced by Senators Javits, Kuchel, and others. I am sure, also, that closer scrutiny will uncover other areas where perfecting amendment will strengthen the purpose of the bill.

In conclusion, I would like to reiterate my feeling that this matter be handled as expeditiously as the legislative process will permit. I make this plea not only because the need is obviously justified, but of equal importance, responsible Negro leadership in this country needs some concrete evidence that America cares about the plight of our people and wants to take action to correct the evils of the past. In the absence of such evidence, in their bitterness and frustration, the masses of Negroes may pursue alternatives that would be harmful to themselves and to the rest of the Nation.

STATEMENT OF REPRESENTATIVE JAMES G. O'HARA OF MICHIGAN BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY ON H.R. 5419—CONGRESSIONAL REPRESENTATION ACT OF 1965—MARCH 23, 1965

Mr. Chairman, last Tuesday morning, following Monday night's joint session of the House of Representatives and Senate, I sent the following telegram to President Johnson:

"Like millions of our fellow Americans, I was deeply moved by your strong and eloquent appeal for equal voting rights. You can depend upon my enthusiastic support for the goals outlined in your address of last night."

Since last Tuesday, I have had the opportunity to examine the language of the proposed voting rights legislation. I believe this bill represents an effective vehicle to help us reach the goals set forth by President Johnson in his voting rights message.

In a bill such as this, I doubt that everyone could ever be completely satisfied. We all have our own ideas about what an effective voting rights bill should or should not contain. I believe, however, that the bill proposed by the administration and introduced by the distinguished chairman of this committee is one which we can all endorse, even though we might wish to add a provision here or delete one there.

In addition, Mr. Chairman, I think the committee should also give serious consideration to H.R. 5419, which I introduced on February 24. This bill is identical to S. 1161 authored by the distinguished senior Senator from Michigan, Patrick V. McNamara. Senator McNamara has introduced similar legislation in every Congress since 1957.

H.R. 5419 would simply reduce congressional representation of States which deny their citizens the right to vote, by implementing section 2 of the 14th amendment to the Constitution.

More specifically, Mr. Chairman, it would create a Joint Congressional Committee on Congressional Representation. This committee would meet following each biennial election for Members of the House of Representatives. The purpose of this committee would be to decide whether there had been violations of section 2 and if so, it would determine the extent to which any State's representation would be reduced. In no case would representation be reduced below one.

House seats taken from States would be allocated to other States on the basis of population for the 2-year period in which the action would be in effect, thus keeping the total number of Representatives at 435.

If we are truly serious about protecting the right to vote, and we should be, Mr. Chairman, I sincerely believe that in addition to enforcing the 15th amendment, as does your bill, that we should be enforcing section 2 of the 14th amendment.

Mr. Chairman, the Celler bill is a good bill. I believe I also have proposed a good bill. Consequently, I urge that both bills be given careful consideration by your committee.

We cannot afford more delay on this important matter. We can do no less than to set up the machinery needed to secure once and for all the right to vote for all American citizens regardless of the color of their skin. This, after all, is the most basic of our constitutional rights. It is the very cornerstone of our democracy, the foundation of our representative form of government.

The long-sought goal of true equality in the polling place is within our reach. I hope, Mr. Chairman, as I know you do, that we will not permit this opportunity to slip away from us.

STATEMENT OF HON. JOHN R. SCHMIDHAUSER, U.S. REPRESENTATIVE FROM THE STATE OF IOWA

Mr. Chairman, I speak today in support of the voting rights legislation which will, in my estimation, enforce fully the terms of the 15th amendment of the Constitution. The detailed analyses of systematic denial of the right to vote on the basis of color which have been provided in the past few years by the Civil Rights Commission, provide concrete evidence which has been dramatically underscored by the tragic events that have occured in Selma, Ala., in recent weeks. For those who attempt to question the constitutionality of this legislation, I would urge a fair reading of the precise terms in section 1 of the 15th amendment itself which states, "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." And more appropriately, section 2 provides the simple imperative that the Congress shall have power to enforce this article by appropriate legislation.

Within the scope of its necessary objective, this bill, which when passed shall be known as the Voting Rights Act of 1965, fills a very definite need. It would be inappropriate to add amendments to this bill which might delay prospects for speedy enactment. But I would encourage this committee and my colleagues in the House of Representatives to consider sound supplemental legislation that will correct constitutional injustices which cannot be corrected by this provision.

I urge subsequent consideration of H.J. Res. 377, a proposed constitutional amendment which will simplify and shorten the often lengthy and complex State residence requirements for voting. If blatant denial of voting rights continue, I would urge the Congress to soberly consider its long-existing constitutional authority and obligation, section 1, article 14, wherein the basis of representation may be reduced in proportion to the systematic denial of voting rights in violation of the Constitution. I commend the House Judiciary Committee on its speedy consideration of the voting rights bill of 1965 and express the fervent hope that this, the 89th Congress may speedily insure its voting rights which have been denied to so many of our people for virtually a century.

STATEMENT IN SUPPORT OF H.R. 6400, 89TH CONGRESS, 1ST SESSION, GIVEN BY LEONARD S. BROWN, MEMBER, ALEXANDRIA CITY DEMOCRATIC COMMITTEE

I wish to give here my statement as a testimony to my qualified support of H.R. 6400 (the Johnson administration's "Voting Rights Act of 1965"). I say "qualified support" of H.R. 6400 because I do not believe that the measure, as now drafted, goes far enough in enforcing the 15th amendment to the Constitution of the United States and in protecting the rights of my fellow Negro citizens to vote in the United States today. It is my belief that H.R. 6400 ought to be amended,

forthwith, to outlaw the poll tax once and for all—and in all elections, particularly State and local elections.

Without having first sought any legal advice on the matter here prior to the composition of my statement, I urge the specific amending of section 3(b) to outlaw the poll tax, finally by further defining the phrase "test or device" as meaning, or including, "the payment of any tax or taxes, local, State; a head, capitation, or poll tax." This seemingly can be done by adding a subsection (4) to section 3(b). If this position is carried, as I most certainly urge here, it would require, *inter alia*, further amending by striking out completely subsection (e) of section 5, which accommodates the provision for, or existence, of the poll tax on the State and/or local level.

I believe that my position here is buttressed by the fact that H.R. 6400 purports to be a bill "To enforce the 15th amendment to the Constitution of the United State"; that article XV o fthe Constitution of the United States provides:

"1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

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

Further, section 2 of H.R. 6400 provides: "No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color"; Section 3(a) of H.R. 6400 provides, in part: "No person 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 or in any political subdivision of a State * * *," and section 3(b) of H.R. 6400 commences by providing, in part: "The phrase 'test or device' shall mean any requirement that a person as a prerequisite for voting or registration for voting. * * *"

The poll tax (that residue still remaining on the State and local levels after the outlawing in the Federal election sphere by the 24th amendment) is most certainly a voting qualification and procedure in the remaining poll tax States; the poll tax is indeed a "test or device," with emphasis on the latter. That the poll tax operates as a voting qualification, procedure, and a "test or device" to deny and abridge the rights of Negroes to vote in the South, in violation of the 15th amendment, is demonstrated in the very raison d'etre of the poll tax itself and its inclusion in the election laws of the States of the South. There is also the exclusion of the poll tax requirement in Federal elections by the 24th amendment to the Constitution of the United States as a further indication of the taxes purpose to "deny and abridge" the right of Negroes to vote in the South.

If one must become scholarly or academic in justification of the directly above given views, one need only consult the works of Frederic D. Ogden (Cf. The Poll Tax in the South, 1958) and Frank Broyles Williams (Cf. The Poll Tax as a Suffrage Requirement in the South, 1952). But before these works, come, of course, the many volumes of testimony and debate gathered in the Congress when the matter of the poll tax has been before the National Legislature on too numerous occasions.

So it is my very strong position, and urging, that if the Congress can outlaw, by and through H.R. 6400, all voting qualifications, procedures and "test and device" which are "imposed or applied to deny or abridge the right to vote on account of race or color," i.e., in Federal, State, and local elections, it would certainly appear that it can, constitutionally, go one step further and outlaw the poll tax as a requirement to voting once and for always. The poll tax is a remaining qualification, procedure, and "test or device."

In conclusion, I again urge the committee to incorporate the above suggestion to outlaw the poll tax by the enactment of H.R. 6400. I support and urge the reporting out by the committee, and later adoption by the Congress, of the strongest "Voting Rights Act of 1965" that today's situation requires—one including the outlawing of the poll tax on the State and local levels of government once and for all always.

Respectfully submitted.

LEONARD S. BROWN,
Member, Alexandria City Democratic Committee.

The subcommittee will now adjourn and meet at 8 o'clock.

(Whereupon, at 12:05 p.m., the subcommittee adjourned, to reconvene at 8 p.m. the same day.)

VOTING RIGHTS

WEDNESDAY, MARCH 24, 1965—RESUMED

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 8:15 p.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rogers of Colorado, Donohue, Brooks, Kastenmeier, Corman, McCulloch, and Lindsay.

Also present: Representative Conyers.

Staff members present: Benjamin L. Zelenko, counsel, and William H. Copenhaver, associate counsel.

The CHAIRMAN. The committee will come to order.

Our first witness is the Honorable William F. Ryan of New York.

Mr. Ryan, we are pleased to hear from you.

STATEMENT OF HON. WILLIAM F. RYAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. RYAN. Mr. Chairman, and distinguished members of the subcommittee: It is a pleasure to appear before you again tonight. When we adjourned this noon, I had described the bill which I have introduced, H.R. 6023, which I submit would secure the rights guaranteed by the 15th amendment, once and for all.

I described how, in my bill, the operative finding of disenfranchisement would be made by either the U.S. district court or the U.S. Commission on Civil Rights. Where either agency finds the right to vote has been denied because of race, color, or national origin, it would be mandatory for the President to create Federal registration offices and appoint Federal registrars and the Federal registration offices would be in motion.

By using the Commission on Civil Rights as an alternative to the Federal district courts for the purpose of making a finding requiring the President to establish a Federal registration office and appoint a Federal registrar, the hostile attitude of certain Federal judges will be avoided. For instance, District Judge Harold Cox, of Mississippi, would be unable ,to prevent the appointment of Federal registrars.

The Federal registrar would issue registration certificates to any applicant whom he finds to meet the residence, age, and sanity requirements for voting in the State. These are the only qualifications recognized. Literacy and constitutional interpretation tests as well as poll taxes are eliminated.

The Federal registrars, who could appoint deputies subject to the approval of the Attorney General, would oversee all elections, make tallies, and report any denials of the right to vote, or to have the vote counted, to the court or the Commission on Civil Rights.

My bill provides that the district court would have the power to issue injunctions and other orders to require local and State voting officials to permit persons issued certificates of registration by Federal registrars the right to vote and to have their votes counted.

The history of the struggle for the right to vote over the past 100 years shows that effective sanctions will be necessary. Therefore, the Federal courts would be empowered to void any election except for President, Vice President, or presidential electors, in which registration certificates issued by Federal registrars were not recognized and required to do so where 50 or more persons holding certificates were denied this right to vote.

It would be a crime punishable by a fine of not more than $5,000 or imprisonment for not more than 1 year, or both, to interfere with anyone attempting to apply for a certificate of registration or to interfere with anyone who holds a certificate and is attempting to vote. The intimidation and economic coercion of Negroes in the South has been a prime deterrent to registration.

In my opinion, that bill would accomplish the objective of the administration's bill, H.R. 6400, in a more direct and effective manner. It would be operative upon a finding of discrimination, avoiding the problems inherent in an arbitrary 50-percent standard used to "trigger" the appointment of examiners, and it would apply to all States and political subdivisions. Literacy, constitutional interpretation tests, and poll taxes would be outlawed. The only qualifications for voting would be age, residency, and sanity.

While I am convinced of the merits of my own bill, I believe that the administration's approach can accomplish the desired result. I would now like to address myself to several areas in which I believe the administration's bill, H.R. 6400, should be strengthened.

In the first place, Mr. Chairman, the legislation should provide for the appointment of Federal examiners in States or political subdivisions where no "test or device" is employed.

The language of section 4(a)(2) appears to authorize the appointment of examiners upon a certification by the Attorney General that in his judgment the appointment is necessary to enforce the guarantees of the 15th amendment.

However, I am informed that the Attorney General interprets this section as requiring both findings set forth in section 3(a).

Assuming that is the committee's interpretation, then H.R. 6400 would not apply in a State or political subdivision where no "test or device" was employed even though less than 50 percent of persons of voting age were registered or voted in November 1964.

This is a significant omission which should be corrected. The legislation will not reach Arkansas, Florida, Tennessee, and Texas. These States have political subdivisions in which less than 50 percent of the persons of voting age voted in November 1964.

In nine counties in Arkansas and nine counties in Florida, all of which have a high percentage of Negroes, less than one-third of the eligible Negroes are registered to vote. In Crittenden County, Ark., al-

though more than 50 percent of the population is Negro, less than 15 percent of the eligible Negroes are registered.

In Gadsden County, Fla., less than 12 percent of the eligible Negroes are registered, although Negroes comprise more than 50 percent of the population.

When asked by this subcommittee what would be done about such areas, the Attorney General replied on March 19:

> I would think that the situation in those States could be coped with under the 1964 legislation.

But we are here today, Mr. Chairman, considering new voting rights legislation precisely because existing legislation is not adequate to insure the right to vote.

Civil rights laws enacted in 1957, 1960, and 1964, failed to secure the right to vote to all citizens. Existing procedures are slow, cumbersome and wholly inadequate. The process involved is through suits brought by the Attorney General, and we are all familiar with the slow process. The courts are slow in deciding cases and often reluctant to enforce their decisions.

The total number of suits brought under existing legislation by the Justice Department is 51. So far there have been only 18 findings by the courts of a pattern or practice of discrimination—7 in Louisiana, 8 in Alabama, and 3 in Mississippi. These cases did not result in any significant change in the pattern of disenfranchisement of Negroes in those States.

Delay and intimidation are effective deterrents to those seeking to exercise the right to vote secured by the 15th amendment. As it is presently drafted, H.R. 6400 would leave Negro citizens in the uncovered States in no better a position to implement their right to vote than that of Negroes in Mississippi and Alabama today.

To remedy this, I recommend that the committee amend H.R. 6400 along the lines——

The CHAIRMAN. Does the genleman know how many Negroes are disenfranchised, are there any statistics that you know of?

Mr. RYAN. The States of Arkansas, Texas, Florida, and Tennessee——

The CHAIRMAN. I say how many Negroes are disenfranchised?

Mr. RYAN. Would not be covered.

The CHAIRMAN. Do you know?

Mr. RYAN. I do not know how many individuals would not be covered, but I previously testified to the fact that in Arkansas, for instance, there are nine counties where there are less than one-third of the eligible Negroes registered; in Florida there are nine counties where there are less than one-third registered; in Arkansas, there are some counties where there is a very low percentage of Negroes registered and where the question of registration is a very serious matter.

The CHAIRMAN. We have asked other witnesses whether we could get those and everybody seems to imply that there is no breakdown as between whites and blacks not voting.

Mr. RYAN. I believe there are figures, Mr. Chairman, which the Civil Rights Commission has in those States which certainly should be available to the committee.

The CHAIRMAN. Well, we will try to get them as best we can. Proceed.

Mr. RYAN. In order to remedy this situation, in order to cover those States, particularly the four States which I have mentioned which are uncovered, I recommend that, where there is no test or device in the contemplation of this bill, the Commission on Civil Rights or the U.S. district court could be authorized to make a finding of deprivation of the right to vote because of race or color. This is along the lines of my voting rights bill, H.R. 6023.

The finding would be reported to the Attorney General, who would make the certification to the Civil Service Commission for the appointment of Federal examiners. Such an amendment would bring the commitment to voting rights expressed by President Johnson in his speech before Congress closer to reality for Negro citizens living in the States and counties not covered by H.R. 6400.

On another point, Mr. Chairman, I believe that Congress should seize the opportunity to strike down "tests and devices" completely. Literacy tests, constitutional interpretation tests and other similar barriers to voting should be eliminated directly. This legislation should do so regardless of the 50-percent figure.

I might point out that, in addition to disenfranchising southern Negroes, the literacy test prevents many Spanish-speaking citizens from registering to vote in New York State. A large number of Puerto Rican citizens are disenfranchised because they cannot pass an English-language literacy test.

In testifying before this committee last Friday, March 19, the Attorney General said:

> I think that the use of the English-language test in New York with respect to Puerto Ricans serves to disenfranchise a great number of intelligent and able people. I think that is all wrong * * * I would think that if this Congress wanted to get rid of that provision, it would be possible to do so * * * based not on the 15th amendment and not as a problem of race, but based on the 14th amendment and really a problem of due process, and I think that this Congress has the power to do it.
>
> I would have no objection to doing it * * * either as a separate bill or I suppose conceivably a separate section.

The Attorney General then expressed the opinion that Congress might have the power under the 15th amendment, "but surely it has under the 14th," he said.

In view of the Attorney General's opinion, there is certainly no constitutional reason for Congress not to abolish the literacy test by legislation. Certainly, there is every moral reason to do so. Equity and justice demand it.

There are several Spanish-language newspapers in New York and numerous Spanish radio stations. It is ridiculous to assume that those who are literate only in Spanish are not capable of voting intelligently. The President in his message to Congress made completely clear the purpose of H.R. 6400. The bill is aimed at opening all polling places. No one should be excluded.

I have introduced a bill, H.R. 2477, which would eliminate the literacy test. It could be incorporated into the administration's bill, or a separate section based on the 14th and 15th amendments could be added to prohibit the use of a literacy test or similar device as a qualification for voting in any election.

I also recommend that section 2 of H.R. 6400 be amended on page 1, line 7, by striking the period and adding "or national origin." This

would make it clear that Congress was outlawing denials or abridgements of the right to vote based upon national origin as well as race or color.

The CHAIRMAN. You want to add "or national origin." Of course the 15th amendment does not contain national origin; it prohibits discrimination on account of race or color.

Mr. RYAN. But I would submit, Mr. Chairman, this then would lay a legislative base for legislation under the 14th amendment on the question of literacy test for Spanish-speaking citizens.

The CHAIRMAN. In other words, you base this bill on the 14th amendment.

Mr. RYAN. Yes, in addition to the 15th amendment.

Mr. Chairman, I should also like to call the attention of the members to the fact that the administration's bill——

The CHAIRMAN. Have we got any proof that there has been discrimination on the grounds of national origin in voting?

Mr. RYAN. The fact that the Puerto Rican citizens of New York and the Spanish-speaking citizens who are required to take an English-language literacy test are in effect prevented from registering establishes the basis on the question of national origin.

The CHAIRMAN. I do not like the literacy test and I am in sympathy with what you are driving at, but is it true that those tests are discriminatory. They are evenly administered to everybody, not only foreigners but everybody else.

Mr. RYAN. Their existence is discriminatory, however.

The CHAIRMAN. Well, even if they are offered to any prospective person who seeks to register, would you call that discriminatory?

Mr. RYAN. It discriminates against those people who are not literate in the English language. This is the problem in New York City today in terms of registering voters of Puerto Rican origin.

The CHAIRMAN. I say I agree with you, but I wonder whether or not we should not address ourselves to the legislature at Albany and have them report on this to the Commission.

Mr. RYAN. I believe, Mr. Chairman, the Congress does have the power to legislate to eliminate literacy tests, and we should do so now when the issue is before Congress, when the whole Nation has seen the effects of the literacy tests throughout the South.

We cannot ignore the fact that there are problems created by the literacy tests in varying degrees in the North.

Now I come to another point.

The administration's bill, H.R. 6400, accepts and condones the poll tax which is one of the most notorious methods used to prevent Negroes from voting. I believed and thought that the administration intended to recommend its abolition in this voting rights legislation. Instead, the legislation attempts to live with it.

The poll tax is still used in State and local elections in Alabama, Arkansas, Mississippi, Texas, and Virginia. Arkansas is expected to remove it soon.

The poll tax has long kept Negro citizens disenfranchised. This tax is used to circumvent the guarantees of the 15th amendment. I urge that we tolerate it no longer and abolish it in this legislation.

The committee had a very excellent presentation this morning by Mr. Rauh which explained the basis on which that could be done under this bill and in this legislation.

Mr. Chairman, I also urge the committee to reexamine section 5(a) of H.R. 6400 which states that before a person can apply to the Federal examiner he must have been denied the opportunity to register or to vote or have been found not qualified to vote within 90 days prior to his application.

In many places Negro citizens are in great peril if they try to register to vote. They face economic intimidation and physical violence. Going to the courthouse to register has been a frightening experience. In Mississippi there is a requirement that the names of applicants be published. This surely brings reprisals.

Under the bill, examiners are appointed after the Attorney General has determined that discrimination at the polls exists in an area. It will not expedite registration to require applicants to go through the voter registration procedures at the local courthouses when the procedures have already been found to be discriminatory before applying to the examiner.

Why must applicants face harassment and intimidation which in many places surely awaits them? Under the bill, the Attorney General may waive this requirement—presumably because of the risk of violence at the courthouse. However, I believe that there is no reason for this provision in the first place.

This provision would also have the effect of delaying the time before a person could apply to the examiner because in many places, including Mississippi, an applicant is not told whether he passed or failed the voter application test for 30 days—and then only when he returns to the courthouse to ask for the result.

Why should applicants be required to face certain harassment?

In another area, I think the bill should be strengthened.

When Mr. Wilkins was before the committee this morning, he urged that the bill be strengthened to provide further protection for voters from economic and physical intimidation and coercion. The chairman referred to section 7. But this language is limited to persons whose names appear on a list transmitted in accordance with section 5(b).

There should be an amendment to protect applicants before they are placed on the list. Persons who are attempting to register locally or to apply to the registrar must be equally protected from intimidation, threats, and coercion.

Also, I might point out that section 7 is applicable only to persons voting or attempting to vote under authority of this bill. It should be broadened to include persons registering, attempting to register, voting or attempting to vote under State law. This is needed especially in view of the fact that this bill contains the 90-day provision.

By broadening the language of section 7 we can protect persons who may be threatened and intimidated whether or not they are actually on the rolls and lists which are made up by the examiners.

Mr. Chairman, I have recommended amendments and additions to the Voting Rights Act of 1965 which should make the bill more effective.

Our obligation to the Constitution and the principle of freedom and justice is clear. We must enact a voting rights bill powerful enough to reach into every area that defies the 15th amendment. We know that local officials intent upon denying the right to vote to

others because of their race or color will seize on every tactic to perpetuate injustice. There must not be any loopholes in this legislation. The right to vote is fundamental. The principal of government deriving its powers from the consent of the governed is embedded in our history.

A nation which fought its first revolution because of taxation without representation can no longer tolerate taxation without representation. Let us make the right to the ballot a reality in the "here and now."

That concludes my statement, Mr. Chairman. I appreciate the opportunity to have appeared before you and the members of this committee.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. I have no questions.

The CHAIRMAN. Mr. Kastenmeier.

Mr. KASTENMEIER. Mr. Chairman.

I thank the gentleman for testifying. There are several civil rights advocates in Congress and certainly the gentleman will be considered one of them.

I note that you have introduced two bills, H.R. 2477 and H.R. 6023. They were introduced on January 12 and March 9 of this year respectively. How would you describe the differences in these two bills?

Mr. RYAN. I thank the gentleman for his very generous comments.

H.R. 2477 is a bill directed toward the literacy test itself. It would eliminate a constitutional interpretation test or any test designed to evaluate the power of an applicant to reason, to comprehend or to think. It clearly outlaws the literacy test.

H.R. 6023 is a comprehensive voting rights bill which would establish a system of Federal registrars after a finding of discrimination was made either by the courts or the Federal Commission on Civil Rights.

If such a finding were made, then it would be mandatory upon the President to create a Federal registration office in the locality for which the finding was made and to appoint Federal registrars who would then register voters.

Under my bill, H.R. 6023, the only qualifications that could be applied by the registrars in registering voters would be age, residency, and sanity. The poll tax and the literacy test would be completely eliminated under that bill.

In addition, the bill would provide for voiding elections where there had been discrimination at the voting places and during the course of the elections. It is a strong bill, a comprehensive bill, a bill which I believe would effectively guarantee the right to vote of all of our citizens.

Mr. KASTENMEIER. This most recent bill tends to be a stronger bill or at least more comprehensive. I wonder if we could look forward to the first week in May to another bill the gentleman might introduce, and whether it would be much stronger.

My RYAN. No, I do not think so. However, all legislation can be improved.

Mr. KASTENMEIER. I am only partially facetious in this question. The point is whether great expedition will help us enact a stronger bill or whether as weeks go by what the Congress explores in depth will

tend to produce something more comprehensive and something perhaps even more meaningful in terms of the problem.

Mr. RYAN. Let me say to the gentleman, H.R. 6023, although it was introduced in March of this year, is basically the same bill which I introduced in the 87th Congress, in 1961, as H.R. 7143 and in the 88th Congress, in 1963, as H.R. 6028.

At that time, I proposed that the Civil Rights Commission be given the power to deal with unfair discriminatory practices, by making findings and issuing cease and desist orders, a proposal which would have dealt with discrimination across the board, including discrimination in voting.

That bill had a voting rights section which is similar in intent and purport to H.R. 6023. After the passage of the Civil Rights Act of 1964 which adopted a different approach, I revised it and introduced the voting rights section which is the bill to which the gentleman referred.

Mr. KASTENMEIER. A final question, then. On March 24, could you see any improvement in your own bill?

Mr. RYAN. I think there is always room for improvement. As the result of the testimony which the committee is hearing and will hear during the course of these hearings, I certainly urge it to effect improvements in the administration bill, H.R. 6400. It needs to be strengthened and broadened for maximum effectiveness.

Mr. KASTENMEIER. I thank the gentleman.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. No questions.

Mr. DONOHUE. Mr. Chairman.

Do I understand the gentleman from New York to say that we should eliminate all literacy tests?

Mr. RYAN. Yes, sir. My position is that all literacy tests should be eliminated by legislation, by action of the Congress.

Mr. DONOHUE. In other words, even if a person can't read or write they should be permitted to vote?

Mr. RYAN. That does not disturb me.

Mr. DONOHUE. I know it does not disturb you. But why do you believe that?

Mr. RYAN. I believe we should have no arbitrary requirement of a literacy test or any other requirement except age, residency and sanity. There are only 20 States, I believe, in the country which have literacy tests. Also a strong argument can be made that the 14th amendment invalidates literacy tests.

Mr. DONOHUE. Well, do you believe that a person that cannot read or write can intelligently vote?

Mr. RYAN. I believe that a person who cannot read and write can make an intelligent decision; yes, sir, I do.

Mr. DONOHUE. What is the basis for your conclusion?

Mr. RYAN. The art of communication takes many forms. Civilization experienced vocal and visual communication before it knew writing and reading. The early elections in this country very often were participated in by people who were not able to read and write. The fact remains that in a good many States in this country today there is not literacy test.

Mr. DONOHUE. How can a person that can neither read nor write evaluate the qualifications of a candidate to serve him in a legislative body?

Mr. RYAN. He could listen to them speak, see them on television, and in the movies; he could evaluate what they had to say and weigh their statements just as anyone evaluates the qualification of a candidate when he reads and writes. He could discuss the issues with other people.

Mr. DONOHUE. Now you suggest that a person should not be required to go before the State registrar of voters before he comes to the examiner. If that requirement is made of white people, should it not be required of people that are not white?

Mr. RYAN. I am speaking of those districts, those localities where the Attorney General has recommended to the Civil Service Commission the appointment of examiners. Where examiners are functioning, they should be able to directly receive the applicant and place his name on the rolls without requiring him to go through the process of appearing at the local courthouse or registration place.

Mr. DONOHUE. In other words, you do not believe they should follow the condition precedent?

Mr. RYAN. No; I think the condition precedent should not exist. Once the examiner is appointed, he will have the authority under the administration's bill to register people. I think that he should then go ahead and register them. He would not be there in the first place if there had not been discrimination in voting.

Mr. DONOHUE. How can we determine whether or not the registrar is discriminating until the person goes there?

Mr. RYAN. Under the administration's proposal, H.R. 6400, if less than 50 percent of the population has voted and if there is a literacy test or other similar device, then the Attorney General may recommend the appointment of examiners.

Mr. DONOHUE. That is right, but don't you believe that the person should make the effort?

Mr. RYAN. No; I believe that, once it has been determined that there is discrimination in a locality, the examiner should go ahead and register people. Each individual should not be required to face the hostility of the local boards which are known to discriminate. Otherwise, the examiner would not have been appointed in the first place.

Mr. DONOHUE. That is quite true, but the person who is obligated to register, should we not give him the opportunity of turning the person down; that is, if he is——

Mr. RYAN. They have been turning people down for a hundred years.

Mr. DONOHUE. Pardon?

Mr. RYAN. They have been turning people down for a hundred years.

Mr. DONOHUE. Just go to the registrar's office. If he is not given that opportunity, then he goes to the registrar.

Mr. RYAN. But there is another problem and that is the whole problem of intimidation and economic reprisals which are resorted to in these States and these counties. Many Negro citizens are afraid to go to the local courthouse; they are afraid to go register to vote because they know of the reprisals that will be visited upon them.

There is greater security in going to a Federal examiner who will then register them than going and facing the hostility and the other consequences which will flow from going to the local courthouse. Earlier, I discussed the publication requirement in Mississippi.

There are very valid reasons, once the examiners are functioning, to permit the examiners to register people directly without putting them through the process of being turned down locally.

Mr. DONOHUE. Well, on the matter of discrimination, if that rule applies that the white should go to the registrar's office and apply, should it not apply across the board?

Mr. RYAN. I would, have no objection in those areas to having the Federal examiners registering everybody, if that is the problem. The problem is discrimination against Negro citizens—not white persons.

Mr. DONOHUE. Insofar as applying to register, that requirement is made of the white individual.

Mr. RYAN. But the whole reason we are here——

Mr. DONOHUE. Do not misunderstand me. I am in favor of your position, I am wholeheartedly in favor of it, but I am wondering if the same requirement should not be made as a condition precedent of all people, be they white or colored; to go to the registrar's office and attempt to register. If they are denied the opportunity to register, then they should go to the Federal examiner.

Mr. CORMAN. Would the gentleman yield?

The CHAIRMAN. I caution you we have three more witnesses this evening and it is now 10 to 9.

Go ahead.

Mr. CORMAN. Mr. Ryan, as I understand this bill, I think that there will be appointment of examiners, but a great bulk of registration will still be by registrars who will no longer be permitted to use literacy tests.

In those instances in which you mention there has been discrimination, I think the Attorney General is obligated to waive that requirement. I do not believe that all the people who register to vote without a literacy test will be registered by examiners. The registrars who are today refusing to register people because of literacy tests will be registering them without literacy tests under section 3. We will not have to have registrars for everyone who is going to register, but I certainly would agree with you that no one should be put in the position of being intimidated; that is the very purpose for the language of the bill which provides that the Attorney General may waive that requirement.

Mr. DONOHUE. Will the gentleman yield?

Mr. CORMAN. I am finished.

Mr. DONOHUE. I am wondering, should we make that same rule apply to the whites to determine whether or not they are qualified to vote?

Mr. CORMAN. I would have to say that we live in a real world and I do not think we can escape that problem.

Mr. CONYERS. Mr. Chairman——

The CHAIRMAN. Mr. Conyers. Be very brief, please.

Mr. CONYERS. I only have one question of our distinguished witness whom it seems to me, since my short period in the Congress, has demonstrated one of the continuing concerns in the rights of Ameri-

cans to vote, and I am very happy that he has come before the committee.

Could I ask you about the particular reference that you have made with regard to the Negro citizens in the South who might be in these pockets of discrimination as it has been put earlier and what remedies that you would specifically suggest to be added to this bill so that the right to vote would really apply as the President hoped for? In his statement it seemed that every American, regardless of whether he lived in a 50-percent district or a less-than-50-percent district or anywhere in the South, would be afforded the full safeguards that are intended in this new voter rights bill.

Mr. RYAN. I certainly agree with the gentleman that any bill should comprehensively cover all areas in which there has been disenfranchisement of Negro citizens.

The point I tried to make earlier was that this bill because of the 50-percent provision and requirement of a literacy test or other device does not reach four States especially where large numbers of Negroes have been disenfranchised.

I am sure that the committee can draft language to deal with the problem. My suggestion was that, if the Civil Rights Commission or the U.S. district court were to find that there had been a denial of the right to vote in an area where there is no literacy test, and where therefore, this bill is not operative, then upon that finding the Attorney General could follow the same procedure that is outlined in the bill and ask the Federal Civil Service Commission to appoint Federal examiners to register people in those areas.

Mr. CONYERS. What would it require to trigger off this kind of legislation in your opinion; a complaint from a number of Negro citizens in some area like Arkansas or Tennessee?

Mr. RYAN. I would think that would be one approach. My own approach would be to have the Civil Rights Commission make a finding. While the Federal court might also be used, the use of the Civil Rights Commission would avoid segregationist judges. The Civil Rights Commission has done a great deal of work and devoted a great deal of study to this whole problem of discrimination in voting. If the Civil Rights Commission were to make a finding that there was discrimination——

Mr. CONYERS. What would bring them there?

Mr. RYAN. They could be brought there on a complaint; they could be brought there on their own motion; they could be brought there on a request of the local citizens.

This, then, would be one way of reaching those States which do not have literacy tests and which are not covered under this bill.

The CHAIRMAN. Thank you, Mr. Ryan. I think we will have to let you go now.

Mr. RYAN. Thank you very much, Mr. Chairman, and members of the committee.

Mr. DONOHUE. I would like to point out to the Member from New York that I happen to be a member of the subcommittee that drew up the 1957 and the 1964 Civil Rights Act. I am perfectly in sympathy with the position that the gentleman has taken to make every effort to insure that all of our citizens are given the opportunity to vote.

Mr. RYAN. I appreciate that.

Mr. DONOHUE. I merely wanted to have some of these things clarified.

Mr. RYAN. I know that is certainly the gentleman's desire and I know that he will make a very valuable contribution to the work of this committee this year in drafting a bill which will be effective in accomplishing that purpose.

Thank you.

The CHAIRMAN. Thank you.

Our next witness is the distinguished gentleman from New York, Mr. Halpern.

Mr. Halpern?

STATEMENT OF HON. SEYMOUR HALPERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

The CHAIRMAN. Have you a prepared statement, sir?

Mr. HALPERN. I do have a prepared statement.

The CHAIRMAN. I would like to space the witnesses. We have 1 hour left. How long will it take you?

Mr. HALPERN. I do not think more than 15 minutes—tops.

The CHAIRMAN. Apparently.

Mr. HALPERN. Hopefully.

The CHAIRMAN. Let us not waste time, proceed.

Mr. HALPERN. I am truly privileged to appear here this evening before this distinguished committee. I want to compliment the committee for holding these hearings so swiftly after the introduction of the legislation and particularly for meeting in the evening.

You, Mr. Chairman, and the members of the committee, are to be highly complimented.

I am pleased to appear in support of strong, unambiguous legislation to enforce the constitutional right to vote.

The members of this committee, my colleagues in the House, are engaged in studying this monumental national question. The recent events taking place in Selma, Ala., have accentuated the pattern of rejection and denial which has stained the Nation's integrity.

No right is more fundamental to democracy than the exercise of the franchise. For many years we have witnessed the adoption of ingenious devices aimed at Negro disenfranchisement.

It should now be our unhesitating duty to address this inequity responsibly and enact legislation which will insure for the Negro citizen his rights guaranteed by the Constitution.

The CHAIRMAN. You offer two bills. One is H.R. 4551——

Mr. HALPERN. That is right.

The CHAIRMAN. Which is more or less patterned after the so-called administration bill.

Mr. HALPERN. No.

The CHAIRMAN. It is patterned after the bill offered by Mr. Lindsay.

Mr. HALPERN. That is right.

The CHAIRMAN. Then you offered H.R. 6487, which is patterned after the administration bill, am I correct in that?

Mr. HALPERN. Yes, and I will explain, Mr. Chairman, as I go along.

The CHAIRMAN. You are on both sides.

Mr. HALPERN. I want a good bill, Mr. Chairman. I want the best possible bill.

The 15th amendment provides that "the right * * * to vote shall not be denied or abridged * * * by any State on account of race or color"; and "Congress shall have power to enforce this article by appropriate legislation."

The Attorney General, in his testimony before this committee on March 18, presented a constructive historical argument in support of enforcement legislation.

Mr. Chairman, like other Members, I have long sponsored bills affecting the right to vote, including pending legislation before this committee. It is my view that we need language which will avoid the opening up of further escape routes; we need legislation which is forceful and clear and not susceptible to new abuses.

The bill with which I am principally concerned, and of which I am privileged to be a sponsor, is the measure proposed by the administration, H.R. 6400, introduced on March 16 by the able and distinguished chairman of this committee.

This legislation, to enforce the 15th amendment of the Constitution, has benefited from bipartisan study and participation.

H.R. 6400 and my identical bill, H.R. 6437, are based upon a double formula. States applying literacy tests or similar devices, and in which less than 50 percent of the voting age eligibles were registered or did vote in November 1964, would qualify for application of the enforcement provisions.

In the first context, section 3(a) of the bill would become operative in Mississippi, Virginia, South Carolina, Alabama, Georgia, and Louisiana.

Because section 3(a) also applies to political subdivisions of States where there exists a literacy test and where less than 50 percent of those persons eligible voted, 34 counties in North Carolina could be affected.

As commendable as the bill is, I feel we owe to the President and to the people of the United States to produce the most effective and far ranging legislation that this Congress is capable of. We have the unique opportunity to remedy an evil which has plagued this country for over a century. We must not leave any loophopes.

It is a great challenge to your committee, Mr. Chairman, and to the Congress as a whole. I for one welcome it. We do have before us good legislation—but nothing but the best should suffice.

I urge the committee to consider all means of improving and strengthening the measure and to approve a realistic, workable, and effective bill to counter voting discrimination wherever it exists.

With this in mind, I would like to cite some observations and recommendations. As I see it, a major defect of the prerequisites is the fact that several areas where extremely low Negro voting prevails are not included. Several counties in the States of Arkansas, Florida, Kentucky, Maryland, Tennessee, and Texas, with less than 50-percent voting participation in the 1964 elections, would remain outside the reach of the bill.

For this reason I urge the committee to consider the addition of alternative formulas with more extensive coverage. I would like to see the bill strengthened by proposing that Federal registration machinery be similarly initiated when less than 25 percent of voting-aged

Negroes living in an electoral subdivision were registered to vote for the 1964 general election.

I deeply hope that these alternatives will be carefully evaluated before legislation is reported to the House. I would want the bill to be as broad as it could possibly be to embrace pockets of discrimination without at the same time overstepping constitutional limits.

The prospective appointment of Federal examiners in H.R. 6400 and H.R. 6437 would occur when the Attorney General certified to the Civil Service Commission that voting discrimination, as set forth in the bill with applicable conditions, exists in a particular State or poltical subdivision.

The Justice Department can act on its own initiative or on confirmation of 20 or more written complaints from residents.

My interpretation of the bill reads that tests and devices shall automatically be banned when these registrars take up their work. The registrar is empowered to register those previously denied that right in any local, State, or Federal election.

Furthermore, if persons so registered are denied the right to actually vote, the examiner can apply for a Federal district court order impounding the ballots until that situation is rectified.

I would like to comment briefly on section 5(a). This provision requires that a prospective voter must make an application to the Federal examiner alleging that he was denied the right to register within 90 days preceding his application; although the Attorney General is given authority to waive this requirement, it may be redundant.

For, once the Federal examiner is dispatched, complaints as to discrimination have already been certified. Moreover, in these areas it is largely evident by past record that massive and deliberate disenfranchisement has occurred, and section 5(a) may be imposing an unnecessary and duplicate burden.

I strongly feel that this provision should be eliminated and urge the committee to take such action to the extent, of course, that this is consistent with constitutional implications.

In this legislation a Federal examiner may accept the payment of poll taxes during the year of a State or local election. This would effectively eliminate the discriminately established time periods for payment which have been used as an instrument of voter deterrence.

However, I believe that all poll taxes should be abolished as a condition precedent for voting. This provision is included in earlier bills, mine being H.R. 4551, introduced in February. The protective conditions for the application of a poll tax contained in H.R. 6400 are not attributable to States falling outside the provisions of section 3(a), however just their administration of these levies may be.

I believe that poll taxes constitute an unacceptable hindrance to the voting right, and that their burden, however fairly executed, falls unequally upon those of low income. And as things are, this will affect the Negro community. I strongly recommend that the committee include a provision to eliminate all poll taxes.

As the Attorney General related to the committee, there are sections of the administration bill which tighten the law enforcement procedures. I stand fully behind these improvements which will considerably enhance the ability of the Justice Department to prosecute in-

timidation. In the first place, a $5,000 fine, or a 5-year prison sentence, or both, is imposed upon those violating the provisions of the act.

Secondly, several restrictions which have hampered Government lawyers in effectively dealing with voter intimidation are eased or removed. In this connection, it is essential to realize the astonishing variety of pressure and coercion which does take place. Much of it is subtle.

This bill, under section 7, removes the requirement that in court a burden of proof involving subjective "purpose" must be shown. Moreover, intimidation of persons voting or attempting to vote is declared a felony with resultant severe punishment.

I strongly urge the committee to consider legislation to provide redress to those who are physically assaulted while exercising their constitutional rights to assemble peaceably.

I would suggest legislation to permit such people to bring civil actions against any State or political subdivisions, whose officers or employees perpetrate any such assaults, rather than against the perpetrators themselves, who are, for all practical purposes "judgment proof."

Mr. Chairman, I have touched briefly upon important areas of this bill which I know this committee will be examining very closely.

I have sought to question some points in the administration bill which, to me, are in need of some alteration with a view toward strengthening the cumulative application of the act.

Let me say, however, that this legislation is both bold and judicious, and I am heartened by the frank and forthright foundation which is set forth.

The whole Nation, and the peoples of the world, are looking to the Congress for prompt and constructive rectification of an old and valid grievance. I cannot believe for 1 minute that we are unequal to the task.

Throughout this whole struggle for civil rights and individual dignity, we cannot permit our duty to the Nation to be undermined by hot temper, trivia, or unconscionable delay. Our obligation is to enforce the Constitution which we ourselves have sworn to uphold. Until the rights guaranteed under our laws are fully accessible to all who would exercise them, we will not have executed the full measure of our responsibility.

Beginning in 1948, the Congress has had voting rights legislation before it. In 1957, we enacted a law authorizing the Attorney General to bring suits against cases of discrimination and intimidation in State and Federal elections.

The Civil Rights Act of 1960 permitted the Attorney General to inspect registration records and allowed Negroes the right to apply for relief with a Federal court or voting referee.

The 1964 statute required nondiscriminatory standards and contained provisions facilitating court action.

And yet at the end of all this legislation, we are still confronted with the stark reality of continued intransigence and rejection. It is a matter of public record, fully substantiated by the most intensive and energetic activities of the Justice Department and its Civil Rights Division.

The Attorney General has testified that, because of the inadequacy of existing law, it is not uncommon to spend as much as 6,000 man-hours alone in analyzing the voting records of a single county, and this painful process is essential to meet the legal requirements of presenting a proper case.

These endeavors have failed to yield the fundamental and widespread correction in practice which is so desperately urgent.

Between 1958 and 1964, Negro registration increased by only 5.2 percent in Alabama. In 1954, 4.4 percent of the Negro citizens of Mississippi were registered to vote; this has risen to today's estimate of 6.4 percent.

In Louisiana, while 80.2 percent of the white population is registered, only 31.8 percent of the Negro residents have done so, and this compares to 31.7 percent registered and eligible Negroes in 1956.

These statistics show that the pattern of purposeful discrimination has not been materially dissolved. The legal instruments for correcting this abusive situation, written into previous civil rights legislation, have not essentially affected the practice of intentional disenfranchisement.

There are many who say that full access to the polls exists, and that it is merely a question of individual inertia and apathy. I cannot support this argument. We have far too much public testimony to the contrary.

And I would suggest, alternately, that I am far less interested in how many people vote than in insuring that the opportunity freely exists. Neither I nor the Federal Government can command my neighbor to vote on election day. But we must insure that he possesses that constitutional choice.

Other persons contend that without literacy tests, local, State and even Federal Government will lose its personal quality as the ballot is subverted by the uneducated masses. Yet, at least 30 of our States do not impose——

The CHAIRMAN. The gentleman has consumed almost 20 minutes.

Mr. HALPERN. No, only 16 minutes and I have only half a minute, I guarantee.

Yet, at least 30 of our States do not impose literacy tests as a qualification for voting, and it does not appear that these States are either superior to or more poorly governed than the remainder.

Nor is it the preserve of Government to question the individual motivation for voting. There are many highly intelligent people I know who vote differently than I do, and their vote is equal to the ballot cast by less advantaged persons elsewhere who may share my political beliefs.

H.R. 6400 abolishes literacy tests in certain areas because they have been shamefully used as an instrument of discrimination. People have been denied registration because they cannot interpret the most complex commercial statute of a State. The variety of device is as ingenious as the evil imagination could invent.

Mr. Chairman, I am confident that the committee will report a strong and constructive measure enabling us to correct the penetrating abuses of voting rights. There is no more important question before the Nation.

It is my feeling that reform in all these areas where redress is needed cannot always come with the subtle healing of time. We are privileged to live under a constitutional system wherein certain guarantees are promulgated for the enjoyment of all citizens. These guarantees are not open promises to future generations. They are for all the people, here and now.

The right to vote is fundamental. I fervently urge the adoption of effective legislation to enforce that right without delay.

I have the utmost of confidence that this committee will report a strong and effective bill.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. No questions.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. Does the gentleman feel that a person should be able to read and write and understand the English language in order to register to vote.

Mr. HALPERN. Sir, some of the smartest, shrewdest businessmen I have ever known cannot read or write.

Mr. DONOHUE. Can they understand the English language?

Mr. HALPERN. Well, I do not think one's intelligence is guided as to whether or not he can understand the English language; nor is a political philosophy predicated on whether or not he can understand the English language.

Incidentally, one of the smartest men in the chairman's district, and I am sure he is familiar with whom I mean, Hymie Shorenstein, cannot read or write, and I would say he is as brilliant a man as I know.

I think the chairman will concur in that.

Mr. DONOHUE. I was wondering how one would evaluate a candidate for a public office.

Mr. HALPERN. I think we have due democratic processes in selecting our candidates for office and that is up to the voters, up to the people, up to the organizations that are responsible, responsible political organizations.

Mr. DONOHUE. How could a person evaluate qualifications and the philosophy of the individual candidate that is called upon to serve in the legislative body if he were not able to read or write or understand the English langauge? Have this in mind, we put forth our campaign material in English.

Mr. HALPERN. Well, in substance, sir; if it is indiscriminately applied to a moderate literacy test, but if it is used as a discriminatory device, I think it should be eliminated.

Mr. DONOHUE. I agree with you wholeheartedly, do not misunderstand me.

Mr. HALPERN. I do not think we are writing legislation here on the qualifications of a candidate for office.

Mr. DONOHUE. I do not think a person should have an A.B. or an LL.B. or a Ph. D. as a prerequisite to voting, but I think the soundness of our Government depends upon an electorate that is reasonably intelligent, that can understand what is going on. Do you not agree with me on that score?

Mr. HALPERN. I do not think necessarily that the ability to write or read English is a criteria of one's intelligence. In that case, you would have to give intelligence tests.

Mr. DONOHUE. Do you not think a person should understand the English language as well as being able to read?

Mr. HALPERN. We have in New York, as was pointed out by the previous witness, a large Spanish-speaking community. They are citizens of the United States. They are fully informed, I believe, on public issues; they have local newspapers. They have their own political philosophies.

Mr. DONOHUE. What is the process they follow in evaluating?

Mr. HALPERN. I do not think it has to be predicated on a language, sir.

Mr. DONOHUE. Well, it must be based upon some reasonable understanding.

Mr. HALPERN. They know who they want to vote for, they have Spanish-speaking radio, TV.

Mr. DONOHUE. Why do they vote for them?

Mr. HALPERN. What?

Mr. DONOHUE. Does not the candidate have to represent a principle that they agree with?

Mr. HALPERN. Of course, but that is not guided by the language they speak.

Mr. DONOHUE. Is it guided by the presentations made by the candidate?

Mr. HALPERN. Of course, but this is translated through the various news media, through their own press. They have their own newspapers, they have TV, radio, and other news communications. They certainly have rallies in their own language and they have their own political beliefs and their own candidates that they support, and I do not think this is predicated as to whether they understand the language.

Mr. DONOHUE. Well, in other words, do I understand the gentleman's position to be that a person need not be able to read, write or understand the English language as a prerequisite to vote?

Mr. HALPERN. Will you repeat the question?

Mr. DONOHUE. Do I understand the gentleman's position to be that a person need not necessarily be able to read, write or understand the English language as a prerequisite to qualify for voting?

Mr. HALPERN. I would say so, sir.

Mr. DONOHUE. That you think that that should be a prerequisite?

Mr. HALPERN. No, I would say that it should not be a prerequisite. I think I have made that point clear, sir.

Mr. DONOHUE. Thank you.

The CHAIRMAN. Mr. Kastenmeier?

Mr. KASTENMEIER. No questions.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. No questions.

The CHAIRMAN. Mr. Conyers?

Mr. CONYERS. Thank you very much, Mr. Chairman. I have some questions, please.

Since there has been so much concern raised about this right of a person to read and write, are you aware that there are a great number of States that have no such requirements?

Mr. HALPERN. Yes, that is a very good point. I believe we have 30 States in this Union that have no literacy requirements.

Mr. CONYERS. Let's take some specific examples if we can for a few moments, of Negro American citizens in Selma, Ala., at the next election in the Dallas County elections in which they will be entitled, perhaps under this law, to vote for a sheriff.

Do you think that their failure to be able to read and write and to understand Sheriff Jim Clark's program or that they will need to have the ability to understand or comprehend what he has stood for over the great number of years that he has been sheriff there to make a determination in their own self-interest in casting their ballot?

Would you say that reading and writing would become of prime importance under those circumstances?

Mr. HALPERN. I would not.

Mr. CONYERS. Or even the mayor there?

Mr. HALPERN. I would not.

Mr. CONYERS. Or even the Governor, and maybe even Congressmen?

Mr. HALPERN. I agree with you, sir.

Mr. CONYERS. I think that is a very important subject and I have not been able to appreciate that this was such a great concern before now, because I think that our country is very replete with examples in which great numbers of the electorate were probably not qualified by a sixth grade education.

Now let me ask you another question, Mr. Halpern, because you indicated in your statement a concern about the violence and terror that has gone throughout the South in the course of intimidating Negro Americans. I am sure you are aware of it.

Mr. HALPERN. I certainly am, sir.

Mr. CONYERS. Are you aware of the fact that during the Reconstrution after the passage of certain very beneficial civil rights legislation there was a very marked increase in the terror and the coercion and the violence— as a matter of fact, I think the Ku Klux Klan came out of that era.

Now it would seem to me that there might be some concern expressed in your statement that there may be some increased terror and intimidation as a result of the passage of this bill which would then be the only way that the segregationists could maintain the political strength that they have dominated in the South over the years.

Do you feel that there is some possibility that that might occur?

Mr. HALPERN. Well, I hope it won't occur, but I think I did cover that aspect of it in my testimony where I advocated that there be legislation either adopted within this bill or perhaps separate legislation to permit civil suits for physical damages and brutality against the county or political subdivision or the State rather than the individual who perpetrates these assaults; if we can aim it at the political subdivision or county, I think it would be a tremendous deterrent.

Mr. CONYERS. I do not have any further questions, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. Brooks Hays, our former and very distinguished Member of the House for whom we have much respect.

STATEMENT OF HON. BROOKS HAYS, ARTHUR T. VANDERBILT PROFESSOR AT RUTGERS UNIVERSITY AND CONSULTANT TO THE PRESIDENT OF THE UNITED STATES

Mr. HAYS. Thank you, Mr. Chairman, for this word of welcome.

I hope that it is not effrontery for me to appear before the committee. I am aware that there are technical phases of the problem with which I am not familiar and perhaps it was just yielding to a human impulse to want to appear for the first time, Mr. Chairman, since I left the House of Representatives some 6 years ago, particularly since I have strong convictions regarding the general principles upon which H.R. 6400 is based.

I called the chairman, he will recall, asking for the privilege of making this statement and indicated to him that while I was not prepared to discuss the technical features of the bill, I did want to say something as an individual and as a southerner regarding the historic significance of this measure. Perhaps these are subjective values reflected in thoughts as to the propriety of Federal action. Two things inspired this request.

One was the reading of the statement by Robert Story, former member of the Civil Rights Commission, a very distinguished lawyer as the chairman knows, dean of the Law School at Southern Methodist University and former president of the American Bar Association, in which opinion Mr. Rankin, another southerner, joined.

If I might read it, it is a very short sentence, it appears in the Civil Rights Commission report on page 30, 1963, referring to the fact that their hopes had not materialized for the enfranchisement of the racial minority.

I hope the committee will bear with me as I read these very brief sentences.

The CHAIRMAN. What page is that, Mr. Hays?

Mr. HAYS. On page 30, Mr. Chairman, of the 1963 report.

> The evil of arbitrary disfranchisement has not diminished materially. The responsibility which must march hand in hand with States rights no less than with civil rights has, as to the right to vote, often been ignored. Progress toward achieving equal voting rights is virtually at a standstill in many localities. For these reasons we have concluded sadly, but with firm conviction, that without drastic change in the means used to secure suffrage for many of our citizens, disfranchisement will continue to be handed down from father to son.

So, gentlemen of the committee, I see no escape from the necessity for Federal action in this field. As those who served with me in the Congress will recall, I pointed out in the talks to the House urging a course of action for civil rights, I feel that there are logical and constitutional limits to Federal authority in this vital field.

However, we are dealing here not only with constitutional questions which of course place a limit upon the authority of the Congress, but with broad social considerations.

As one who has lived in the South practically all of his life, I have come to this conclusion that the principles embraced in this bill and in the President's message supporting it are unassailable and it seems to me that there can be no question about the constitutionality of this bill.

I trust, therefore, that the Congress will adopt it.

The other thing that inspired me to come was a statement in the letter on the matter of voting that I received just today from a former businessman in Arkansas, now living in Texas, a very conservative businessman—actually, I doubt that he supported Mr. Johnson.

He said: "I am convinced that the President is pursuing the only proper course, the right to exercise citizenship is basic." This sentiment is growing in the South.

Mr. Chairman, I am a politician turned professor, but my roots are still in southern life. Among the things that have been said about me, one that I prize appeared in a book some years after I came to Congress. It was a statement by an observer who said, in effect, that he did not agree with me in some of my moderate views, but the author added: "Mr. Hays has never ceased to love the rural South which nourished him."

It is in the Southland that I want to see the doors opened and I think the South is going to be happier when it takes place.

I think that is all the time I should take.

The CHAIRMAN. Mr. McCulloch?

Mr. MCCULLOCH. I just want to say that I am pleased that Brooks Hays returned to speak to the Judiciary Committee. I hope you will come back often. Thanks, much.

Mr. LINDSAY. Nice to see you back again, Mr. Hays.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. Mr. Chairman, may I say to the witness that I am very happy to see you here tonight and to have the benefit of your views. You were one of the outstanding Members of Congress and I say that I feel very privileged to have had the honor to serve with you.

Mr. HAYS. I am very grateful.

Mr. ROGERS. Perhaps, Mr. Chairman, I have known the witness longer than any of you since he and I were, believe it or not, way back in 1918, down at the University of Arkansas. I know that what he expresses here is his sincere belief and his desire to see that justice is done to all.

The CHAIRMAN. Mr. Brooks.

Mr. BROOKS. Mr. Chairman, I would just add to the statements of the members that nobody would be more highly regarded in the Congress than our friend Brooks Hays. It is good to see you well and happy and prospering back here and testifying in what you believe in firmly.

Mr. CONYERS. No questions.

Mr. HAYS. Mr. Chairman, let me please say to these former colleagues and the new friends that I have met that I am deeply moved by their statements and I do not know what to say except "thank you."

I have tried to state broadly why I feel as I do about the legislation. I think it is well summed up by John Locke who said:

> There can be no government of and for the people unless there be government by the people.

The CHAIRMAN. Well, all I want to say is that you are always welcome here, Brooks. We are very happy to have had you testify tonight.

Mr. HAYS. Thank you, Mr. Chairman.

STATEMENT OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

The CHAIRMAN. Representative Pepper of Florida, our distinguished Member from the great State in the South. We are very glad to have you here, Mr. Pepper.

Mr. PEPPER. Thank you, Mr. Chairman, and gentlemen of the committee. I appreciate the privilege of appearing before this committee upon this momentous issue. Like most of you here on this committee, I am not a stranger to this struggle to try to remove bars and barriers from the fair exercise of the voting privilege for the people of the country.

I think it was in the late 1930's I introduced the first bill to outlaw the poll tax in Federal elections on the theory that it was at the present time as a requirement that the proposed voter pay a sum of money, a condition and not a qualification.

I introduced a similar bill later on in the 1940's, after President Truman recommended his civil rights proposal and I believe we got it out of the Judiciary Committee of which Senator Norris was the chairman twice, but it died as a victim of the well-known filibuster in the Senate.

I have also had bitter experience ever since I entered public life in being politically victimized for trying to stand up for what was decent for the Negro citizens of our country.

I remember in the Florida House of Representatives in 1929 a member who had moved to Florida from Georgia introduced a bill to condemn Mrs. Hoover, President Hoover then being President, for including in an invitation to a White House tea the wife of the Negro Congressman from Chicago, Ill., Mr. DePriest, and I was bitterly attacked for that vote. I was 1 of the 13 in the house who voted against that resolution, and as I said, I was severely attacked for it when I ran for reelection to the house and then again when I ran for the Senate for the first time in 1934.

I recall one occasion I was in California speaking for the Democratic ticket and I made a talk one afternoon in a Negro Baptist church—that happens to be my faith—something that I had often done in both Alabama and Florida.

Pictures were taken as I was walking down the aisles and speaking in the pulpit and walking out of the church. About 2 weeks after that, I found that a very violent anti-Roosevelt publisher in the State published 200,000 copies of a paper and disseminated it all over the State with my picture in that Negro church.

Somehow these critics excluded the Lord from that Negro pulpit. In every election in which I have been engaged since I ran for the house of representatives in the Florida Legislature in 1929, I have had to face the so-called race issue as many of you have, in trying to stand up for what I thought was good and right for America as well as for the people, particularly of the South.

The CHAIRMAN. That only proves what Andrew Jackson once said, "One man with courage is oftentimes a majority."

Mr. PEPPER. You are very kind, Mr. Chairman.

So I, like so many of our citizens in America, view this as a historic bill and this as a momentous occasion in which we are all privileged to have a part.

When Thomas Jefferson wrote the words in the Declaration of Independence that all men were created equal by God, he was well aware, of course, that there were many Negro slaves in the United States. I have always surmised that he did not intend to be describing the condition of his country, but was laying down the ideal for the new Nation that was coming to birth.

Nearly a hundred years elapsed before the bonds of physical slavery were stricken from the Negroes of many parts of the country. Up until that time, Negroes were bred and worked and sold like cattle. Finally, the bonds were broken in a terrible struggle.

Incidentally, if I may say so, I was not only born in Alabama myself but I am proud to be the grandson of two Confederate soldiers, one of whom was captured at Vicksburg by a general named Grant who seemed to have acquired considerable fame thereafter.

So I come of a heritage that stretches back beyond the Revolutionary War without an ancestor born or living outside the South. I mean I come of a southern family. I am not a newcomer to the South. I think I have roots deep enough to be able to speak as a southerner and I am proud to speak as a southerner in support of this bill.

Mr. DONOHUE. But you graduated from Harvard.

Mr. PEPPER. Pardon.

Mr. DONOHUE. But you graduated from Harvard.

Mr. PEPPER. I think that made me a better southerner, I learned a little more. I notice that we southerners who came out of the South and went to better schools did better thereafter. I commend the distinguished gentleman from Massachusetts for having that great institution in his State. That is why I want to see the South offer the very best educational opportunities to all of its boys and girls.

Mr. Chairman, in the early days of this country a white man had to be what we would almost call a millionaire today in some States to be eligible for the office of Governor, and, of course, the poll tax prevailed up for a little while ago and still prevails in some of the States in respect to State voting.

Women did not have the right to vote until 1920, a long time after Thomas Jefferson wrote those stirring ideas of equality into the Declaration of Independence.

During the years after the Civil War, the War Between the States, if they want to call it that, the Congress did make commendable efforts toward trying to implement the 15th amendment.

The courts, not as understanding or as sympathetic as they have been in late years, basically struck down those amendments and political compromise or something else led the Congress to the repeal of many of the acts that were designed by Congress to implement the provisions of the 15th amendment.

However, as I said on the floor the other day, I thank God for the decisions of the U.S. Supreme Court in the last decade or two.

The Federal courts under the admonition and direction of the U.S. Supreme Court, have whittled away one and another of the impediments which have barred so many people from the exercise of all or many of their civil rights, not only the voting right.

The CHAIRMAN. I heard that speech of yours and it was admirable.

Mr. PEPPER. Thank you very much, Mr. Chairman. I was certainly very much inspired by yours; you touched me off to want to say something and I just wanted to try to speak in the same spirit in which you spoke so movingly.

In late years the Congress has made further efforts to progress this cause. In 1957—and great credit goes to our eminent and distinguished President for the leadership of that fight—and again in 1960 he played a large part; and finally last year, we passed the Civil Rights Act which contained a weakened, if not an emasculated provision relative to the enforcement of voting rights for Negroes, particularly.

There have always been these ingenious devices which have been contrived by clever and capable hands; as soon as the courts would strike down one they would come up with another and if necessary, the Governor would call a special session of the legislature to put some more on the statute books. That meant more long and tedious litigation, because if you are going to have any trial at all and any judicial hearing at all, you have to conform to the basic requirements of due process, an opportunity to be heard, and so on.

So there have always been these various obstructions that have been put in the path of the efforts we have designed. Thus, while some progress is detectable, not a great deal has been made and surely not enough has been accomplished.

Then in late weeks, the Nation has been shocked and shamed at what has happened in my native State of Alabama. I cannot in good conscience other than condemn it in the most severe sentiments that I am able to express, nor can I refrain from saying that I think a part of it was calculated and politically conceived by a Governor who thought to fasten his political power upon a State by the attitude and the position that he took. That is just my opinion, others have a right to theirs.

Anyway, we have seen the spectacle of people being denied the right effectively to register. We had two of our distinguished colleagues before the Rules Committee who came up in behalf of a resolution that there be a committee of the Congress to investigate what had happened in Selma, Ala. I asked one of our distinguished colleagues how many days of the week the registration offices remained open and he said, "Two." Well, I said, "How many do they register a day?" Well, he said, "They have got up to 70." Well, twice 70 is 140, and I said, "How many would you say there are in the county who are eligible?" I understood him to say some 16,000.

Well, it is not very difficult to make a quick calculation as to how long it would take that many people or even a few of that number, thousands of people, to register at that rate.

So the whole registration machinery was designed apparently to limit the number of people who could register.

The facts speak for themselves as to the number of people who have voted, and therefore the implication is deducible that they were prevented from voting by either the denial of the right of registration or intimidation against their exercising the right to vote.

Now, Mr. Chairman, we are the greatest experiment in democracy in the history of the world. I realize how many of my fellow Alabamians and many southerners feel about changing a pattern to which they are accustomed, but we are living in an age when our democracy is on trial before the world and people are questioning the integrity of our democracy, whether we mean what we say when we tell them that we want to help them to have a democracy, a democratic form of government.

Here with spectacles such as we had in Birmingham—and I only mention them now (it has not been so long since there were other States that exhibited a shameful practice before the country and before the world now quieted to a large or total degree); but the spectacle of dogs being set upon human beings who did nothing more than walk peacefully down the street; or denying men and women the right to walk two abreast along a four-lane highway without telling them, "You will have to walk on the side of the road if you walk or we are going to go along to see that you don't obstruct traffic;" giving them 2 minutes to disperse and then on the expiration of 1 minute charging them with horses, beating them over the heads with bludgeons, trampling women and children in the name of the law and by the authority of the highest law officer of the State, the chief magistrate of the State, and then brutalizing those people with tear gas as they did—for what?

They dared to try to get out of what some white men call "their place." Some of them say, "A Negro is all right if he will stay in his place." They presume how to describe him and to determine his place.

Well, Mr. Chairman, it just happens that the Constitution of the United States fixes the place of all of us in America and God fixes the place of all men white or Negro, or those of any color, born or naturalized in the United States, are citizens of America under one flag, dying if need be, for one cause, supposedly protected by one Constitution, dedicated to the principles of our democracy, all brethren under the Fatherhood of God.

So the time has come at long last when we have got to come to grips with this problem, painful in some respects as it is to those who are immediately affected. There are some white citizens who say "Yes, you have an ignorant Negro majority you are going to put me under in my country."

Well, how did those Negroes come to be ignorant? To a large degree because the white man did not provide the schools and the opportunity for them to get an education. Indeed, there have been those who did not want the Negro to get an education for he would want more money as compensation for his labor; he would want more rights; he would be more impatient of restraint or restriction.

When I was in the Senate and before, I lived in one of our noble and beautiful places in Florida, Tallahassee, our State capital. To show you how sentiment of our people in the South is changing—and many of you know that Tallahassee is a fine, old southern town and the southern ways are still their way of life—let me give an example. Three or four years ago they had a terrible controversy in Tallahassee over whether Negroes could ride other than in the back end of a city bus.

One day a Negro woman went in and there was not a vacant place and she sat down in the middle of the bus. The bus driver told her to get back to the rear and she refused to do it and he had her arrested. The Negroes boycotted the busline and it nearly went broke; and there were a lot of demonstrations and acts of violence. The city was in turmoil for a long time over whether or not Negroes who paid the same fare that anybody else paid could ride in any part of the bus where there was a vacant seat.

Fortunately, the matter was settled and now when you go to Tallahassee anybody rides anywhere in the bus they can find a seat and if he can't, he stands anywhere he wants to stand. That is illustrative of what is going on in the South.

I am proud of the way the South has accepted the civil rights law. I voted for it and I am proud that eight of us who voted for it lived in the South, and one of them is the distinguished gentleman on this committee, Mr. Brooks; four from Texas and two from Tennessee and our distinguished colleague, Mr. Weltner, from Atlanta. I am proud to say that every single one of us was reelected.

Mr. ROGERS. I do not think we will have much trouble getting your vote to send a strong bill from the Rules Committee to the House.

Mr. PEPPER. I think I am going to look very sympathetically upon this legislation and I think that every man should conscientiously follow his conscience and his good judgment and both are going to be on the side of the support of this bill as far as I am concerned.

Mr. Chairman, you have done a great service to your country in presenting this bill. I won't go into details of the bill. It has been carefully prepared. There are points that probably will be raised and will be clarified in the course of the debate in your able explanation of the bill which I am sure you will give.

We are bent upon great business and I want to congratulate this fine committee for what it has done to produce this splendid bill.

I am privileged and proud to be here to assure you of my support for it in every way that I can help.

Thank you very much.

The CHAIRMAN. Any questions.

Mr. DONOHUE. Mr. Chairman, I want to thank the gentleman from Florida for his splendid remarks which I share wholeheartedly. It is my privilege to have developed a very keen and friendly relation with him since he returned to the Congress.

Thank you very much.

Mr PEPPER. I thank you very much. I appreciate those kind words from my able and good friend from Massachusetts.

The CHAIRMAN. Mr. Brooks?

Mr. BROOKS. I thank the distinguished gentleman for his kind remarks.

Mr. PEPPER. I am sure our able friend from Texas will survive all the tests of the long future. Thank you.

The CHAIRMAN. Any other questions?

Mr. CORMAN. No questions.

Mr. CONYERS. No questions.

The CHAIRMAN. Mr. Lindsay?

Mr. LINDSAY. Our colleague, Congressman Pepper, has handled himself extremely well, and has made a very good statement. It does appear a Harvard education has not hurt you at all.

Mr. PEPPER. I thank my distinguished friend from New York.

The CHAIRMAN. Representative Pepper of Florida, our distinguished Member from the great State in the South. We are very glad to have you here, Mr. Pepper.

The Chair wishes to place in the record the statement of the Honorable Silvio O. Conte of Massachusetts and the statement of the Honorable Ed Reinecke of California.

(Statements referred to follow:)

STATEMENT OF HON. SILVIO O. CONTE, U.S. REPRESENTATIVE FROM THE STATE OF MASSACHUSETTS

MARCH 24, 1965.

Mr. Chairman, I wish to thank you and the members of this committee for affording me this opportunity to present to you my views in support of my bill, H.R. 4540, which provides for the implementation of voting rights, the appointment of Federal registrars, and for other purposes, and which I introduced on February 8, 1965.

As you and the members of this committee know, this bill is similar to the one introduced by several of my Republican colleagues. But let me state here and now, Mr. Chairman, that I do not think that this bill should be, or can be, looked upon as a Republican measure. It is one introduced by Members of Congress, elected by the citizens of their districts, who are, I believe, as deeply concerned over the denial of the right of citizens in this country to register as I am.

Each citizen must have the right to register, for each citizen must have in our democracy, regardless of race, color, or religion, the same rights, privileges, and immunities. Indeed, it has often been stated that the outstanding feature of a democracy that distinguishes itself from other forms of government is that each citizen does have these same rights, privileges, and immunities. Yet, even now the most basic right which a citizen has in this country is being denied to large numbers of them. I speak, of course, of the right to vote.

So fundamental is this right that to destroy or to curtail it is to pervert our democracy. An attack on the right to vote, whether it be prior to casting the vote, as in the case of preventing a citizen to register, or after the vote has been cast, as in the failing to record the citizen's vote, is an attack—I might even say a traitorous attack—against this country and this democracy. Anything less than meaningful universal suffrage makes our democracy less than democratic.

Yet, there are many individuals today who are actively engaged in the destruction of our basic system of government through the denial to large segments of our citizens of the right to vote. Misguided as these individuals are, they act under color of law, and recent stories carried in newspapers across this country attest to their effectiveness.

Mr. Chairman, the time is long overdue for strong legislation by Congress to protect the basic right of each citizen to register and to vote in each election. I use the word "strong" advisedly. Anything less than forceful and meaningful legislation by this Congress would be a negation of our responsibilities as the elected representatives of the people. We would be guilty through our inaction or inability to legislate of aiding those who would prevent citizens of this country from exercising their basic rights.

A voting rights bill must be one which is designed to protect the right to vote anywhere and in any election, by any citizen. It should not be one designed, patchwork quiltlike, to apply to one area or several States where the denial is most grievous. It must not be a bill which is based on political expediency, in the hope that expediency will satisfy and cloud the memory of the people. I say to you, Mr. Chairman, the events in Selma will never be forgotten, and anything less than a strong and meaningful bill will not satisfy, for it will not remedy the evil.

As you know, Mr. Chairman, I have had occasion within the last few weeks to see for myself the historic events now taking place in Selma. At the request of Speaker McCormack, Congressman Edward Boland and I formed a bipartisan committee to represent the State of Massachusetts on a special visit to Selma. Our purpose was to encourage and reassure the voter rights leaders there of our deep concern for their fight and to demonstrate that the brutal murder of Rev. James Reeb, of Boston, has drawn Massachusetts much closer to them.

The trip resulted from a meeting with Speaker McCormack and other members of the Massachusetts congressional delegation, along with members of the clergy. Catholic and Protestant leaders attended as did the Rev. Virgil Wood, who is head of the Southern Christian Leadership Conference in Massachusetts. The martyrdom of Rev. Reeb had a naturally tremendous impact on these religious leaders and they were most concerned that the people of Alabama understood how the people of Massachusetts felt about it.

Congressman Boland and I arrived in Montgomery, Ala., late Sunday, March 14. We spent all day Monday in Montgomery and Selma, traveling between the two cities over the same U.S. Highway 80 used by Dr. Martin Luther King and the 3,500 voter rights marchers. We called at the Federal District Court in Montgomery and talked with U.S. Marshal William M. Parker, Jr., and his deputies, Floyd Marshall and Robert Montgomery.

We also were privileged to meet and talk with Judge Frank M. Johnson, who later that week issued the historic order allowing the Selma-to-Montgomery march. While it is easy to praise the high wisdom and capabilities of this man in retrospect, now that the decision has been made and the march has become a fact, I can assure you that we were tremendously impressed with Judge Johnson even before the decision. I might add parenthetically that at the time of his appointment by President Eisenhower, he was the youngest Federal court judge in the country at the age of 35. He seemed to have a complete grasp of the situation in Alabama. He was firm and yet completely fair to both sides of the issue.

We left Montgomery and drove the 50 miles to Selma. At the post office in Selma we met and talked with a number of Federal officials, including Joseph Sullivan who is head of the FBI contingent there. Mr. Sullivan seemed to have things well in hand. He appeared to be a man of considerable experience, and like all the Federal representatives we met, seemed completely competent and fit to handle the terrific responsibilities he faced.

We visited the U.S. attorney's office and talked with Paul Douglas, Jr., who had just been sent down a few days previously by the Justice Department. Mr. Douglas is the son of the distinguished Senator from Illinois.

We then went over to the courthouse in Selma to observe first hand the cause for all the violence and bitterness—voter registration. We saw about 100 Negroes waiting in line to sign the registrar's book and to be given their registration number. This was but the first step in the long drawn-out process of registering.

We were told that on the first and third Monday of each month, a block of these numbers is called. If a person's number is included, he must go to the courthouse and be interviewed. He must also take an examination. The lines which necessarily form for these interviews and examinations become quite long and slow moving. If the registrant leaves the line for any reason and his number is called during his absence, it is repeated once. If he fails to respond, he must start all over again, waiting in line to sign the book and be given a new number.

A second weakness in the system is that each registrant is required to have another registered voter act as his so-called sponsor. If a registrant could not arrange a sponsor, he could not register. And each "sponsor" could only act once—could only sponsor one registrant. Prior to the present registration drive, there were only 325 registered Negro voters in Selma, so that you have a situation where a very limited number of Negroes could be registered.

This situation, I am advised, is a matter of procedure specified by the county election boards. Some counties have no such specification. Dallas County does and, I understand, one or two others do. It is not a specification of Alabama State law. I am advised that there is no apparent requirement in the system to prevent a newly registered voter from sponsoring another registrant immediately which, to my way of thinking, clearly gives the lie to this kind of requirement. It is a delaying tactic, pure and simple, and achieves no useful purpose whatsoever.

I am certain that this sort of procedure can and should be attacked and eliminated in this legislation. So long as delaying tactics and needless redtape are allowed to exist, irrespective of the letter of the law, the law itself will be meaningless. A trickle of voters will be registered in keeping with the law while the vast bulk stand helplessly in line, waiting for their number, seeking a qualified witness to vouch for them, meeting frustration and confusion at every turn.

It is up to the members of this committee, Mr. Chairman, and to the Congress to rip away this tangle of redtape that keeps these citizens staggering and reeling, forever off balance and never able to exercise their legal, constitutional rights.

With these facts in mind, I was doubly impressed with the incredible patience of these people and the tremendous capacity for leadership by men like Martin Luther King who are still able to inveigh against violence on the part of his followers. God forbid if he and his kind ever lose control.

This is another reason why we must act swiftly and without any more delay in enacting an effective voter rights bill. I was told during my visit of the fear among the voter rights leaders that some impetuous firebrand might incite the Negro population to retaliate against the police with the same kind of brutality that took the life of James Reeb.

There are already stories of unsavory characters—I have heard them called beatniks—who have infiltrated the movement from time to time and, for purely personal reasons, have sought to stir up trouble and violence. The consequences of letting people like this take over the movement or even becoming directly identified with it would, to my way of thinking, be just as dangerous as turning over the police responsibility in Selma and Montgomery completely to the club-swinging posse.

There are some who question what is now occurring in Alabama and say that it will have little or no effect. I do not believe that this is correct. These very hearings are a direct result of the incidents and marches that have taken place in Selma. In the county of Montgomery since these marches began there have been 500 additional Negro voters registered. In 1961, 11.3 percent of the Negro voters in Montgomery County were registered. In 1964 this percentage had increased to 21.9. Yet the relative number of registered Negro voters to registered white voters has changed little.

I should like to include for the record figures which I recently received from the Justice Department, which illustrate what I have said.

Montgomery County

	Persons of voting age (1960 census)	Number registered		Percentage	
		Aug. 4, 1961	Nov. 1, 1965	Aug. 4, 1961	Nov. 1, 1965
White	62,911	34,846	40,234	54	64
Negro	33,056	3,766	7,250	11.3	21.9

But while the impetus for these hearings may have been given by the Selma marchers and the incidents which are still all too vivid in our minds, legislation by this Congress should not be limited to correcting the wrongs suffered by one group of citizens in several States of this Union. It must, as I have said, be designed to prevent the perversion of voting rights whenever and wherever they may occur, no matter what group of individuals is involved.

The bill which is now before you and which I introduced weeks before the incidents in Selma is designed for this purpose.

Section 1 of my bill amends the existing voting rights law to make it applicable to all elections—Federal, State, and local.

Section 2 is a technical amendment which deletes the definition of "Federal election" from title 42, section 1971, of the United States Code.

Section 3 requests that a Federal court makes a finding of a pattern or practice of voter discrimination within a particular area, as authorized under the voting rights laws of 1960 and 1964.

If 50 or more persons within a particular area, who are of the same race as those discriminated against and who are qualified to vote under State law, have been denied the right to register or to vote in any election conducted within that area, this shall constitute a conclusive finding of the existence of a pattern of discrimination and the court shall immediately make such a finding.

A person shall have been denied the right to vote if a government official has (1) deprived or denied him the opportunity to register to vote within 2 days of making application thereof; (2) deprived or denied him the right to vote, or (3) found him not qualified to vote although he is so qualified.

If the court within 40 days after the Attorney General has requested a finding of a pattern or practice of discrimination, fails to make such finding, the President shall make such finding if he receives statements under oath from 50 or more persons within the particular voting area who state that they have been denied the right to register or vote because of their race or color.

Where the court, or in the alternative, where the President finds the existence of a pattern or practice of discrimination, the court or the President shall appoint one or more Federal registrars from a panel of no less than 10 persons who shall be named by the President.

Federal registrars shall be appointed for 1 year and thereafter until the court or the President (depending on who has made the appointment) finds that the pattern or practice of discrimination has ceased.

Federal registrars shall be existing Federal officers or employees who are qualified voters within the judicial district in which the legal action was instituted by the Attorney General. Such registrars will serve without pay, except for their existing Federal compensation, but they shall receive necessary travel and living expenses.

Federal registrars shall have the following duties:

1. Receive application to vote by persons of the same race and color within the particular voting area as those who have been discriminated against.

2. Receive such applications up to 30 days before any election regardless of any registration deadlines or other time limitations that may have been established under State or local law.

3. Applications so received shall be determined forthwith.

4. In passing upon an application, a registrar shall find that an applicant with a sixth grade education has fulfilled all literacy, education, knowledge or intelligence requirements that may have been established under State or local law.

5. In passing upon an application, a registrar shall disregard any poll tax as a prerequisite to voting.

6. Issue voting certificates to applicants who are found qualified to vote.

7. Oversee all elections within the particular voting area until the court or the President (depending upon who has made the finding) declares that the pattern or practice of discrimination has ceased.

8. Make tallies and report to the court and to the Attorney General any persons who, holding voting certificates issued by the registrar, have been denied the right to vote.

The court shall hold any State or local officer in contempt of court who has denied a person, holding a voting certificate, the right to vote.

Where the court finds that 50 or more persons within the particular voting area, holding voting certificates, have been denied the right to vote, the court shall void the election except when it is an election for President. If the court fails to void the election the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

Where the President has made the finding of a pattern or practice of voter discrimination, the President shall declare an election void under the same conditions that a court is so empowered to do, and he shall request the Attorney General to institute necessary legal action to have the voidance of such election enforced.

The action of a court or of Federal registrars taken under the authority of this section shall remain in full force and effect pending appeal unless stayed by an order of the Supreme Court.

Section 4 authorizes the necessary funds to carry out the provisions of this act.

Section 5 states that if any provision of the act or the application of the provisions of this act to any person or circumstances is held invalid, the remainder of the act and its application to other persons not similarly situated or to other circumstances shall not be affected.

I include as part of this statement, Mr. Chairman, a section-by-section analysis of the provisions of my bill, H.R. 4549, and existing procedures found in title 42 of the United States Code.

A comparison between my bill and that recommended by the administration shows that both deal with existing procedures. However, H.R. 4549 amends the existing procedures while the administration's proposal would supplement existing procedures. Both permit a more accelerated approach to mass denials of the right to vote on account of race or color.

I think that it is clear that the principal differences between the two proposals lies in their scope. The administration's proposal is quite narrow by comparison with the bill that I have introduced. The practical effect of it would

be most likely limited to Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia, and Alaska, 34 counties in North Carolina, and 1 county in Arizona. Elsewhere, the "tests and devices" would remain valid. Discrimination with respect to the right to vote on account of race or color of a lesser magnitude would not be reached by the administration's proposal.

Mr. Chairman, the denial of the right to vote cannot, and must not, be judged by the magnitude of the denial. The injury to this democracy is, in a certain sense, as great as if all were denied the right to vote. If a man commits murder the act is complete in and of itself. We do not judge him more severely under the law because he has killed 20 men by this act.

The bill which I have introduced will not only deal with mass discrimination, but also with lesser, but nevertheless obnoxious, interference with the right to vote. It would have application not only to the Negro population, but also to the Puerto Rican population, the native Indian population, the oriental population. It would prevent any group of individuals acting under the color of law from denying any substantial number of individual Americans the right to vote.

The legislation which this Congress passes must not be designed to correct a particular situation in certain States. We have before us the opportunity of destroying this disease which can destroy our democracy. We have the chance before us of stopping the marches, the discrimination, the incidents that have for so long marred our country. Let us not, for political expediency, lose this chance. Let us pass not a weak and indecisive bill, for such a bill will only prolong the agony of this country. Let us strike out with force and vigor. Let history show that we did not lose our God-given opportunity, and let it show that we acted with courage and honor.

Mr. Chairman, the times demand a strong civil rights bill such as I have introduced. This country needs such a bill and I respectfully urge the members of this committee to act favorably on my bill.

COMPARISON OF VOTING RIGHTS BILLS

Conte bill (H.R. 4549)	*Existing law (42 U.S.C. § 1971)*
No change in existing law----------	All persons qualified to vote at any election, including those for Federal, State or local offices, or primaries or other voting processes at which officials or candidates for public office are chosen * * * shall be entitled and allowed to vote at all such elections.
Strikes the word "Federal" to apply existing provisions to all elections.	In Federal elections, no person acting under color of law shall (a) apply any standard, practice or procedure different from those applied to other individuals in the same political subdivision who have been found qualified to vote; (b) deny the right to vote because of any error or omission not material; (c) apply any literacy test not administered wholly in writing * * *
No change in existing law----------	In case of denial or deprivation of the right to vote, the Attorney General may institute for the United States a civil action or other proper proceeding for preventive relief. The Federal district courts shall have jurisdiction, but the Attorney General or any defendant may request a three-judge Federal court. Judge(s) to hear the case shall be designated immediately.
Same as existing law, with the added provision that the court shall make a finding "forthwith".	In any court proceeding, in the event that the court finds that any person has been deprived on account of race or color of any right or privilege hereby secured, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding whether such deprivation was or is pursuant to a pattern or practice.

COMPARISON OF VOTING RIGHTS BILLS—Continued

If the court finds that 50 or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, under color of law, (a) denied the opportunity to register within 2 days of making application, or (b) found not qualified to vote, it shall immediately make a finding that a pattern or practice of discrimination exists.	No such provision.
Existing provisions deleted----------	If the court finds a pattern or practice of discrimination, any person of such race or color residing within the affected area shall, for 1 year and thereafter until the court finds that the pattern or practice has ceased, be entitled, upon his application, to an order declaring him qualified to vote, upon proof that (1) he is qualified under State law to vote, and (2) has, since the court's finding, been deprived of or denied the opportunity to register or otherwise qualify, or found not qualified by any person acting under color of law. An applicant so found qualified shall be permitted to vote in any election. Applications for such order shall be heard within 10 days.
The court, upon finding of a pattern or practice of discrimination, shall appoint one or more Federal registrars from a panel of no less than 10 persons so designated by the President. This panel shall consist of existing Federal officers or employees who are qualified voters in the judicial district.	The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees. * * *
If the court, within 40 days of the Attorney General's request for the finding of a pattern or practice, fails to determine whether such exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do so, if the President receives statements under oath from at least 50 persons (similar to provisions above for the finding of a pattern).	No such provision.
Existing provisions deleted----------	Voting references shall receive applications for court orders of qualification to vote, take evidence and report findings to the court. Upon receipt of such reports, the court shall issue an order to show cause within 10 days or less, why a court order of qualification should not be issued in accordance with the report. Upon expiration of the time period, such court order shall be entered unless a statement of exceptions has been duly filed. Issues of fact and law raised by such exceptions shall be determined by the court, or by the voting referees in accordance with procedures fixed by the court.

COMPARISON OF VOTING RIGHTS BILLS—Continued

Federal registrars shall, notwithstanding a registration deadline or other such limitations under State law, receive applications to register to vote of any persons residing within the affected area who are of the same race or color as those persons found deprived of the right to vote.	No such provision.
Completion of six grades of education in a public or accredited private school shall be considered proof of literacy.	Similiar presumptive proof provisions for court proceedings.
Any poll tax shall be disregarded as a prerequisite to vote.	No such provision.
Applications to vote shall be received by a Federal registrar on any working day of the week up to 30 days prior to any election, and he shall forthwith determine whether an applicant is qualified to vote. An applicant deemed qualified shall be issued a certificate of qualification, effective for at least 1 year or until the pattern or practice has ceased.	Applications received and ruled on by the court (see above). (Same effective time for court-issued certificates.)
Notwithstanding any inconsistent provision of State law or the action of any State officer or court, any applicant certified as qualified shall be permitted to vote in any appropriate election.	Similar provision. In addition, in the case of an application filed 20 or more days prior to an election which is undetermined by the time of the election the court shall authorize the applicant to vote provisionally, if the applicant is qualified under State law.
Federal registrars shall oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General any persons, holding certificates of qualification to vote, who have been refused the right to vote.	No such provisions.
Where the court has found a pattern or practice of discrimination, it shall void any election, except for the office of President, Vice President, or presidential elector, where it finds that 50 or more persons, possessing certificates of qualification, have been denied the right to vote. If the court fails to take such action when required, the Attorney General shall seek from the Supreme Court a writ of mandamus to require the court to take such action. Where the President has found the pattern or practice (see above), the President shall take such action in the same circumstances.	No such provisions.
Refusal of any officer to permit a person holding a certificate of qualification to vote shall constitute contempt of court.	Contempt of court provision.
Unless stayed by an order of the Supreme Court, the action of the court of the Federal registrars shall remain in force and effect pending appeal.	No such provision.

STATEMENT OF REPRESENTATIVE ED REINECKE BEFORE THE HOUSE JUDICIARY COMMITTEE, MARCH 24, 1965—VOTING RIGHTS LEGISLATION

The city of Selma, Ala., is nowhere near the congressional district which I represent; yet, because what has recently happened there strikes at the very heart and at the very essence of all that this Nation stands for, I have taken a very real interest in the situation in Selma and in other areas of our country. While the Constitution of the United States directs that the several States shall be responsible for the formulation of their respective election laws and procedures, that same Constitution issues a mandate that all citizens, of whatever race or creed, shall be afforded equal protection of those laws.

It is becoming increasingly apparent that in certain areas of the land, not all citizens are realizing the equal protection guaranteed to them. In fact, they have had snatched from them their most inalienable political right—the right to vote.

While I wish to emphasize my very basic dislike of Federal intervention in matters which should be left to the States, and election laws fall clearly into this category, I wish equally to emphasize my belief that the time has come when some form of Federal intervention is not only warranted, but absolutely necessary. One must fully agree with the words of the President, that we are engaged in a struggle to preserve the dignity of man and the destiny of democracy; and that there must be no delay, no hesitation, and no compromise with our purpose in this issue. On the occasion of the President's address to the Congress on March 15, 1965, I stated that I would be honored to lend my support to his proposed legislation "if it promises to strike down restrictions to voting in all elections through a simple, uniform standard * * *". But, I cannot agree that the legislation introduced as H.R. 6400 will accomplish the objective through the guidelines mentioned above. Indeed, I do not believe that it will accomplish the objective at all. My objections to H.R. 6400 follow:

1. There is an arbitrary determination that discrimination based on race can occur only when less than 50 percent of the estimated voting population fails to register, or when less than 50 percent fails to vote. But, more than that, this bill would apply only when those percentages failed to register or vote in November of 1964. This, too, is harshly arbitrary, for there is no continuing provision to abolish future discrimination in cases where the necessary percentage did register or vote last year. The State of North Carolina, for example, produced a turnout in the 1964 presidential election of approximately 51.8 percent, just enough to exclude it from general coverage, even though North Carolina has a literacy test requirement. Can it be said that there will never be discrimination in voting in that State just because more than 50 percent of the eligible voters went to the polls in 1964?

2. The bill applies not just to States, but to any political subdivision therein. Nowhere in the bill is "political subdivision" further defined, but that term can accurately be taken to mean counties, congressional districts, municipalities, supervisorial districts, councilmanic districts, assembly districts, senatorial districts, irrigation districts, education districts, wards, precincts, and a host of others. If the full force of such a law were brought to bear, the Census Bureau would never be able to do anything but count voters and percentages of voters in all sorts of nebulous and intermingled political subdivisions. This is unnecessarily complicated and extremely costly.

3. If State law has no provision for a literacy test or moral character test (or, with such a test, turned out over 50 percent of the vote in 1964), the law would not apply under any circumstances. Moral character tests pose a very special problem in this proposed legislation. First, they are not uniform from State to State; second, they are by their very nature subjective; and, third, they raise the possibility, as regards this legislation, that disqualification by reason of conviction of a crime might be viewed by some future attorney general as a "moral character test." A felony conviction without restoration of civil rights is almost universally a disqualification from voting. In many States, dueling is likewise a disqualification. Several States, not all in the South, have a specific requirement that a potential voter "possess good moral character," and the States of Kansas denies the franchise to dishonorably discharged soldiers. Is this to be construed as prima facie evidence of bad moral character? It would seem that a fair case could be made for such an interpretation.

Finally, in this regard, there is the very special case of Idaho, which has no literacy test but which does have one county, Elmore, which produced a vote turnout in 1964 sufficiently low to bring it under provisions of the act if a method

could be found. That method might exist in a strange provision of Idaho law which is a moral character test of sorts: The vote is technically denied in Idaho to prostitutes or persons who keep or frequent houses of ill fame; persons who lewdly cohabit together; bigamists, polygamists living in "patriarchal, plural, or celestial marriage" or those who encourage others to live in such marriages; or those who teach that the laws of the State are not supreme. Furthermore, it is provided that persons of Chinese or Mongolian descent may not vote. Now, it is extremely doubtful that these provisions have ever been enforced, nor is there a shred of evidence that Idaho would ever attempt enforcement. Nonetheless, these laws apparently were in effect on election day, 1964, and I wonder if it might be the intention of the Justice Department to send its "Federal examiners" to Elmore County to increase registration.

4. The case of Idaho suggests that there might well be something unconstitutional about H.R. 6400. For it would be to no avail if Idaho were to strike from the statute books her strange disqualifications. What was on the books on November 1, 1964, and registration and turnout on election day, 1964, are the governing factors. Is this not a very specialized form of ex post facto legislation, expressly forbidden by the Constitution? Whether or not the courts would conceive of this as doing violence to the Constitution is problematical, but the Congress should certainly carefully consider any provision of this nature.

5. The Director of the Census is empowered to determine that less than 50 percent of the voting age residents of a State or political subdivision were registered on November 1, 1964. If he so determines, the law would begin its operation in the jurisdiction involved. On this basis, I would suggest that the law would immediately hit Alaska, Arkansas, South Dakota, and Texas, none of which has what is technically defined as registration, if the authorities were to construe conviction of a felony as evidence of bad moral character. In the case of Texas, the law would apply if dueling should be defined as evidence of bad moral character. If conviction of these crimes is not "bad moral character," the law would apply only in Alaska, of the four States above named.

But the more serious question as to the responsibilities under this legislation of the Director of the Census is this: the bill would implement the Federal machinery whenever the Director finds that a State (or subdivision) registered less than 50 percent of its "voting age" population. The Director apparently can make this finding without regard to any elegibility requirements a State may have except for age requirements. He need not consider length of residence (which has recently been upheld as a valid requirement by the Supreme Court), nor need he pay attention to any other requirement, valid or invalid, which a State may have. As long as a State had a "test or device" on November 1, 1964, the machinery will operate. It will do no good for a State to repeal such legislation. But, of course, a State which did not have a "test or device" on November 1, 1964, may with impunity enact such a provision at any time. In other words, you can discriminate all you want in the future, as long as you didn't in the last election.

This, I submit, is bad law. It may or may not be upheld, but it is morally and ethically bad, and shows every evidence of being hastily and unthoughtfully drawn. Along with several other Members of this House, I have proposed a different approach to the problem of discrimination in the area of registration and voting. I believe that my proposal would guarantee, as much as any law can guarantee, the right to register and vote, and it would undoubtedly be a better guarantee than the proposal discussed above. H.R. 6340, the bill which I have introduced, would accomplish the following:

SECTION. 1. Amends existing voting rights laws, and particularly the 1964 Civil Rights Act, to make the law applicable to all elections—Federal, State, and local.

SEC. 2. A technical amendment which deletes the definition of "Federal" election.

SEC. 3. When the Attorney General requests that a Federal court make a finding of a patern or practice of voter discrimination within a particular area, as authorized under the voting rights laws of 1960 and 1964, the court shall make such a finding forthwith.

If 50 or more persons within a particular area, who are of the same race as those discriminated against and who are qualified to vote under State law, have been denied the right to register or to vote in any election conducted within that area, this shall constitute a conclusive finding of the existence of a pattern or practice of discrimination and the court shall immediately make such a finding.

A person shall have been denied the right to vote if a Government official has (1) deprived or denied him the opportunity to register to vote within 2 days of making application thereof; (2) deprived or denied him the right to vote, or (3) found him not qualified to vote although he is so qualified.

If the court within 40 days after the Attorney General has requested a finding of a pattern or practice of discrimination, fails to make such finding, the President shall make such finding if he receives statements under oath from 50 or more persons within the particular voting area who state that they have been denied the right to register or vote because of their race or color.

Where the court, or in the alternative, where the President finds the existence of a pattern or practice of discrimination, the court or the President shall appoint one or more Federal registrars from a panel of no less than 10 persons who shall be named by the President.

Federal registrars shall be appointed for 1 year and thereafter until the Court or the President (depending on who has made the appointment) finds that the patern or practice of discrimination has ceased.

Federal registrars shall be existing Federal officers or employees who are qualified voters within the judicial district in which the legal action was instituted by the Attorney General. Such registrars will serve without pay, except for their existing Federal compensation, but they shall receive necessary travel and living expenses.

Federal registrars will have the following duties:

1. Receive applications to vote by persons of the same race and color within the particular voting area as those who have been discriminated against.
2. Receive such applications up to 30 days before any election regardless of any registration deadlines or other time limitations that may have been established under State or local law.
3. Applications, so received, shall be determined forthwith.
4. In passing upon an application, a registrar shall find that an applicant with a sixth grade education has fulfilled all literacy, education, knowledge or intelligence requirements that may have been established under State or local law.
5. In passing upon an application, a registrar shall disregard any poll tax as a prerequisite to voting.
6. Issue voting certificates to applicants who are found qualified to vote.
7. Oversee all elections within the partciular voting area until the Court or the President (depending upon who has made the finding) declares that the patern or practice of discrimination has ceased.
8. Make tallies and report to the court and to the Attorney General any persons who, holding voting certificates issued by the registrar, have been denied the right to vote.

The Court shall hold any State or local officer in contempt of court who has denied a person, holding a voting certificate, the right to vote.

Where the court finds that 50 or more persons within the particular voting area, holding voting certificates, have been denied the right to vote, the court shall void the election except when it is an election for President. If the court fails to void the election the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

Where the President has made the finding of a pattern or practice of voter discrimination, the President shall declare an election void under the same conditions that a court is so empowered to do, and he shall request the Attorney General to institute necessary legal action to have the voidance of such election enforced.

The action of a court or of Federal registrars taken under the authority of this section shall remain in full force and effect pending appeal unless stayed by an order of the Supreme Court.

The time is late, and the need is urgent. But it is not too late to draft simple, yet comprehensive legislation. And it is imperative that any bill reported by this committee have a uniform standard which is applicable to any locality where discrimination in voting exists now or may exist in the future. I ask that this committee weigh carefully the factors which made H.R. 6400 an undesirable piece of legislation. It can adversely affect my State of California, which technically has a literacy test and would have at least one county under the provisions of the bill. But it would not affect in any way any possible discrimination in at least 25 of our States, some of which have been said by

the President's Commission on Civil Rights to engage in discriminatory practices. In short, I am disappointed in H.R. 6400 because it fails to protect the right to vote from all forms of discrimination wherever they exist, and also because it imposes unreasonable burdens and unwarranted Federal intrusion where there is no allegation of discrimination. I earnestly recommend that H.R. 6340, or legislation using a similar standardized approach, be enacted in place of H.R. 6400.

The CHAIRMAN. The Chair wishes to announce that tomorrow the following witnesses will be heard in the morning: Mr. George Meany, president, AFL-CIO; Father John F. Cronin, associate director, social action department, National Catholic Welfare Conference; Mr. Herman Badillo, Commission of the Department of Relocation of the City of New York, accompanied by Mr. O. Roy Chalk, president of the D.C. Transit System; and the Honorable Jonathan Bingham of New York.

In the evening session beginning at 8 o'clock, we will hear from Mrs. Victoria Gray, Mississippi Freedom Democratic Party; Mr. James Foreman, executive secretary, Student Nonviolent Coordinating Committee; Mrs. Virginia Y. Collins, chairman, ad hoc committee of Concerned Citizens of New Orleans; and Mr. W. B. Hicks, Jr., executive secretary, Liberty Lobby.

We will now adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 9:50 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Thursday, March 25, 1965.)

VOTING RIGHTS

THURSDAY, MARCH 25, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10:10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Donohue, Brooks, Corman, McCulloch, Cramer, Lindsay, and Mathias.

Also present: Representatives Gilbert, Hungate, Tenzer, Conyers, Grider, King, Hutchinson, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and William H. Copenhaver, associate counsel.

The CHAIRMAN. The meeting will come to order.

Our first witness will be the distinguished Representative from New York, the Honorable Jonathan Bingham.

Representative Bingham, would you come forward?

STATEMENT OF HON. JONATHAN B. BINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BINGHAM. Thank you very much, Mr. Chairman. I have a prepared statement, Mr. Chairman, which I would like to submit for the record, with your permission.

The CHAIRMAN. That may be done.

(Statement referred to follows:)

TESTIMONY OF JONATHAN B. BINGHAM, MEMBER OF CONGRESS

I am Jonathan B. Bingham, U.S. Representative from the 23d District of New York. I am an attorney, admitted to practice in the State of New York, and formerly served as chairman of the Civil Rights Committee of the Bronx County Bar Association. In addition, I served as U.S. Ambassador to the U.N. Economic and Social Council, to which the U.N. Human Rights Commission reports, and as U.S. representative on the U.N. Trusteeship Council.

I have long had a deep interest and concern for the rights of Negro citizens of the United States who have suffered injury and injustice, particularly in the States of the old Confederacy. I am convinced that perfection and protection of civil rights in the United States is not only a moral crusade but that it also has deep meaning for our role as a leader of the free world. I know, first hand, that foreign nations look to see how America will resolve its minority group problems. They look to us, not with scorn because we still have festering sores of bigotry and discrimination, but rather with sympathetic interest to see how a democracy can move within its own framework to correct societal injustices. It is not the moral fiber of our people that they question but, rather, the capacity of a democratic Nation to overcome injustice based on deep prejudices held by entrenched powers.

I, myself, journeyed to Selma, Ala., a month ago and spoke with Dr. King and met with Negroes who had risked their physical safety, and their economic well-being because they sought the elemental right to vote. I cannot think of any more urgent business before this Congress and this Nation than to rectify the condition which has produced the crisis and shame which is Selma, Ala.—and the Selmas which will certainly follow unless we meet our responsibility.

I am submitting this statement in support of H.R. 6400, the Voting Rights Act of 1965. I am unqualifiedly committed to its passage because I believe that our country has the essential duty to protect the right to vote. In my judgment, once the right of franchise is established throughout this Nation, many forms of discrimination which now exist will dissipate and ultimately disappear. When the focus of attention in the Southern States is on winning the support of the Negro electorate rather than on finding means to keep Negroes away from the polls, the status of the American Negro will be advanced—frequently by the same people who today are their oppressors.

I believe that H.R. 6400 is an exceedingly fine bill. I have followed the testimony offered before this subcommittee and have been pleased to note that, in virtually every circumstance where the terms of the bill appear to be ambiguous, the intent was clear—to extend Federal power to the fullest in securing protection for the right to vote. For example, in section 5(a), there appears to be a question as to whether a Federal examiner would have the right to waive the requirement that the applicant for registration must first go to the State or local authorities and be denied the opportunity to register because of his race or color. The Justice Department witnesses made it clear that the examiner would have the power to waive this requirement. I hope the language of the bill will be amended to reflect this more clearly.

I am concerned about two areas: first, the coverage of the bill, to make sure that it reaches every essential activity affecting the vote; second, the problem of the poll tax.

As to the first area, I am certain that President Johnson and the majority of the Congress and of the Nation want a voting protection bill that reaches every stage of election procedure. Clearly, direct primary elections must be open to all and are covered by the express terms of the legislation. But it is not equally clear in the bill that the relief afforded extends to political party activity that is actually an integral element of the voting process. I would like to see the bill amended to make that clear.

In recent years the courts have recognized that the U.S. Constitution prohibits racial discrimination at several levels before the general election. In *Nixon* v. *Herndon*, 273 U.S. 536, the Supreme Court struck down a Texas statute that barred Negroes from participation in Democratic Party primaries. Texas then amended the law to give the party the power to determine who would be eligible to vote in primaries and the party executive committee adopted a rule excluding Negroes. The State's attempt to effectuate this decision was found unconstitutional in *Nixon* v. *Condon*, 286 U.S. 73.

The Texas Democratic Party switched strategy. The lawbooks were wiped clean of enabling legislation by which the party got authority to determine who could vote in its primary. The Texas State Democratic Party then, by convention, determined that it was a private club and that it would exclude Negroes from its primaries (for which the candidates, not the State paid the bill). The Supreme Court, at first consideration, found that the party was a "club" which could decide who would be voting members. It found the discrimination beyond the reach of the U.S. Constitution. *Grovey* v. *Townsend*, 294 U.S. 45.

A few years later, the Court reexamined this question (following its decisions that primary elections were part of the election process within the meaning of the Constitution). This time, in *Smith* v. *Allwright*, 321 U.S. 649, the Court found that where the State authorized the party to determine nominees who would appear on the ballot under its name, the party was exercising a State function and that, "the duties do not become matters of private law because they are performed by private parties."

Thus, the white primaries were at an end and the method by which a party selected its candidates came to be recognized as a function within the purview of the U.S. Constitution.

Finally, the Court examined the question of whether a preprimary screening of candidates by party members to decide whom to support in a primary for nomination to county office was private action not within the coverage of the Constitution. The Court held to the contrary and decided that racial discrimina-

tion in this process violated the Constitution. *Terry* v. *Adams*, 345 U.S. 461.

It is clear that political party meetings, councils, conventions, and referendums which lead to endorsement or selection of candidates who will run in primary or general elections are, in most instances, a vital part of the election process. To allow these to be conducted on a racially segregated basis would be to undermine the protections H.R. 6400 extends. I urge the committee to clarify the language of the bill to remove any possible doubts that all these election functions are covered.

The events of 1964 demonstrate the need. The State of Mississippi selected its Democratic National Convention delegates through a process that started at the precinct level meeting. Negroes were barred from these meetings. Alabama required those who wished to run in the Democratic primary to secure the necessary forms by applying to party officials. These are not unique practices, even if in many States they are not an instrument of racial discrimination. Suffice it to say, they are susceptible to this misuse. In State after State, party officials either control, materially influence, or directly affect the process by which a candidate for nomination or election can achieve his goal.

I believe that, in view of these realities, the 1965 law, to be most effective, should include express coverage of party functions which directly, or indirectly, affect the primary or general elections in any State or the selection or vote upon questions which may officially be put to the voters on election day (for example, referendum, initiative, school bonds, amendments to county charters, and so forth).

This clarification would embody the thrust of President Johnson's message and conform to the testimony given by Justice Department representatives. It would not alter the substance of the bill; it would only serve to avoid a dispute as to congressional intent.

I turn now to the question of poll taxes. I think this bill should prohibit poll taxes in States which have segregated schools, and I believe that the Congress has the power to enact such legislation.

I note that H.R. 6400 does address itself to one phase of the problem of poll taxes. Examiners are authorized to treat an applicant for registration as having met the State poll tax requirement if he tenders the current year's payment, regardless of whether State law permits it to be paid that late. I assume that this is based on the theory that no person should be held to have been obligated to make such payment at a time when the concomitant right to register and vote has been withheld. However, the Attorney General has said that he is not sure that the poll tax, as such, can be reached under the 15th amendment for State or local elections (it cannot be made a condition of voting for Federal office under the 24th amendment).

I respectfully suggest that there are several bases on which Congress could legislate on poll taxes for State or local elections. The prime ground has, in fact, been suggested by the Attorney General himself. The poll tax exacted as a condition of exercising the right of franchise is a financial burden on the voter. It is unrelated to the value of the vote, nor is it predicated on the cost of running the election process. In view of this, it appears improper to me to permit a financial exaction for voting where the State has made the burden of paying this fee greater for Negroes than for whites.

I need not take up the time of this committee to document at any length the inexorable link between academic achievement and earnings. One needs to look no further than the world about him to see the interrelationship. In "Rich Man, Poor Man," published last year, Dr. Herman P. Miller of the U.S. Bureau of the Census, examined census tracts and documented this virtually self-evident theorem. At page 139, he concluded that: "Every study of the relation between earnings and education shows that the more highly educated the man, the greater his earnings."

In view of this, any State which maintains segregated schools, or otherwise gives to Negroes an inferior educational opportunity, has made his economic prospects inferior to that of the white citizen. Therefore, a financial test for voting does, in fact, impose a greater burden on the Negro than on his white counterpart and the difference is, at least in part, the result of State action. As the Attorney General stated when he made his first appearance before this committee in support of this bill, such a result is to be avoided. He termed it an "irony" if: "years of violation of the 14th amendment right of equal protection through equal education would become the excuse for continuing violation of the 15th amendment."

My argument with regard to the poll tax is simply an extension of the reasoning which supports elimination of literacy tests which have been demonstrated to be discriminatory because Negroes were given inferior educational opportunity by States which maintained segregated school systems. If the inferior education makes the Negro less able to pass a standard literacy test, it also makes him less able to afford payment of a poll tax. His inferior education has made him less able to earn money. In short, if a State has handicapped Negroes, it can impose no test or requirement which is more onerous to the Negroes as a result of the handicap.

As I said at the outset of this statement, I applaud H.R. 6400. I think that it is necessary and extremely well-drawn legislation. I have made these two basic suggestions simply because I believe that even in this excellent draft which you are considering there might still be room for some improvement. I advance these suggestions because I share President Johnson's view that this bill must be so drawn that it will survive the "most ingenious" attempts to suppress the right to vote. It is to this task that I have addressed myself.

Mr. BINGHAM. I will just give you very briefly the highlights of my statement.

An excellent job has been done in preparing the bill that is before us. My experience at the United Nations for 3 years has emphasized to me the importance of protecting the voting rights of all American citizens, not only for the sake of the right of the matter in this country, but also for the sake of our image in the world.

I visited Selma the other day along with some of my colleagues and I was impressed there again with the necessity for forceful legislation to protect the rights of Negroes to vote.

This bill in large measure does exactly that.

I am here primarily to make two suggestions with regard to this bill, Mr. Chairman and members of the committee. First of all, I think the intent of the bill is to protect the entire voting process from the beginning to the end. I think that it might be wise to provide some clarification to be sure that not only general elections are covered, not only primary elections, but also the activities that precede primaries; in other words, party caucuses, party meetings, that sort of thing.

I think the need for this was demonstrated in the Democratic Convention of last year, 1964, when it was shown that Negroes had been excluded from the meetings that were held for the selection of candidates.

I am not suggesting any precise language in this respect but I think it might be well to consider a modification or a clarification of the definition of the word "vote" as it appears in section 1971(e) of the United States Code taken from the 1960 law.

It might also be wise to make specific and precise on this point the terms of section 5(b) of H.R. 6400.

My second point, Mr. Chairman, is with regard to the poll tax. I join those who feel that this bill should deal directly with the poll tax in local and State elections and provide for its elimination.

I understand that the reason this was not done in the original draft is that there was some concern as to whether the 15th amendment could reach so far as to affect the poll tax at State and local elections. I believe that it can for the same reason that is adduced to support the elimination of literacy tests under this bill. That is to say, I think that the very fact that Negroes have been discriminated against in the South in terms of education by the segregation of education and other-

wise not only means that they are less well educated but that they are less capable of earning the money required to pay the poll tax.

The CHAIRMAN. Mr. Bingham, we have heard from the Attorney General that although poll taxes may have been designed to discriminate, it has been the literacy tests and other devices which have discriminated against Negroes voting. Indeed, the Attorney General takes the position—and I think the argument must be carefully weighed—if his contention is true, that the courts would have to determine whether there is or is not massive discrimination based upon poll tax.

That would snarl up this whole bill in the courts for years and then we would get no action for an inordinate length of time.

You must remember also that the purpose of this bill is to attack the situation where there is massive discrimination on the basis of color. The remedy is sort of automatic and it tries to avoid long and protracted court proceedings.

Mr. BINGHAM. I appreciate that, Mr. Chairman. Of course, this bill does attempt to deal with poll tax to a limited degree.

I do not want to impose on the committee's time. I do want to leave this thought with the committee. It seems to me any financial requirement for voting is in itself a discriminatory burden on the Negro because his financial capabilities are less in these Southern States and the reason they are less is because he has a less good education.

I think the same reasoning that supports the requirement here with regard to the literacy test could be applied, if the committee saw fit, to the elimination of the poll tax. I realize that the Attorney General has some doubts on this matter and I am very hesitant to suggest that his approach may be an overcautious one, but I think that the same reasoning that he has brought to bear with regard to the literacy test—and it is very ingenuous reasoning—could be applied to the poll tax.

I would like to reiterate, Mr. Chairman, that I think this is a splendid bill and I look forward to the bill as it comes from the committee.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. No questions.

The CHAIRMAN. Mr. Brooks?

Mr. BROOKS. No questions.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. No questions.

The CHAIRMAN. Mr. McCulloch?

Mr. MCCULLOCH. No questions.

The CHAIRMAN. Thank you very much, sir.

Mr. BINGHAM. Thank you, Mr. Chairman. I appreciate the courtesy of the Chairman and the committee in allowing me to testify at this time.

The CHAIRMAN. Our next witness is one who is very prominent on the American scene and who has rendered yeoman service for labor for many, many years; a very good friend of mine, a good friend of many, many Members of the House and Senate.

I call on Mr. George Meany, president of the AFL–CIO. He is flanked with experts whose names will be placed in the record.

STATEMENT OF GEORGE MEANY, PRESIDENT, AFL–CIO; ACCOMPANIED BY ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AFL–CIO, AND THOMAS HARRIS, ASSOCIATE GENERAL COUNSEL, AFL–CIO

Mr. MEANY. Thank you, Mr. Chairman. I am representing the American Federation of Labor and Congress of Industrial Organizations.

Let me say at the outset that we are very happy to present our views on a piece of legislation that we consider absolutely vital in a democracy. We are even happier that we are presenting these views in an atmosphere of urgency, for we consider the achievement of full citizenship rights for every American to be the major unfinished business of this country.

I do not intend to take much of the committee's time, Mr Chairman, because the AFL–CIO has stated its opinion on this subject in every forum in this Nation—including this very committee—innumerable times.

It is our belief that every American adult citizen should have a fair and equal opportunity to make his opinion count at the ballot box. We consider that any attempt to dilute this right is undemocratic, un-American, and despicable.

There is no need for me to recite here the record of arbitrary and disgraceful denial of citizenship rights to American Negroes. The record has been made abundantly clear. The President of the United States has eloquently and forcefully described to the Congress and to the American people the dimensions of this disgrace.

The Attorney General of the United States and Father Theodore Hesburgh, president of Notre Dame University and a member of the U.S. Commission on Civil Rights, in their testimony here, have added the details and the documentation.

And all of us who sat in our homes and watched television, after the vicious attack on peaceful demonstrators in the streets of Selma, Ala., on the 7th of March, are eyewitnesses to the fact that elected officials and sworn servants of the law have added brutality and violence to their earlier transparently fraudulent use of qualifications as methods for denying Negroes the right to register and vote.

So the issue is now squarely in the laps of this committee and of the Congress of the United States. It can no longer be ignored; it can no longer be compromised.

And the American labor movement, in concert with every American who has a decent regard for his fellow man and for the true meaning of the principles upon which this great republic rests, says to you that the time for action is now. The record has been made; the cause is just; the way is clear.

The members of this committee have, of course, an obligation to draft legislation that is clear, meaningful, and constitutional. With a clear understanding of that fact, we say to you that the position of the AFL–CIO is that every possible means must be used to achieve the maximum possible registration and voting in the United States, so that in every election, every adult citizen will have the opportunity to go to his polling place and have his voice count.

We reject out of hand the concept that there can be any first- or second-class citizenship in the United States. In our country, there can be only one class—citizen—the highest and most meaningful title in a democracy.

On July 17, 1963, in testifying before this committee on the then pending civil rights measures, I said:

"A citizen who is denied the right to vote is not a citizen at all. And a nation which extends the franchise to some citizens but denies it to others, solely on artificial grounds such as race, is not truly democratic."

As is now abundantly clear, this is exactly what happened in certain sections of this country in an election as recent as the presidential election of 1964. We say that these sections of the country have lost any right they might earlier have had to plead that local self-government would correct these ills.

Only the Federal Government can do the job. And the Federal Government must do the job and it must do it now.

Now let me make a few general comments about the bill, H.R. 6400.

As respects substantive principles, as distinguished from new remedies, the bill does one main thing. It invalidates literacy tests and certain other voting qualifications in States or political subdivisions where less than 50 percent of the residents of voting age were registered or voted in November 1964.

The AFL–CIO is in favor of eliminating literacy tests, and also the other types of voting tests enumerated in the bill, everywhere, and whether or not they have been used as devices for violating the 15th amendment.

We wholeheartedly agree on these matters with the 1963 Report of the President's Commission on Registration and Voting Participation, and we have set up a committee to work in the States for implementation of the recommendations of that report.

However, we recognize that that is beyond the scope of the legislation now being considered, and that the present bill seeks, as its title states, to enforce the 15th amendment; so therefore it is not concerned with enlarging the franchise generally.

As a step toward implementing the 15th amendment this bill invalidates literacy tests, and any other "test or device" as defined in the bill, in areas where they have been used wholesale to deprive citizens of the right to vote. The AFL–CIO supports this proposition fully and wholeheartedly.

It is quite evident, however, that a bill aimed solely at literacy tests and other formal, legalistic barriers to registration will not do the whole job of implementing the 15th amendment. There was widespread violation of the 15th amendment in the Southern States before voting tests were adopted, and there is widespread violation now in some areas which do not use voting tests. In States which do use voting tests, there are violations not connected with such tests, and which would not be reached by their abolition.

Florida does not use a literacy test. The 1961 report of the U.S. Commission on Civil Rights lists five counties in northern Florida where fewer than 3 percent of the Negroes of voting are were registered. In three of these counties no Negroes were registered. The

report relates (pp. 28–29) how this disfranchisement was brought about in Liberty County:

> According to information from the Department of Justice, some Negroes registered in 1956, but thereafter they were subjected to harassment. Crosses were burned and fire bombs hurled upon their property, and abusive and threatening telephone calls were made late at night. Two white men advised one of the registrants that if the Negroes would remove their names from the books all the trouble would stop. All but one did remove their names, and their troubles ended; the one who did not was forced to leave the county. The Governor called for an investigation, which was concluded with the sheriff's report that the Negroes had voluntarily removed their names from the registration rolls.

The registration and voting statistics issued by the Civil Rights Commission on March 19, 1965, show that in 1964 none of the 240 Negroes in Liberty County, Fla., were registered.

The testimony given this committee by the Attorney General on March 18, 1965, relates shameful deprivations of the right to vote which did not rest on any "test or device." The Attorney General declared (p. 9):

> There has been case after care of similar intimidation—beatings, arrests, lost jobs, lost credit, and other forms of pressure against Negroes who attempt to take the revolutionary step of registering to vote.

So also the testimony of Father Hesburgh, in his statement on Friday, March 19 (p. 9):

> The ordeal does not end with registration. Several Negroes who had managed to register testified that they failed to vote because they were afraid to appear at isolated rural polling places. Fear and intimidation have thus combined in many areas to prevent Negro registration and voting.

In our opinion, this bill does not deal adequately with these denials of the right to vote.

We therefore urge that the bill be broadened. We think its remedies should be available in any situation where there is widespread abridgment of the right to vote in violation of the Constitution, whether that deprivation is effected by the fountain pen or the nightstick or night riders.

We likewise think that the other half of the bill's coverage test needs broadening. As the bill is drafted, it covers only areas where fewer than 50 percent of the residents were registered or voted in the presidential election of November 1964. However, this standard excludes some areas where there was general discrimination against Negroes, but a high percentage of white registration.

The registration and voting statistics issued by the U.S. Commission on Civil Rights on March 19, 1965, disclose areas where this is the situation.

For example, Liberty County, Fla., to which we have already referred, had more than 100 percent of its 1960 total voting age population registered in 1964. The white voting age population in 1960 was 1,525; and in 1964, 2,104 white voters were registered. Of the Negro voting age population of 240, none were registered.

When the bill's standards exclude from coverage areas like this, something is wrong. Obviously there should be some additional alternative test for coverage, which would simply take into account the percentage of nonwhite voters registered.

I come now to the other part of the bill—the remedies it provides. Here again, the AFL–CIO is wholeheartedly in favor of the bill, as far as it goes, but we think it should go farther.

The remedies provided in the bill seem to us well conceived, and a substantial step forward. Indeed, the AFL–CIO has urged some such Federal registration machinery as this for many years. We have, however, some suggestions with respect to the bill's procedures.

Under the bill an applicant may apply to the Federal examiner for listing only if he has first been rejected by the State or local authorities, except that the Attorney General may waive this requirement.

If the Attorney General is going to waive the requirement in every case, there is no point to it. If he is not, we object to the requirement, as subjecting Negro applicants to excessive redtape and unreasonable hazard.

It must be kept in mind that a Federal examiner will be functioning only in an area where there has been wholesale and unconstitutional deprivation of the right to vote. In such an area it is surely unnecessary to require that each individual applicant apply first to the State or local registrars, and it may be dangerous for the applicant.

Now let me say a few words about the poll tax provisions of the bill. We think they are better than nothing, but aren't very good.

The bill provides that if a Federal examiner has been appointed, an applicant shall not be denied the right to vote for failure to pay a poll tax if he pays the tax for the current year to the examiner, whether or not such payment would be timely or adequate under State law. The Federal examiners are to accept poll tax payments and transmit them to the State or local officials.

It is the position of the AFL–CIO that no American should have to buy his right to vote in any election.

The bill proceeds on the premise that the purpose or effect of poll taxes is to violate the 15th amendment. It must be on that theory that the bill directs Federal examiners to disregard State requirements for payment of cumulative poll taxes for prior years and for payment in advance of registration.

It would be ridiculous to invalidate in part but not in whole poll taxes whose purpose or effect is to violate the 15th amendment.

If Federal examiners are appointed in certain registration districts of a State, but not in others, voters would, under the bill, be subject to State cumulative and early payment requirements in some areas of the State but not in other areas. That, too, would be ridiculous.

Finally, the provision that Federal examiners shall collect these invidious poll taxes is not only ridiculous but plain objectionable. It lends Federal sanction to violation of the 15th amendment.

Our final comments have to do with the adequacy of the provisions for challenging an election.

As we read the bill, these provisions operate only when persons who have been registered by a Federal examiner are not permitted to vote, or what is the same thing, when their votes are not counted. This does not cover the situation where persons have been permitted to register under the State procedure, or where there is no registration requirement, as in Texas, but are then nevertheless not permitted to vote.

Instances of this sort are set forth in the reports of the Civil Rights Commission and in the recent testimony of the Attorney General and

of Father Hesburgh. We see no reason why these situations, too, should not be covered by the new remedies provided in the bill.

If a Federal district court determines that persons who had been listed by a Federal examiner were nevertheless not permitted to vote, the court is to provide for the casting of their ballots and is to require the inclusion of their votes in the total vote before any person shall be deemed to be elected.

We have some doubts as to the adequacy of this provision. Certainly it is less far reaching than the provisions of the Landrum-Griffin Act with respect to union elections. Under that act, if a court finds that there have been violations of the act which may have affected the outcome of an election, the court declares the election void and directs the holding of a new election under the supervision of the Department of Labor.

In this bill, in contrast, there is no provision for the holding of a new election, let alone for the holding of one under Federal supervision.

Let me sum up the position of the AFL–CIO: We want to protect, in every possible way, the right of every single adult American to vote in every election.

We feel that an annual battle in the Congress on this issue should not be necessary. Time and again, steps have been taken to eliminate various schemes and devices, subtle or brutal, designed to deprive Negroes of the right to vote. And time and again, some of the States and localities have found new devices, new brutalities, designed to frustrate the will of the majority.

So we want the Congress to do the job once and for all, and we urge the Congress to do it now.

Thank you.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. No questions.

Mr. MATHIAS. Mr. Chairman, would the Chairman yield a moment?

I would like to say a personal word of welcome to the witness who is one of the distinguished residents in the Sixth Congressional District of Maryland. Thank you for your statement, particularly for the constructive suggestions as well as commenting on the bill as it was introduced.

The CHAIRMAN. Mr. Brooks.

Mr. BROOKS. Pardon me, Mr. Donohue.

Mr. DONOHUE. No questions.

Mr. BROOKS. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Corman.

Mr. CORMAN. Mr. Meany, I am sure you are concerned about the threats to voting rights that are not covered in this bill, but I think we are faced with a terrible dilemma, first of all, as to the remedy of the Federal examiner under sections 3 and 4. That solves the problems that the Negro meets when he gets to the registrar, but just extending the appointment of examiners does not solve the problem of the night riders or the economic intimidation.

It seems to me against a background of the right to jury trials and criminal law we need some way to stop that kind of coercion. I do not believe the Federal examiner can do it and I do not believe that in some areas we can do it through the normal criminal law.

If you have any advice now or would want to submit it later, it seems to me that is really the tough part of legislating in this field.

How do you get to that kind of coercion which may occur regardless of how the man is registered? If the Federal examiner registers him, the community knows it. How do we protect him from that point on?

Mr. MEANY. That, of course, is the problem, and that we are prepared to come up with some suggestions. Mr. Harris, our legal counsel, is going over this bill, and it is quite a complicated problem. We don't say that we have the answers but I think we will have some suggestions worthy of the consideration of the committee.

Mr. CORMAN. Thank you very much, sir.

The CHAIRMAN. Mr. McCulloch.

Mr. MCCULLOCH. I am pleased to have the witness before us this morning. Much of what he says strikes a very responsive chord. I am glad to note that Mr. Meany and his organization recognize the fact that legislation such as we have been talking about does not cover many festering spots and sores of discrimination solely by reason of race and color.

As I understood your answer to a question of one of my colleagues, your legal counsel will be at the disposal of the committee for suggested amendments that are constitutional, in your counsel's opinion.

Mr. MEANY. We hope they are.

Mr. MCCULLOCH. To reach these spots.

Mr. MEANY. We have a fatalistic attitude. We can talk about it but there are nine men across the street here who really have the final say.

Mr. MCCULLOCH. Well, of course, it was satisfying to us who supported the Civil Rights Act of 1964 to have it held to be constitutional in the first all-important test, by a unanimous decision of the court.

The CHAIRMAN. Mr. Cramer.

Mr. CRAMER. Well, I, too, thank the distinguished gentleman who has made a number of suggestions and comments that the committee could well heed. In saying that, I do not mean to exclude his reference to Florida or his reference to Texas.

I wonder, however, why the gentleman, if there was a reason, did not include Tennessee, Arkansas, Kentucky, and Maryland as further examples cited by the Civil Rights Commission where areas of discrimination exist in voting and where this bill will not apply because they do not have literacy tests?

Mr. MEANY. Well, I didn't want to make my testimony too long by including them all.

Mr. CRAMER. It is interesting to note that the members of this subcommittee include one from Florida and one from Texas, however.

You do agree, however, that there are instances of discrimination in those States?

Mr. MEANY. Yes; we know that.

Mr. CRAMER. The words you use on page 2 are to the effect you do not think that first-class citizenship should be limited to the States that have literacy tests, while, in effect, second-class citizenship is suffered in States without literacy tests.

That is precisely the same thought I expressed on a number of occasions.

I note on the top of page 3 your suggestion which touches upon a constitutional problem that I think is involved in the proposal before us. Perhaps your counsel could be of some help to the committee on this subject.

You suggest that other types of voting tests are enumerated in the bill everywhere, which may or may not have been used as devices for violating the 15th amendment.

Mr. MEANY. Yes.

Mr. CRAMER. Of course, this committee is faced with the basic constitutional issue which the Supreme Court itself has upheld on numerous occasions. That is, the State does have the right to fix certain voter requirements and it is only when those requirements are administered discriminatorily or are, on the face of it, discriminatory administration that the Court has found them to be violative of the 15th amendment. The administration bill could be condemned under the 15th amendment.

Of course this bill covers a number of "political subdivisions" that have never discriminated, even when there is no evidence of it, whatsoever.

Mr. MEANY. I have been committed to the general idea that we don't think these tests or various devices should be used to prevent a person from voting.

Mr. CRAMER. I agree with that. The question constitutionally is in using a broad sweep. As does the administration bill, you would include a number of areas which admittedly, according to the Attorney General himself in testimony, have not discriminated.

Therefore we are faced, I think, with a serious constitutional question as to how you can subject to the penalties of this proposal, a political subdivision that does not intend to discriminate and has not, in fact, discriminated.

Mr. MEANY. Well, I am quite sure that we can present you with a brief on that question, too.

Mr. CRAMER. It would be very helpful if you could, so far as this member of the subcommittee is concerned.

The CHAIRMAN. Would the gentleman yield?

That result follows because the State provides the literacy test, and less than 50 percent of those of eligible voting age were registered or voted in November 1964.

Mr. CRAMER. Mr. Chairman, the Supreme Court has not stricken down literacy tests, as such, in every case but only in those instances where they are in such form that they obviously could be used to discriminate or in fact where they have been used in discriminatory manner in their administration.

The CHAIRMAN. Would the gentleman yield further?

Mr. CRAMER. The situation I referred to is that voting subdivisions, or "political subdivisions," which everyone admits have not discriminated and which have no intention to do so, would be covered.

Mr. MEANY. Well, you say there is no intent. We don't like the test because even in cases where they have not been used we feel they could be used.

The CHAIRMAN. Will the gentleman yield?

Mr. CRAMER. Yes, I will be glad to.

The CHAIRMAN. I think the only question arises where some of these counties have more than 50 percent of those eligible to vote, voting, and they would be subject to the bill. The question before the court would be whether or not weighing the equities and inequities, whether the remedy provided in the bill is adequate, that is all, and that is what the 15th amendment says.

If it is adequate and appropriate for carrying out the principle of the 15th amendment, then the court would have to hold it constitutional.

Mr. CRAMER. Of course, I will say to the chairman that they have literacy tests in New York State as well. Would the gentleman be in favor of eliminating all literacy tests in New York, including the eighth-grade certificate?

Mr. ROGERS. Would the gentleman yield at that point?

Mr. CRAMER. Yes.

Mr. ROGERS. I did not understand how a unit would suffer under this if everybody is permitted to vote.

Mr. CRAMER. This is what bothers me. If you look at section 8, which undoubtedly the gentleman has, which requires a political subdivision to come to the District of Columbia to get an approval of any future action, be it a county or a city ordinance. A classic example used so far, and agreed to by the Attorney General, is a change from paper ballots to voting machines. If that were done by a city ordinance, in a city within a State that came within the scope of section 3(a)—now that is not 3(b) or (c)—the Attorney General would not have to ask for the appointment of examiner.

Now Alaska is a classic example of that. A community in Alaska, a city, if they wanted to change from paper ballots to voting machines falling under the classification of 3(a), would have to come to Washington in order to get an approval of that city ordinance.

Now, number one, does your counsel feel that is constitutional; and number two, does it make sense?

I am looking for guidance.

The CHAIRMAN. Mr. Harris.

I want to state that we have two very eminent counsel flanking Mr. Meany, Mr. Tom Harris and Mr. Meany's old colleague Andrew Biemiller, on Mr. Meany's right.

Proceed.

Mr. HARRIS. As you know of course, Representative Cramer, there is a procedure whereby a State can undertake to validate its existing literacy test or other tests if it can show that it has not discriminated within the preceding 10 years.

Mr. CRAMER. But they have to come to Washington, of course, to prove that.

Mr. HARRIS. They have to do that in a three-judge court in the District of Columbia.

Mr. CRAMER. Right.

Mr. HARRIS. Now, if they do validate their existing legislation, then section 8, I take it, would not apply.

Mr. CRAMER. I understand.

Mr. LINDSAY. Would you yield?

Mr. HARRIS. Without section 8 we could go through for another 95 years the same rigamarole that we have been going through for the last 95, that when one State device is thrown out they simply enact another and go to court once more.

Mr. CRAMER. The point is it would be a very simple matter to make this approach applicable in areas where in fact there has been discrimination, would it not, and not make it applicable to areas where admittedly there has been no discrimination?

Mr. HARRIS. Well, I don't know about that.

Mr. CRAMER. Instead of putting the onus on the nondiscriminating area to prove that they are not guilty.

Mr. HARRIS. The area is presumed to be guilty if, (1) it has a test; and, (2) the vote has fallen under 50 percent.

Mr. CRAMER. Let's use Alaska for this example.

Mr. HARRIS. If Alaska has the option either of dropping the literacy test or of coming in and proving that it has not used it to discriminate, that does not seem to me to put any unduly harsh burden on it. Indeed, that seems to me a very trivial burden to ask Alaska to bear in comparison with the burden that has been put on Negro would-be voters in the South for the last 95 years.

Mr. CRAMER. Well, the bill would require that the States prove that for the last 10 years they have not discriminated. They would be required to overcome the complaints of every individual who might feel he has been discriminated against in any way.

Mr. HARRIS. Yes.

Mr. CRAMER. That could become a rather prolonged and extremely embarrassing situation to a community which has never discriminated and does not now intend to do so.

I just wonder if that is the best approach at getting at what everyone wishes, myself included, areas that do in fact discriminate.

Why penalize areas that do not and presume them guilty so they have to come to the District of Columbia and prove their innocence?

Mr. HARRIS. The reason of course, as the Attorney General explained in his testimony, is that a case by case, voting district by voting district approach has proven unworkable so that some more general test which can secure registration for Negroes is needed; otherwise, as you say, these proceedings can be long drawn out.

Well, they have been long drawn out, and any test which says that you have to go to court before the Negro can register, to show that the individual Negro was improperly denied the right to register or that people in that particular registration district were denied it, this would be drawn out forever and that, of course, is what the Attorney General is trying to avoid by establishing some reasonable general standards for striking down literacy tests or providing for the appointment of Federal examiners.

Mr. CRAMER. We are getting to the matter of what is a "reasonable standard" under the Constitution. Recognizing that you have two sections that would have to be waived: article I, sections II and IV which give the States the right to set voting standards. Up to this time, the State standards prevailed so long as they were not discriminatory.

That is what the committee has to waive.

Mr. HARRIS. I don't think there is any question that the 15th amendment modifies the earlier adopted provision authorizing the States to fix the qualifications for voters if the qualifications discriminate on grounds of color.

The constitutional issue here is whether it is reasonable to make presumptively invalid literacy tests in areas where 50 percent did not vote last fall or were not registered last fall.

I think in view of the long history of discrimination in some areas, the court probably will uphold that, even though recognizing that it will apply in some areas where, at least as far as I know, there has not been discrimination.

Mr. CRAMER. And even though those areas are presumed guilty until they, under subsection 3(c) or section 8, take action?

Mr. HARRIS. They are given the option of either dropping their tests or going into court to try to validate them.

Mr. CRAMER. But no one is suggesting that such tests are unconstitutional?

Mr. HARRIS. No. As Mr. Meany told you, we object to them as a matter of policy but they are unconstitutional only if they violate the 15th amendment or some other provision of the Constitution.

Mr. CRAMER. Of course our power is a little bit limited.

I will yield to the distinguished gentleman.

The CHAIRMAN. I wish to cite the case of *Louisiana* v. *United States*, decided in the October term, 1964; a case where there was under attack the system of registration used by the State of Louisiana. Although in the south of Louisiana there may have been little discrimination, in northern Louisiana, there was excessive discrimination. The Supreme Court held the registration system unconstitutional throughout the entire State.

They had this to say:

> The need to eradicate past evil effects and to prevent the continuation or repetition in the future of the discriminatory practices shown to be so deeply engrained in the laws, policies, and traditions of the State of Louisiana—

although 21 parishes were specifically involved—

> completely justified the district court in entering the decree it did and in retaining jurisdiction of the entire case to hear any evidence of discrimination in other parishes and to enter such orders as justice from time to time might require.

Thus, I think the courts would not frown upon a bill of the type before us, H.R. 6400, despite the fact that we might be hurting some parishes or districts that might not be discriminating.

Mr. CRAMER. Well, I say to the distinguished chairman, I just have a couple more questions.

The CHAIRMAN. I put this decision in the record.

Mr. CRAMER. Certainly it should be in the record.

(Document referred to follows:)

SUPREME COURT OF THE UNITED STATES

No. 67.—October Term, 1964.

Louisiana et al., Appellants, v. United States. | On Appeal From the United States District Court for the Eastern District of Louisiana.

[March 8, 1965.]

Mr. Justice Black delivered the opinion of the Court.

Pursuant to authority granted in 42 U. S. C. § 1971 (c) (1958 ed., Supp. V), the Attorney General brought this action on behalf of the United States in the United States District Court for the Eastern District of Louisiana against the State of Louisiana, the three members of the State Board of Registration, and the Director-Secretary of the Board. The complaint charged that the defendants by following and enforcing unconstitutional state laws had been denying and unless restrained by the court would continue to deny Negro citizens of Louisiana the right to vote, in violation of 42 U. S. C. § 1971 (a) (1958 ed.)[1] and the Fourteenth and Fifteenth Amendments to the United States Constitution. The case was tried and after submission of evidence,[2] the three-judge

[1] "All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding." 16 Stat. 140, 42 U. S. C. § 1971 (a) (1958 ed.).

[2] The appellants did not present any evidence. By stipulation all the Government's evidence was presented in written form.

District Court, convened pursuant to 28 U. S. C. § 2281 (1958 ed.), gave judgment for the United States. 225 F. Supp. 353. The State and the other defendants appealed, and we noted probable jurisdiction. 377 U. S. 987.

The complaint alleged, and the District Court found, that beginning with the adoption of the Louisiana Constitution of 1898, when approximately 44% of all the registered voters in the State were Negroes, the State had put into effect a successful policy of denying Negro citizens the right to vote because of their race. The 1898 constitution adopted what was known as a "grandfather clause," which imposed burdensome requirements for registration thereafter but exempted from these future requirements any person who had been entitled to vote before January 1, 1867, or who was the son or grandson of such a person.[3] Such a transparent expedient for disfranchising Negroes, whose ancestors had been slaves until 1863 and not entitled to vote in Louisiana before 1867,[4] was held unconstitutional in 1915 as a violation of the Fifteenth Amendment, in a case involving a similar Oklahoma constitutional provision. *Guinn* v. *United States*, 238 U. S. 347. Soon after that decision Louisiana, in 1921, adopted a new constitution replacing the repudiated "grandfather clause" with what the complaint calls an "interpretation test," which required that an applicant for registration be able to "give a reasonable interpretation" of any clause in the Louisiana Constitution or the Constitution of the United States.[5] From the adoption of the 1921 interpretation test until 1944, the District Court's opinion stated, the percentage of registered voters

[3] La. Const. 1898, Art. 197, § 5. See generally Eaton, The Suffrage Clause in the New Constitution of Louisiana, 13 Harv. L. Rev. 279.

[4] The Louisiana Constitution of 1868 for the first time permitted Negroes to vote. La. Const. 1868, Art. 98.

[5] La. Const. 1921, Art. VIII, §§ 1 (c), 1 (d).

in Louisiana who were Negroes never exceeded one percent. Prior to 1944 Negro interest in voting in Louisiana had been slight, largely because the State's white primary law kept Negroes from voting in the Democratic Party primary election, the only election that mattered in the political climate of that State. In 1944, however, this Court invalidated the substantially identical white primary law of Texas,[6] and with the explicit statutory bar to their voting in the primary removed and because of a generally heightened political interest, Negroes in increasing numbers began to register in Louisiana. The white primary system had been so effective in barring Negroes from voting that the "interpretation test" as a disfranchising device had fallen into disuse. Many registrars continued to ignore it after 1944, and in the next dozen years the proportion of registered voters who were Negroes rose from two-tenths of one percent to approximately 15% by March 1956. This fact, coupled with this Court's 1954 invalidation of laws requiring school segregation,[7] prompted the State to try new devices to keep the white citizens in control. The Louisiana Legislature created a committee which became known as the "Segregation Committee" to seek means of accomplishing this goal. The chairman of this committee also helped to organize a semiprivate group called the Association of Citizens Councils, which thereafter acted in close cooperation with the legislative committee to preserve white supremacy. The legislative committee and the Citizens Councils set up programs, which parish voting registrars were required to attend, to instruct the registrars on how to promote white political control. The committee and the Citizens Councils also began a wholesale challenging of Negro names already on the voting rolls, with the result that

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[6] *Smith* v. *Allwright*, 321 U. S. 649.

[7] *Brown* v. *Board of Education*, 347 U. S. 483.

thousands of Negroes, but virtually no whites, were purged from the rolls of voters. Beginning in the middle 1950's registrars of at least 21 parishes began to apply the interpretation test. In 1960 the State Constitution was amended to require every applicant thereafter to "be able to understand" as well as " give a reasonable interpretation" of any section of the State or Federal Constitution "when read to him by the registrar." [8] The State Board of Registration in cooperation with the Segregation Committee issued orders that all parish registrars must strictly comply with the new provisions.

The interpretation test, the court found, vested in the voting registrars a virtually uncontrolled discretion as to who should vote and who should not. Under the State's statutes and constitutional provisions the registrars, without any objective standard to guide them, determine the manner in which the interpretation test is to be given, whether it is to be oral or written, the length and complexity of the sections of the State or Federal Constitutions to be understood and interpreted, and what interpretation is to be considered correct. There was ample evidence to support the District Court's finding that registrars in the 21 parishes where the test was found to have been used had exercised their broad powers to deprive otherwise qualified Negro citizens of their right to vote; and that the existence of the test as a hurdle to voter qualification has in itself deterred and will continue to deter Negroes from attempting to register in Louisiana.

Because of the virtually unlimited discretion vested by the Louisiana laws in the registrars of voters, and because

[8] La. Act 613 of 1960, amending La. Const., Art. 8, § 1 (d), implemented in La. Rev. Stat. §§ 18:35, 18:36. Under the 1921 constitution the requirement that an applicant be able "to understand" a section "read to him by the registrar" applied only to illiterates. La. Const., 1921, Art. 8, § 1 (d); compare *id.*, § 1 (c).

in the 21 parishes where the interpretation test was applied that discretion had been exercised to keep Negroes from voting because of their race, the District Court held the interpretation test invalid on its face and as applied, as a violation of the Fourteenth and Fifteenth Amendments to the United States Constitution and of 42 U. S. C. § 1971 (a).[9] The District Court enjoined future use of the test in the State, and with respect to the 21 parishes where the invalid interpretation test was found to have been applied, the District Court also enjoined use of a newly enacted "citizenship" test, which did not repeal the interpretation test and the validity of which was not challenged in this suit, unless a reregistration of all voters in those parishes is ordered, so that there would be no voters in those parishes who had not passed the same test.

I.

We have held this day in *United States* v. *Mississippi*, *ante*, p. ——, that the Attorney General has power to bring suit against a State and its officials to protect the voting rights of Negroes guaranteed by 42 U. S. C. § 1971 (a) and the Fourteenth and Fifteenth Amendments.[10] There

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[9] "Although the vote-abridging purpose and effect of the [interpretation] test render it *per se* invalid under the Fifteenth Amendment, it is also *per se* invalid under the Fourteenth Amendment. The vices cannot be cured by an injunction enjoining its unfair application." 225 F. Supp., at 391–392.

[10] It is argued that the members of the State Board of Registration were not properly made defendants because they were "mere conduits," without authority to enforce state registration requirements. The Board has the power and duty to supervise administration of the interpretation test and prescribe rules and regulations for the registrars to follow in applying it. La. Rev. Stat. § 18:191A; La. Const., Art. 8, § 18. The Board also is by statute directed to fashion and administer the new "citizenship" test. La. Rev. Stat. § 18:191A; La. Const., Art. 8, § 18. And the Board has power to

can be no doubt from the evidence in this case that the District Court was amply justified in finding that Louisiana's interpretation test, as written and as applied, was part of a successful plan to deprive Louisiana Negroes of their right to vote. This device for accomplishing unconstitutional discrimination has been little if any less successful than was the "grandfather clause" invalidated by this Court's decision in *Guinn* v. *United States, supra*, 50 years ago, which when that clause was adopted in 1898 had seemed to the leaders of Louisiana a much preferable way of assuring white political supremacy. The Governor of Louisiana stated in 1898 that he believed that the "grandfather clause" solved the problem of keeping Negroes from voting "in a much more upright and manly fashion" [11] than the method adopted previously by the States of Mississippi and South Carolina, which left the qualification of applicants to vote "largely to the arbitrary discretion of the officers administering the law." [12] A delegate to the 1898 Louisiana Constitutional Convention also criticized an interpretation test because the "arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance." [13]

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remove any registrar from office "at will." La. Const., Art. 8, § 18. In these circumstances the Board members were properly made defendants. Compare *United States* v. *Mississippi*, *ante*, at 12–13.

There is also no merit in the argument that the registrars, who were not defendants in this suit, were indispensable parties. The registrars have no personal interest in the outcome of this case and are bound to follow the directions of the State Board of Registration.

[11] Louisiana Senate Journal, 1898, p. 33.

[12] *Ibid.*

[13] Kernan, The Constitutional Convention of 1898 and its Work, Proceedings of the Louisiana Bar Association for 1899, pp. 59–60.

But Louisianans of a later generation did place just such arbitrary power in the hands of election officers who have used it with phenomenal success to keep Negroes from voting in the State. The State admits that the statutes and provisions of the state constitution establishing the interpretation test "vest discretion in the registrars of voters to determine the qualifications of applicants for registration" while imposing "no definite and objective standards upon registrars of voters for the administration of the interpretation test." And the District Court found that "Louisiana . . . provides no effective method whereby arbitrary and capricious action by registrars of voters may be prevented or redressed." [14] The applicant facing a registrar in Louisiana thus has been compelled to leave his voting fate to that official's uncontrolled power to determine whether the applicant's understanding of the Federal or State Constitution is satisfactory. As the evidence showed, colored people, even some with the most advanced education and scholarship, were declared by voting registrars with less education to have an unsatisfactory understanding of the constitution of Louisiana or of the United States. This is not a test but a trap, sufficient to stop even the most brilliant man on his way to the voting booth. The cherished right of people in a country like ours to vote cannot be obliterated by the use of laws like this, which leave the voting fate of a citizen to the passing whim or impulse of an individual registrar. Many of our cases have pointed out the invalidity of laws so completely devoid of standards and restraints. See, *e. g.*, *United States* v. *L. Cohen Grocery Co.*, 255 U. S. 81. Squarely in point is *Schnell* v. *Davis*, 336 U. S. 933, affirming 81 F. Supp. 872 (D. C. S. D. Ala.), in which we affirmed a district court judgment striking down as a violation of the Fourteenth and Fifteenth Amendments

[14] 225 F. Supp., at 384.

an Alabama constitutional provision restricting the right to vote in that State to persons who could "understand and explain any article of the Constitution of the United States" to the satisfaction of voting registrars. We likewise affirm here the District Court's holding that the provisions of the Louisiana Constitution and statutes which require voters to satisfy registrars of their ability to "understand and give a reasonable interpretation of any section" of the federal or Louisiana constitutions violate the Constitution. And we agree with the District Court that it specifically conflicts with the prohibitions against discrimination in voting because of race found both in the Fifteenth Amendment and 42 U. S. C. § 1971 (a) to subject citizens to such an arbitrary power as Louisiana has given its registrars under these laws.

II.

This leaves for consideration the District Court's decree. We bear in mind that the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future. Little if any objection is raised to the propriety of the injunction against further use of the interpretation test as it stood at the time this action was begun, and without further discussion we affirm that part of the decree.

Appellants' chief argument against the decree concerns the effect which should be given the new voter-qualification test adopted by the Board of Registration in August 1962, pursuant to statute [15] and subsequent constitutional amendment [16] after this suit had been filed. The new test, says the State, is a uniform, objective, standardized "citizenship" test administered to all prospective voters alike. Under it, according to the State, an applicant is

[15] La. Act 62 of 1962, amending La. R. S. 18:191A.

[16] La. Act 539 of 1962, amending La. Const., Art. 8, § 18.

"required to indiscriminately draw one of ten cards. Each card has six multiple choice questions, four of which the applicant must answer correctly." Confining itself to the allegations of the complaint, the District Court did not pass upon the validity of the new test, but did take it into consideration in formulating the decree.[17] The court found that past discrimination against Negro applicants in the 21 parishes where the interpretation test had been applied had greatly reduced the proportion of potential Negro voters who were registered as compared with the proportion of whites. Most if not all of those white voters had been permitted to register on far less rigorous terms than colored applicants whose applications were rejected. Since the new "citizenship" test does not provide for a reregistration of voters already accepted by the registrars, it would affect only applicants not already registered, and would not disturb the eligibility of the white voters who had been allowed to register while discriminatory practices kept Negroes from doing so. In these 21 parishes, while the registration of white persons was increasing, the number of Negroes registered decreased from 25,361 to 10,351. Under these circumstances we think

[17] Like the District Court, we express no opinion as to the constitutionality of the new "citizenship" test. Any question as to that point is specifically reserved. That test was never challenged in the complaint or any other pleading. The District Court said "we repeat that this decision does not touch upon the constitutionality of the citizenship test as a state qualification for voting." 225 F. Supp., at 397. The Solicitor General did not challenge the validity of the new test in this Court either in briefs or in oral argument, but instead recognized specifically that that issue was not before us in this case. And at oral argument in this Court the attorney for the United States stated that the Government has pending in a lower court a new suit challenging registration procedures in Louisiana "under the new regime," *i. e.*, employed subsequent to the invalidation of the interpretation test in this case. The new "citizenship" test, he said, "is simply not an issue in this proceeding and was not invalidated in the lower court and we are not here challenging it."

that the court was quite right to decree that, as to persons who met age and residence requirements during the years in which the interpretation test was used, use of the new "citizenship" test should be postponed in those 21 parishes where registrars used the old interpretation test until those parishes have ordered a complete reregistration of voters, so that the new test will apply alike to all or to none. Cf. *United States* v. *Duke*, 332 F. 2d 759, 769–770 (C. A. 5th Cir.).

It also was certainly an appropriate exercise of the District Court's discretion to order reports to be made every month concerning the registration of voters in these 21 parishes, in order that the court might be informed as to whether the old discriminatory practices really had been abandoned in good faith. The need to eradicate past evil effects and to prevent the continuation or repetition in the future of the discriminatory practices shown to be so deeply engrained in the laws, policies, and traditions of the State of Louisiana, completely justified the District Court in entering the decree it did and in retaining jurisdiction of the entire case to hear any evidence of discrimination in other parishes and to enter such orders as justice from time to time might require.

Affirmed.

MR. JUSTICE HARLAN considers that the constitutional conclusions reached in this opinion can properly be based only on the provisions of the Fifteenth Amendment. In all other respects, he fully subscribes to this opinion.

Mr. CRAMER. I think *Lassiter* v. *Northhampton Election Board* should also be in the record at this point.

The CHAIRMAN. That will be done, also.

(Document to be furnished follows:)

SUPREME COURT OF THE UNITED STATES

Opinion of the Court.

LASSITER *v.* NORTHAMPTON COUNTY BOARD OF ELECTIONS

APPEAL FROM THE SUPREME COURT OF NORTH CAROLINA.

No. 584. Argued May 18–19, 1959.—Decided June 8, 1959.

1. A State may, consistently with the Fourteenth and Seventeenth Amendments, apply a literacy test to all voters irrespective of race or color. *Guinn* v. *United States*, 238 U.S. 347. Pp. 50–53.
2. The North Carolina requirement here involved, which is applicable to members of all races and requires that the prospective voter "be able to read and write any section of the Constitution of North Carolina in the English language," does not on its face violate the Fifteenth Amendment. Pp. 53–54. 248 N.C. 102, 102 S. E. 2d 853, affirmed.

Samuel S. Mitchell argued the cause for appellant. With him on the brief were *Herman L. Taylor* and *James R. Walker, Jr.*

I. Beverly Lake argued the cause and filed a brief for appellee.

Malcolm B. Seawell, Attorney General of North Carolina, and *Ralph Moody*, Assistant Attorney General, filed a brief for the State of North Carolina, as *amicus curiae*, urging affirmance.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This controversy started in a Federal District Court. Appellant, a Negro citizen of North Carolina, sued to have the literacy test for voters prescribed by that State declared unconstitutional and void. A three-judge court was convened. That court noted that the literacy test was part of a provision of the North Carolina Constitution that also included a grandfather clause. It said that the grandfather clause plainly would be unconstitutional under *Guinn* v. *United States*, 238 U.S. 347. It noted, however, that the North Carolina *statute* which enforced the registration requirements contained in that State Constitution had been superseded by a 1957 Act and that the 1957 Act does not contain the grandfather clause or any reference to it. But being uncertain as to the significance of the 1957 Act and deeming it wise to have all administrative remedies under that Act exhausted before the federal court acted, it stayed its action, retaining jurisdiction for a reasonable time to enable appellant to exhaust her administrative remedies and obtain from the state courts an interpretation of the statute in light of the State Constiuion. 152 F. Supp. 295.

Thereupon the instant case was commenced. It started as an administrative proceeding. Appellant applied for registration as a voter. Her registration was denied by the registrar because she refused to submit to a literacy test as required by the North Carolina statute.[1] She appealed to the County Board of Elections. On the *de novo* hearing before that Board appellant again refused to take the literacy test and she was again denied registration for that reason. She appealed to the Superior Court which sustained the Board against the claim that the requirement of the literacy test violated the Fourteenth, Fifteenth, and Seventeenth Amendments of the Federal Constitution. Preserving her federal question, she appealed to the North Carolina Supreme Court which affirmed the lower court. 248 N.C. 102, 102 S. E. 2d 853. The case came here by appeal, 28 U.S.C. § 1257 (2), and we noted probable jurisdiction. 358 U.S. 916.

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[1] This Act, passed in 1957, provides in § 163–28 as follows:

"Every person presenting himself for registration shall be able to read and write any section of the Constitution of North Carolina in the English language. It shall be the duty of each registrar to administer the provisions of this section."

Sections 163–28.1, 163–28.2, and 163–28.3 provide the administrative remedies pursued in this case.

The literacy test is a part of § 4 of Art. VI of the North Carolina Constitution. That test is contained in the first sentence of § 4. The second sentence contains a so-called grandfather clause. The entire § 4 reads as follows:

"Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language. But no male person who was, on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any state in the United States wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: Provided, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under section 2 of this article."

Originally Art. VI contained in § 5 the following provision:

"That this amendment to the Constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts, and to make them so dependent upon each other, that the whole shall stand or fall together."

But the North Carolina Supreme Court in the instant case held that a 1945 amendment to Article VI freed it of the indivisibility clause. That amendment rephrased § 1 of Art. VI to read as follows:

"Every person born in the United States, and every person who has been naturalized, twenty-one years of age, and possessing the qualifications set out in this article, shall be entitled to vote . . . ."

That court said that "one of those qualifications" was the literacy test contained in § 4 of Art. VI; and that the 1945 amendment "had the effect of incorporating and adopting anew the provisions as to the qualifications required of a voter as set out in Article VI, freed of the indivisibility clause of the 1902 amendment. And the way was made clear for the General Assembly to act." 248 N.C., at 112, 102 S.E. 2d 860, 861.

In 1957 the Legislature rewrote General Statutes § 163–28 as we have noted.[2] Prior to that 1957 amendment § 163–28 perpetuated the grandfather clause contained in § 4 of Art. VI of the Constitution and § 163–32 established a procedure for registration to effectuate it.[3] But the 1957 amendment contained a provision that "All laws and clauses of laws in conflict with this Act are hereby repealed."[4] The federal three-judge court ruled that this 1957 amendment eliminated the grandfather clause from the statute. 152 F. Supp., at 296.

The Attorney General of North Carolina, in an *amicus* brief, agrees that the grandfather clause contained in Art. VI is in conflict with the Fifteenth Amendment. Appellee maintains that the North Carolina Supreme Court ruled that the invalidity of that part of Art. VI does not impair the remainder of Art. VI since the 1945 amendment to Art. VI freed it of its indivisibility clause. Under that view Art. VI would impose the same literacy test as that imposed by the 1957 statute and neither would be linked with the grandfather clause which, though present in print, is separable from the rest and void. We so read the opinion of the North Carolina Supreme Court.

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[2] Note 1, *supra*.

[3] Section 163–32 provided:

"Every person claiming the benefit of section four of article six of the Constitution of North Carolina, as ratified at the general election on the second day of August, one thousand nine hundred, and who shall be entitled to register upon the permanent record for registration provided for under said section four, shall prior to December first, one thousand nine hundred and eight, apply for registration to the officer charged with the registration of voters as prescribed by law in each regular election to be held in the State for members of the General Assembly, and such persons shall take and subscribe before such officer an oath in the following form, viz.:

"I am a citizen of the United States and of the State of North Carolina; I am _____ years of age. I was, on the first day of January, A.D. one thousand eight hundred and sixty-seven, or prior to said date, entitled to vote under the constitution and laws of the state of _____, in which I then resided (or, I am a lineal descendant of _____, who was, on January one, one thousand eight hundred and sixty-seven, or prior to that date, entitled to vote under the constitution and laws of the state of _____, wherein he then resided."

[4] N.C. Laws 1957, c. 287, pp. 277, 278.

Appellant argues that that is not the end of the problem presented by the grandfather clause. There is a provision in the General Statutes for permanent registration in some counties.[5] Appellant points out that although the cut-off date in the grandfather clause was December 1, 1908, those who registered before then might still be voting. If they were allowed to vote without taking a literacy test and if appellant were denied the right to vote unless she passed it, members of the white race would receive preferential privileges of the ballot contrary to the command of the Fifteenth Amendment. That would be analogous to the problem posed in the classic case of *Yick Wo v. Hopkins*, 118 U.S. 356, where an ordinance unimpeachable on its face was applied in such a way as to violate the guarantee of equal protection contained in the Fourteenth Amendment. But this issue of discrimination in the actual operation of the ballot laws of North Carolina has not been framed in the issues presented for the state court litigation. Cf. *Williams* v. *Mississippi*, 170 U.S. 213, 225. So we do not reach it. But we mention it in passing so that it may be clear that nothing we say or do here will prejudice appellant in tendering that issue in the federal proceedings which await the termination of this state court litigation.

We come then to the question whether a State may consistently with the Fourteenth and Seventeenth Amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States*, *supra*, at 366, disposed of the question in a few words, "No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted."

The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, *Pope* v. *Williams*, 193 U.S. 621, 633; *Mason* v. *Missouri*, 179 U.S. 328, 335, absent of course the discrimination which the Constitution condemns. Article I, § 2 of the Constitution in its provision for the election of members of the House of Representatives and the Seventeenth Amendment in its provision for the election of Senators provide that officials will be chosen "by the People." Each provision goes on to state that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651, 663–665; *Smith* v. *Allwright*, 321 U.S. 649, 661–662) it is subject to the imposition of state standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. See *United States* v. *Classic*, 313 U.S. 299, 315. While § 2 of the Fourteenth Amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of "the right to vote," the right protected "refers to the right to vote as established by the laws and constitution of the State." *McPherson* v. *Blacker*, 146 U.S. 1, 39.

We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record (*Davis* v. *Beason*, 133 U.S. 333, 345–347) are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show.[6] Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. Cf. *Franklin* v. *Harper*, 205 Ga. 779, 55 S.E. 2d 221, appeal dismissed 339 U.S. 946. It was said last century in Massachusetts that a literacy test was designed to insure an "independent and

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[5] Section 163–31.2 provides:
"In counties having one or more municipalities with a population in excess of 10,000 and in which a modern loose-leaf and visible registration system has been established as permitted by G. S. 163–43, with a full time registration as authorized by G. S. 163–31, such registration shall be a permanent public record of registration and qualification to vote, and the same shall not thereafter be cancelled and a new registration ordered, either by precinct or countywide, unless such registration has been lost or destroyed by theft, fire or other hazard."

[6] World Illiteracy at Mid-Century, Unesco (1957).

intelligent" exercise of the right of suffrage.[7] *Stone* v. *Smith*, 159 Mass. 413–414, 34 N.E. 521. North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards.

Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the Fifteenth Amendment was designed to uproot. No such influence is charged here. On the other hand, a literacy test may be unconstitutional on its face. In *Davis* v. *Schnell*, 81 F. Supp. 872, aff'd 336 U.S. 933, the test was the citizen's ability to "understand and explain" an article of the Federal Constitution. The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy. We cannot make the same inference here. The present requirement, applicable to members of all races, is that the prospective voter "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay springes for the citizen. Certainly we cannot condemn it on its face as a device unrelated to the desire of North Carolina to raise the standards for people of all races who cast the ballot.

Affirmed.

The CHAIRMAN. I also submit for the record the case of United States against Mississippi, October term, 1964.

Mr. CRAMER. Yes.

(Document referred to follows:)

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[7] Nineteen States, including North Carolina, have some sort of literacy requirement as a prerequisite to eligibility for voting. Five require that the voter be able to read a section of the State or Federal Constitution and write his own name. Arizona Rev. Stat. § 16–101; Cal. Election Code § 220; Del. Code Ann. Tit. 15, § 1701; Me. Rev. Stat., c. 3, § 2; Mass. Gen. L. Ann., c. 51, § 1. Five require that the elector be able to read and write a section of the Federal or State Constitution. Ala. Code, 1940, Tit. 17, § 32; N.H. Rev. Stat. Ann. §§ 55:10–55:12; N.C. Gen. Stat. § 163–28; Okla. Stat. Ann., Tit. 26, § 61; S.C. Code § 23–62. Alabama also requires that the voter be of "good character" and "embrace the duties and obligations of citizenship" under the Federal and State Constitutions. Ala. Code, Tit. 17, § 32 (1955 Supp.).

Two States require that the voter be able to read and write English. N.Y. Election Code § 150; Ore. Rev. Stat. § 247.131. Wyoming (Wyo. Comp. Stat. Ann. § 31–113) and Connecticut (Conn. Gen. Stat. § 9–12) require that the voter read a constitutional provision in English, while Virginia (Va. Code § 24–68) requires that the voting application be written in the applicant's hand before the registrar and without aid, suggestion or memoranda. Washington (Wash. Rev. Code § 29.07.070) has the requirement that the voter be able to read and speak the English language.

Georgia requires that the voter read intelligibly and write legibly a section of the State or Federal Constitution. If he is physically unable to do so, he may qualify if he can give a reasonable interpretation of a section read to him. An alternative means of qualifying is provided; if one has good character and understands the duties and obligations of citizenship under a republican government, and he can answer correctly 20 of 30 questions listed in the statute (*e.g.*, How does the Constitution of Georgia provide that a county site may be changed?, what is treason against the State of Georgia?, who are the solicitor general and the judge of the State Judicial Circuit in which you live?), he is eligible to vote. Geo. Code Ann. §§ 34–117, 34–120.

In Louisiana one qualifies if he can read and write English or his mother tongue, is of good character, and understands the duties and obligations of citizenship under a republican form of government. If he cannot read and write, he can qualify if he can give a reasonable interpretation of a section of the State or Federal Constitution when read to him, and if he is attached to the principles of the Federal and State Constitutions. La. Rev. Stat., Tit. 18, § 31.

In Mississippi the applicant must be able to read and write a section of the State Constitution and give a reasonable interpretation of it. He must also demonstrate to the registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government. Miss. Code Ann. § 3213.

SUPREME COURT OF THE UNITED STATES

No. 73.—October Term, 1964.

United States, Appellant, v. Mississippi et al.	On Appeal From the United States District Court for the Southern District of Mississippi.

[March 8, 1965.]

Mr. Justice Black delivered the opinion of the Court.

The United States by the Attorney General brought this action in the United States District Court for the Southern District of Mississippi, Jackson Division, against the State of Mississippi, the three members of the Mississippi State Board of Election Commissioners, and six county Registrars of Voters. The complaint charged that the defendants and their agents had engaged and, unless restrained, would continue to engage in acts and practices hampering and destroying the right of Negro citizens of Mississippi to vote, in violation of 42 U. S. C. § 1971 (a) (1958 ed.), and of the Fourteenth [1] and Fifteenth [2] Amendments and Article I of the United States

[1] United States Constitution, Amendment XIV, provides in part:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

[2] United States Constitution, Amendment XV, provides:

"Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

Constitution. Jurisdiction of the Court was invoked under 42 U. S. C. § 1971 (d) (1958 ed.) and 28 U. S. C. § 1345 (1958 ed.), and because the complaint charged that provisions of the state constitution and statutes pertaining to voter registration violated the United States Constitution, the case was heard by three judges, pursuant to 28 U. S. C. § 2281 (1958 ed.). All the defendants moved to dismiss on the ground that the complaint failed to state a claim on which relief could be granted. In addition the State moved separately to dismiss on the ground that the United States had no power to make it a defendant in such a suit, and the three Election Commissioners answered that the complaint failed to show that they had enforced or that they had a duty to enforce the provisions of state law alleged to be unconstitutional. Five of the registrars moved for a severance and separate trials, and the four who were not residents of the Southern District of Mississippi, Jackson Division, moved for changes of venue to the respective districts and divisions where they lived. The District Court in an opinion by the late Circuit Judge Cameron, in which District Judge Cox joined,[3] dismissed the complaint on all the grounds which the defendants had assigned and also ruled that the registrars could not be sued jointly and that venue was improper as to the registrars who did not live in the district and division in which the court was sitting. 229 F. Supp. 925. Circuit Judge Brown dissented. We noted probable jurisdiction, 377 U. S. 988, and set the case down for argument immediately following *Louisiana* v. *United States*, *post*, p. —.

The basic issue before us in this case is whether the dismissal for failure to state a claim upon which relief could be granted was proper. The United States alleges that in 1890 a majority of the qualified voters in Mississippi

[3] Judge Cox also wrote a separate concurring opinion.

were Negroes, but that in that year a constitutional convention adopted a new state constitution, one of the chief purposes of which was, in the words of the complaint, to "restrict the Negro franchise and to establish and perpetuate white political supremacy and racial segregation in Mississippi." Section 244 of that constitution established a new prerequisite for voting: that a person otherwise qualified be able to read any section of the Mississippi Constitution, *or* understand the same when read to him, *or* give a reasonable interpretation thereof.[4] This new requirement, coupled with the fact that until about 1952 Negroes were not eligible to vote in the primary election of the Democratic Party, victory in which was "tantamount to election," worked so well in keeping Negroes from voting, the complaint charges, that by 1899 the percentage of qualified voters in the State who were Negroes had declined from over 50% to about 9%, and by 1954 only about 5% of the Negroes of voting age in Mississippi were registered.

By the 1950's a much higher proportion of Negroes of voting age in Mississippi was literate than had been the case in 1890, and since a decision of the Fifth Circuit in 1951 [5] had pointed out that the 1890 requirement allowed persons to vote if they met any one of the three alternative requirements, the State took steps to multiply the barriers keeping its Negro citizens from voting. In 1954 the state constitution was amended to provide that there-

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[4] Section 244 of the Mississippi Constitution of 1890 provided:

"On and after the first day of January, A. D., 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this State; or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January the first, A. D., 1892."

[5] *Peay* v. *Cox*, 190 F. 2d 123, 126 (C. A. 5th Cir.), cert. denied, 342 U. S. 896.

after an applicant for registration had to be able to read and copy in writing any section of the Mississippi Constitution, *and* give a reasonable interpretation of that section to the county registrar, *and,* in addition, demonstrate to the registrar "a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government." [6] The complaint charges that these provisions lend themselves to misuse and to discriminatory administration because they leave the registrars completely at large, free to be as demanding or as lenient as they choose in judging an applicant's understanding of the state constitution and of the "duties and obligations of citizenship," and that since the adoption of this amendment the registrars have in fact applied standards which varied in difficulty according to whether an applicant was white or colored.

In 1960 the state constitution was amended to add a new voting qualification of "good moral character," [7] an addition which it is charged was to serve as yet another device to give a registrar power to permit an applicant to vote or not, depending solely on the registrar's own whim or caprice, ungoverned by any legal standard. A statute also passed in 1960 [8] repealed a prior Mississippi statute

[6] As amended § 244 of the Mississippi Constitution reads in part:

"Every elector shall, in addition to the foregoing qualifications be able to read and write any section of the Constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government. . . ."

[7] Section 241–A of the Mississippi Constitution provides:

"In addition to all other qualifications required of a person to be entitled to register for the purpose of becoming a qualified elector, such person shall be of good moral character.

"The Legislature shall have the power to enforce the provisions of this section by appropriate legislation."

[8] Miss. Laws, 1960, c. 449, now part of Miss Code Ann. § 3209.6 (1962 Cum. Supp.).

which had provided that application forms be retained as permanent public records, and adopted a new rule that unless appeal is taken from an adverse ruling and no new application is made prior to final judgment on that appeal, registrars no longer need keep any record made in connection with the application of anyone to register to vote. This law is alleged to be in direct violation of Title III of the Civil Rights Act of 1960, which requires that records of voting registration be kept.[9] The complaint alleged further that the defendants had destroyed and unless restrained by the court would continue to destroy these records. Finally, it was alleged that in 1962 the Mississippi Legislature adopted a package of legislation [10] affecting registration, the purpose and effect of which was to "deter, hinder, prevent, delay and harass Negroes and to make it more difficult for Negroes in their efforts to become registered voters, to facilitate discrimination against Negroes, and to make it more difficult for the United States to protect the right of all its citizens to vote without distinction of race or color." These 1962

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[9] 74 Stat. 88, 42 U. S. C. §§ 1974–1974e (1958 ed., Supp. V).

[10] Miss. Laws, 1962, c. 569, amending Miss. Code Ann. § 3209.6 (1962 Cum. Supp.) (requiring that application forms provide that applicants demonstrate "good moral character" and that registrars observe this requirement); Miss. Laws, 1962, c. 570, now part of Miss. Code Ann. § 3213 (1962 Cum. Supp.) (requiring applicants to fill in all blanks on the application form "properly and responsively" without any assistance); Miss. Laws, 1962, c. 571, now part of Miss. Code Ann. § 3212.5 (Cum. Supp. 1962) (prohibiting registrars from telling an applicant why he was rejected, "as to do so may constitute assistance to the applicant on another application"); Miss. Laws, 1962, c. 572, now part of Miss. Code Ann. § 3212.7 (1962 Cum. Supp.) (requiring newspaper publication of applicants' names); Miss. Laws, 1962, c. 573, now part of Miss. Code Ann. §§ 3217-01—3217-15 (1962 Cum. Supp.) (providing for challenge by any voter of an applicant's qualifications to vote); Miss. Laws, 1962, c. 574, now part of Miss. Code Ann. § 3232 (1962 Cum. Supp.) (eliminating designation of race in county poll books).

laws provide, among other things, that application forms must be filled out "properly and responsively" by the applicant without any assistance, and that a registrar may not tell an applicant why he failed the test because to do so might constitute assistance, and they allegedly give registrars even greater discretion to deny Negroes the right to register on formal, technical, inconsequential errors.[11]

By way of relief the court was asked (1) to declare the challenged state laws unconstitutional as violations of federal constitutional provisions and statutes; (2) to find that by these laws Negroes had been denied the right to vote pursuant to a "pattern and practice" of racial discrimination; [12] (3) to enjoin the defendants from enforcing any of these state laws or in any other way acting to "delay, prevent, hinder, discourage, or harass Negro citizens, on account of their race or color, from applying for registration and becoming registered voters in the State of Mississippi," or using any other interpretation or understanding test which "bears a direct relationship to the quality of public education afforded Negro applicants"; and (4) to order the defendants to register any Negro applicant who is over age 21, able to read, a resident for the period of time prescribed by state law, and not disqualified by state laws disfranchising the insane and certain convicted criminals.

It is apparent that the complaint which the majority of the District Court dismissed charged a long-standing,

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[11] Miss. Code Ann. § 3213 (Cum. Supp. 1962), as amended by Miss. Laws, 1962, c. 570, is claimed by the Government to have had the latter effect. In its brief in this Court the Government argues that this provision is invalid on its face as contrary to § 101 (a) of the Civil Rights Act of 1964, 78 Stat. 241, amending 42 U. S. C. § 1971 (a) (1958 ed.).

[12] Such a finding would by force of 42 U. S. C. § 1971 (e) (1958 ed., Supp. V) authorize a court to make an order declaring that a person denied the right to vote because of color is entitled to vote.

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carefully prepared, and faithfully observed plan to bar Negroes from voting in the State of Mississippi, a plan which the registration statistics included in the complaint would seem to show had been remarkably successful. This brings us to a consideration of the specific grounds assigned by the District Court for its dismissal.

I.

One ground upon which the majority of the District Court dismissed the Government's complaint was that the United States is without authority, absent the clearest possible congressional authorization, to bring an action like this one which challenges the validity of state laws allegedly used as devices to keep Negroes from voting on account of their race. We need not discuss the power of the United States to bring such an action without authorization by Congress, for in 42 U. S. C. § 1971 there is express congressional authorization for the United States to file a suit precisely of this kind. Section 1971 (a) guarantees the right of citizens "who are otherwise qualified by law to vote at any election" to be allowed to vote "without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding." [13] And subsection (c) of § 1971 specifically authorizes the Attorney General to file proper proceedings for preventive relief to protect this right to vote without discrimination on

[13] "All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. . . ." Act of May 31, 1870, 16 Stat. 140, 42 U. S. C. § 1971 (a) (1958 ed.).

account of color whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of that right.[14] The District Court's holding that despite the clear language quoted above the United States still was not authorized to file this suit seems to rest on the emphasis it places on the phrase "otherwise qualified by law" in § 1971 (a). By stressing these words the majority below reached the conclusion that if Negroes were kept from voting by state laws, even though those laws were unconstitutional, instead of being barred by unlawful discriminatory application of laws otherwise valid, then they were not "otherwise qualified" and so § 1971 did not apply to them. In other words, while private persons might file suits under § 1971 against individual registrars who discriminated in applying otherwise valid laws, and while such suits might even be filed by the Government, see *United States v. Raines*, 362 U. S. 17, the statute did not authorize the United States to bring suits challenging the validity of

[14] 74 Stat. 92, 42 U. S. C. § 1971 (c) (1958 ed., Supp. V), provides:

"Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

"Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceedings, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State."

the State's voting laws as such, however discriminatory they might be. We can find no possible justification for such a construction of § 1971 (a) and § 1971 (c). Subsection (a) explicitly stated the legislative purpose of protecting the rights of colored citizens to vote notwithstanding "any constitution, law, custom, usage, or regulation of any State." The phrase "otherwise qualified by law to vote" obviously meant that Negroes must possess the qualifications required of all voters by *valid* state or federal laws. It is difficult to take seriously the argument that Congress intended to dilute its guarantee of the right to vote regardless of race by saying at the same time that a State was free to disqualify its Negro citizens by laws which violated the United States Constitution. Cf. *Neal* v. *Delaware,* 103 U. S. 370. The Fifteenth Amendment protects the right to vote regardless of race against any denial or abridgment by the United States or by any State. Section 1971 was passed by Congress under the authority of the Fifteenth Amendment to enforce that Amendment's guarantee, which protects against any discrimination by a State, its laws, its customs, or its officials in any way. We reject the argument that the Attorney General was without power to institute these proceedings ... ler to protect the federally guaranteed right to vote ...t discrimination on account of color.

II.

The District Court held, and it is contended here, that even if the Attorney General did have power to file this suit on behalf of the United States, as we have held he did, nevertheless he was without power to make the State a party defendant. The District Court gave great weight to Mississippi's argument that the Fifteenth Amendment "is directed to persons through whom a state may act and not to the sovereign entity of the state itself." Largely to avoid what it called this "substantial constitutional claim," the District Court proceeded to construe the lan-

guage of § 1971 as not granting the Attorney General authority to make the State a defendant. We do not agree with that construction.

Section 1971 (c) says that whenever the Attorney General institutes a suit under this section against a state official who has deprived a citizen of his right to vote because of race or color,

> "the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State."

The District Court accepted the State's argument that this meant that a State can be made a defendant in such a case only when the office of registrar is vacant, so that there is no registrar against whom to file suit. This argument relies on the fact that in a case pending in this Court when the statutory language was changed, registrars had resigned their offices in order to keep from being sued under § 1971. *United States* v. *Alabama*, 267 F. 2d 808 (C. A. 5th Cir.), vacated and remanded, 362 U. S. 602. Congress, the State says, passed the provision authorizing suit against a State solely to provide a party defendant when registrars resigned, as they had in the *Alabama* case. But whatever the reasons Congress had for amending § 1971 (c), and without our now deciding whether it was necessary to do so to permit the United States to sue a State under that section, the language Congress adopted leaves no room for the construction which the District Court put on these provisions. Indeed, on remand in the *Alabama* case the Fifth Circuit affirmed the District Court's refusal to dismiss the State as a defendant even though new registrars had qualified, and this Court affirmed that judgment. *Alabama* v. *United States*, 371 U. S. 37, affirming 304 F. 2d 583 (C. A. 5th Cir.).

The State argues also that even if Congress has authorized making the State a defendant here, as we hold it has, Congress had no constitutional power to do so. The Fifteenth Amendment in plain, unambiguous language provides that no "State" shall deny or abridge the right of citizens to vote because of their color. In authorizing the United States to make a State a defendant in a suit under § 1971, Congress was acting under its power given in § 2 of the Fifteenth Amendment to enforce that Amendment by appropriate legislation. The State's argument that Congress acted here beyond its constitutional power is based on a number of cases that have allowed private individuals to enjoin state officials from denying constitutional rights, while recognizing that without its consent a State could not be sued by private persons in such circumstances, because of the immunity given the State in the Eleventh Amendment. See, *e. g., Ex parte Young*, 209 U. S. 123. But none of these cases decided or even suggested that Congress could not authorize the United States to institute legal proceedings against States to protect constitutional rights of citizens. The Eleventh Amendment in terms forbids suits against States only when "commenced or prosecuted . . . by Citizens of another State, or by Citizens or Subjects of any Foreign State." While this has been read to bar a suit by a State's own citizen as well, *Hans* v. *Louisiana*, 134 U. S. 1, nothing in this or any other provision of the Constitution prevents or has ever been seriously supposed to prevent a State's being sued by the United States. The United States in the past has in many cases been allowed to file suits in this and other courts against States, see, *e. g., United States* v. *Texas*, 143 U. S. 621; *United States* v. *California*, 297 U. S. 175, with or without specific authorization from Congress, see *United States* v. *California*, 332 U. S. 19, 26–28. See also *Parden* v. *Terminal R. Co.*, 377 U. S. 184. In light of this history, it seems rather sur-

prising that the District Court entertained seriously the argument that the United States could not constitutionally sue a State. The reading of the Constitution urged by Mississippi is not supported by precedent, is not required by any language of the Constitution, and would without justification in reason diminish the power of courts to protect the people of this country against deprivation and destruction by States of their federally guaranteed rights. We hold that the State was properly made a defendant in this case.

III.

The District Court held with respect to the three members of the Mississippi Board of Election Commissioners that the complaint failed to show that they had a sufficient interest in administering or enforcing the laws under attack to permit making them parties defendant. We do not agree. Under state law the Election Commissioners have power, authority, and responsibility to help administer the voter registration laws by formulating rules for the various tests applied to applicants for registration. Section 3209.6 of the Mississippi Code directs that the forms and the questions on the forms shall be prepared and maintained under the supervision of the Election Board and that these application forms shall be

> "designed to test the ability of applicants for registration to vote to read and write any section of the Constitution of this state and give a reasonable interpretation thereof, and demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government; and to demonstrate to the county registrar that applicant is a person of good moral character as required by Section 241–A of the Constitution of Mississippi."

These "interpretation" and "duties and obligations of citizenship" tests, as has been pointed out, are vitally important elements of the Mississippi laws challenged as unconstitutional in this suit. Should the Government prove its case and obtain an injunction, it would be natural to assume that such an order should run against the Board of Election Commissioners with reference to these two tests. Therefore the Election Commissioners should not have been stricken as defendants.

IV.

The District Court said that the complaint improperly attempted to hold the six county registrars jointly liable for what amounted to nothing more than individual torts committed by them separately with reference to separate applicants. For this reason apparently it would have held the venue improper as to the three registrars who lived outside the Southern District of Mississippi and a fourth who lived in a different division of the Southern District, and it would have ordered that each of the other two registrars be sued alone. But the complaint charged that the registrars had acted and were continuing to act as part of a state-wide system designed to enforce the registration laws in a way that would inevitably deprive colored people of the right to vote solely because of their color. On such an allegation the joinder of all the registrars as defendants in a single suit is authorized by Rule 20 (a) of the Federal Rules of Civil Procedure, which provides that

> ". . . All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action."

These registrars were alleged to be carrying on activities which were part of a series of transactions or occurrences the validity of which depended to a large extent upon "question[s] of law or fact common to all of them." Since joinder of the registrars in one suit was proper, the argument that venue as to some of them was not properly laid is also without merit. 28 U. S. C. §§ 1392 (a), 1393 (b) (1958 ed.).

V.

As a general ground for dismissal, the District Court held that the complaint failed to state a claim upon which relief could be granted. In considering the correctness of this ruling the allegations of the complaint are to be taken as true, and indeed the record contains answers to pretrial interrogatories which indicate that the United States stands ready to produce much evidence tending to prove the truthfulness of all the allegations in the complaint. While the Government has argued that several provisions of the Mississippi laws challenged here might or should be held unconstitutional on their face without introduction of evidence or further hearings, with respect to all the others the Solicitor General in this Court specifically has declined to "urge that the constitutionality of these provisions be decided prior to trial." In this situation we have decided that it is the more appropriate course to pass only upon the sufficiency of the complaint's allegations to justify relief if proved.

We have no doubt whatsoever that it was error to dismiss the complaint without a trial. The complaint charged that the State of Mississippi and its officials for the past three quarters of a century have been writing and adopting constitutional provisions, statutes, rules, and regulations, and have been engaging in discriminatory practices, all designed to keep the number of white voters at the highest possible figure and the number of colored voters at the lowest. It is alleged that the common pur-

pose running through the State's legal and administrative history during that time has been to adopt whatever expedient seemed necessary to establish white political supremacy in a completely segregated society. This purpose, indeed, was recognized by the Mississippi Supreme Court in 1896 when it said, speaking of the convention which adopted the 1890 constitution,

> "Within the field of permissible action under the limitations imposed by the federal constitution, the convention swept the circle of expedients to obstruct the exercise of the franchise by the negro race." [15]

The success of the expedients adopted in 1890 and in later years to accomplish this purpose appears from statistics in the complaint. For example, at the time the suit was filed Amite County, Mississippi, the registrar of which was one of the defendants here, had a white voting age population of 4,449 with white registration of 3,295, while it had 2,560 colored persons of voting age, of whom only one was a registered voter. There is no need to multiply examples. The allegations of this complaint were too serious, the right to vote in this country is too precious, and the necessity of settling grievances peacefully in the courts is too important, for this complaint to have been dismissed. Compare *Davis* v. *Schnell*, 81 F. Supp. 872 (D. C. S. D. Ala.), aff'd, 336 U. S. 933; *Louisiana* v. *United States*, *post*, p. ——, this day decided. The case should have been tried. It should now be tried without delay.[16]

Reversed and remanded.

MR. JUSTICE HARLAN considers that the constitutional conclusions reached in this opinion can properly be based only on the provisions of the Fifteenth Amendment. In all other respects, he fully subscribes to this opinion.

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[15] *Ratliff* v. *Beale*, 74 Miss. 247, 266, 20 So. 865, 868.

[16] The appellees' motion to strike the appendix and portions of the text of the brief filed by the *amicus curiae* is denied.

Mr. CRAMER. The *Louisiana* case, of course, in effect said that the nature of the literacy tests were, in and of themselves, so subject to being administered discriminatorily that they should be struck down.

Certainly the gentleman from New York would not suggest that the eighth-grade requirement in New York State should be struck, would he, on the basis that all literacy tests were improper as a matter of policy?

The CHAIRMAN. I do not like literacy tests any more than you do, but again, I want to get a bill through and I am a little concerned if we go too far, we are going to have trouble here and without reason.

I do not want to go as far as the gentleman from Florida may want to go or the gentleman from New York may want to go.

Mr. LINDSAY. Would the gentleman yeild?

Mr. CRAMER. I will be glad to.

The reason that I ask the latter case be put in the record is that it clearly states it is constitutional for a State to have literacy tests which are not in themselves discriminatory or of such a nature that they can be readily administered in a discriminatory manner.

Now it seems to me that somewhere between that case and the *Louisiana* case is the grounds for legislation.

Now obviously, we as a committee have to make a policy decision within our consitutional powers as well, and I doubt if this committee would want to say that the eighth grade literacy test in New York should be stricken as a matter of policy.

I will yield to the gentleman from New York.

Mr. LINDSAY. Thank you.

I thank the gentleman for yielding.

Perhaps there is some doubt in the members' minds or in the witness' mind. I have thought that we all understood or agreed. I will put the question to Mr. Harris, who is a very good lawyer. Even in the absence of a provision which would give a State the opportunity to come forward and prove that even though they have had literacy tests that they have not been used to discriminate on the grounds of color under the 15th amendment, this bill would have constitutional difficulties, wouldn't it?

Mr. HARRIS. I would not say that it would have no difficulty but I would hazard the guess that the Court would uphold it.

Mr. LINDSAY. Yes.

Mr. HARRIS. I think the quotation from the *Louisiana* decision which the chairman made is very apt on that point.

Mr. LINDSAY. I think it is close, but I think most lawyers at the moment still agree that the law, now, is that a test or device which is not used in any circumstances or conditions to discriminate on grounds of color or race is not one that can be struck down by the Federal Government under the 15th amendment powers.

I think that is probably the status of the law at this moment.

Mr. ROGERS. Would the gentleman yield?

Mr. LINDSAY. I think most lawyers would agree with that general proposition.

Mr. ROGERS. Would the gentleman yield?

Mr. LINDSAY. I do not have the floor.

Mr. CRAMER. I yield.

Mr. ROGERS. By the same token, any application being made under section 8 would not be struck down by the court for the simple reason that on page 8 of the bill, at line 6 it says: "such qualifications or procedures will not have the effect of denying or abridging the rights guaranteed by the 15th amendment."

In other words, if the municipality or the county or the political subdivision enact an ordinance or statute they can go ahead if the court concludes that such enactment does not deny or abridge rights under the 15th amendment. Of course they don't have to file unless they have heretofore, so to speak, come under scrutiny of the Attorney General, and the Bureau of the Census.

Mr. LINDSAY. If the gentleman will just yield briefly on that point, it is true that under the administration's bill that at some point there has to be the possibility of a test as to whether or not the literacy test has in fact been used to discriminate at some point.

In the administration's bill it is done in an ingenious fashion. It comes later by the challenge system, but still the test is there. Mr. Katzenbach readily agreed, I think all of us will agree, that without that you have 15th amendment trouble.

Mr. ROGERS. Yes, because otherwise, you would not have the 15th amendment in there. That is what we are seeking to enforce.

Mr. CRAMER. I agree with the gentleman from New York, but I carry it a step forward and say that not only may there be a constitutional question, but as a matter of policy, is it proper for Congress to put innocent areas in the position of being presumed guilty until they prove their innocence?

Now it appears to me, counsel, that certainly there is a policy decision that would have to be made.

Mr. HARRIS. Yes, it is. There is, of course, the argument which you have made against doing that. The argument for doing it is that some broad test is necessary in order effectively to implement the 15th amendment and the case-by-case proceedings have failed.

Mr. CRAMER. That is what we have to weigh, the objective you want to accomplish against the prospect of requiring the nondiscriminating area to prove their innocence. That is the policy question for the committee. It does exist.

I am confident, however, I will say to counsel, that if a proposal were made to labor unions that if in fact you did not have more than 5 percent Negroes in a given area, with a large Negro population, employed for membership in a given union, and you were presumed guilty of discrimination and had to prove yourself innocent, that your attitude relating to that would be pretty much in opposition, would it not?

Mr. MEANY. Oh, I don't know, we have had this problem before. I would hope that the committee, in all this question of constitutionality and protecting the rights of innocent States, would not forget that they are trying to legislate to eliminate an evil.

Now we have had situations and we have laws on the statute books that compel unions that have never been charged with any violation of any kind or any unethical conduct to do things that were enacted by this Congress to control crooked unions.

When you write the law, you control all the unions and you make them all use certain standards. So I would just hope that the com-

mittee would not forget that they are trying to legislate to eliminate a real evil.

Mr. CRAMER. I presume you are talking about Landrum-Griffin, are you not?

Mr. MEANY. Taft-Hartley, Landrum-Griffin, all these sorts of things that the unions have never had any charges with.

Mr. CRAMER. But the union very strongly opposed that legislation.

Mr. MEANY. Not that part of it. Not that part of it.

Mr. CRAMER. I wonder what the attitude is with regard to States that have requirements. Should they be stricken down outside of those we find in the bill?

Let me give you an example. Let's take Montana. Now, it is not included under this bill. If an applicant is unable to sign his name; he must produce two freeholders who shall make affidavits that the applicant is personally known to them and is qualified to vote.

Mr. MEANY. You say do I like that? No; I don't like any test that the applicant has to prove his qualifications to vote. I would much rather see it that the State would have to prove that he is not qualified to vote, not mentally competent to vote. I would rather put it the other way. I would like to see all these tests eliminated.

Mr. CRAMER. Yes. And also New York relating to the eighth grade education.

Mr. MEANY. I would like to eliminate all the tests.

Mr. CORMAN. Would the gentleman yield?

Mr. CRAMER. Right. Another example would be West Virginia. If an applicant is unable to sign his name, he shall be required to present an affidavit of a qualified voter that the applicant is known to him.

Mr. MEANY. I made a statement that I would like to see all these tests eliminated, and that is a matter of policy.

Mr. CONYERS. Mr. Chairman?

Mr. CRAMER. I will yield to the gentleman from California who asked me to yield, and then I will yield to Mr. Conyers.

Mr. CORMAN. Concerning legislation in Government, I was reminded of the testimony of this witness when we were dealing with the Fair Employment Practices Commission last year and I well remember he urged us to have unions covered by that.

I was quite impressed by that.

Mr. MEANY. That is not a new position, we have taken that position for many years.

Mr. CRAMER. I wanted to yield to the gentleman.

Mr. CONYERS. Thank you.

The CHAIRMAN. Just a minute, Mr. Conyers.

In the interest of time—I don't want to seem arbitrary, we have three other witnesses—I am going to confine the questions asked to the members of the subcommittee. That will be after you ask your question, Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

I am not a member of this subcommittee and I am very grateful to our chairman because of my continuing concern in being a member of the whole committee, to be permitted to ask questions as if I were a member of the subcommittee. I am very grateful for that privilege that he has accorded me thus far.

The CHAIRMAN. This is not a reflection on anybody but I have to apportion the time here and I do not want to inconvenience witnesses who come from far distant parts. We cannot sit beyond 12 o'clock. Otherwise, the witnesses will have to return tonight and we have a full compliment of witnesses scheduled for tonight. We may have to sit tomorrow and I do not think it would be fair for these people to have to stay over.

I think we must therefore confine our questions now to those members who are members of the subcommittee.

However, continue.

Mr. CONYERS. Mr. Meany, and the distinguished former Congressman who is with you today, I think that your criticisms, constructive as they are perhaps, not only reflect commendably upon your organization but I have a deep feeling that they reflect the feelings of a great many Americans who may not be part of your organization.

It seems to me that you have here today very cogently brought forward what you consider to be serious weaknesses in this bill and I think that your concern has been demonstrated here and over the years in previous testimony.

What we are trying to do here is make the 15th amendment to the Constitution work. We are trying to follow the mandate of the President of the United States in which there is now a sentiment in America that has no emotional parallel perhaps since the assassination of the late President Kennedy.

Would you agree with that, sir?

Mr. MEANY. Yes; I would say so.

Mr. CONYERS. It seems further that when you point out the fact that unless we are going to get at these pockets of discrimination in a bill there is great likelihood that we will be here again in 1966, in 1967 and God knows how many other years, trying to correct what might be well taken care of for once and for all.

Now I agree with you that there needs to be given more consideration for those Negro Americans in the South who are going to be trying to face State and local registrars who are obviously hostile or this bill which is a fairly generous one in this regard would not even have any application if it were the case otherwise.

I think that those people who have given their lives—and I am not talking about Selma, Ala., I am talking about since the end of the Reconstruction period, if you please, because terror and violence and intimidation in the South is really nothing new.

The CHAIRMAN. Mr. Conyers, that is a speech, not a question. I am sorry, you will have to ask your question.

Mr. CONYERS. I am trying to find it, sir, and I will cut the question short, find out if there is a concurrence of this sentiment from the president and his colleagues that are with him today. I would be very interested to have any expression of opinion, Mr. Meany, that you would have toward these remarks that I have made.

I am sorry to have taken so long, Mr. Chairman.

Mr. MEANY. I think the comments you have made parallel my testimony. We think the bill as it is is a great step forward but we point out that it does not cover certain areas. We also point out that we do not think we should come back here every year with this type of legislation and then have States find new ways to violate it, and we are suggesting that the scope of the bill should be broadened.

Now of course I realize the committee has a very difficult job. I told the chairman before I testified that this was a suggestion that we were making to broaden the bill and that we hoped they would give consideration to it.

However if they don't, we still think we have a bill that represents progress.

The CHAIRMAN. Mr. Cramer.

Mr. CRAMER. I appreciate particularly the comment that if we pass this bill with its limitations, we will have this matter before us again. There is no question about it, so why not do it right now while we have the opportunity?

Mr. MEANY. Yes.

The CHAIRMAN. Will the gentleman yield?

If we go too far in the other direction, we will have no bill.

Mr. MEANY. We don't want that either.

Mr. CRAMER. So obviously, we have to balance the two and we can do better than the bill before us.

On page 7, "We see no reason why these situations, too, should not be covered by the new remedies provided in the bill"—meaning people who are registered but then are not permitted to vote.

Mr. MEANY. That is right.

Mr. CRAMER. Do you, or does counsel, have any specific recommendations relating to that?

Mr. MEANY. We can submit a few.

Mr. CRAMER. Will you be kind enough to do that?

Mr. MEANY. Yes.

Mr. CRAMER. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lindsay.

Mr. LINDSAY. I shall be very brief. Thank you, Mr. Chairman.

Mr. Meany, I appreciate your general view that all literacy tests should be abolished, I am sure your lawyers have advised you that we can't do that unless we can tie it into the 15th amendment standard of racial discrimination.

I think the administration has done that. I think the administration's bill meets the constitutional test and I am sure the other bills that have been offered here do the same.

Mr. MEANY. Representative Lindsay, this bill is designed to implement the 15th amendment but as you of course know, under section 2 of the 14th amendment there is an authorization to reduce representation if the States cut down the franchise.

Mr. LINDSAY. Yes.

Mr. MEANY. Anything less than universal suffrage would be penalized under that.

Mr. LINDSAY. That is a correct statement.

The second question, and I hope it is my last. Mr. Meany, when you were before this committee before in connection with the 1964 Civil Rights Act, you testified honestly and forthrightly, and stated that Jim Crow existed in many, many locals throughout the United States, the AFL–CIO, and even in your own union. You asked the Congress to help you to rectify the situation and you testified it was impossible to do it without Federal legislation.

I just would like to ask you, since the passage of the 1964 act, have you had any greater success in eliminating Jim Crow from your own household?

Mr. MEANY. I would say that we are making constant progress in this area but we have the same problems that everybody else has. We have local unions that are comprised of people in the Southern States, who have the southern traditions and so on. We have made tremendous progress, but to say that we have done the whole job would be ridiculous.

Mr. LINDSAY. Has the 1964 act, in its job opportunity section, been of specific help to you so far?

Mr. MEANY. That one section of the act has not gone into effect yet but we are preparing for that. We have been holding regional conferences of the International Union to set up committees and get ready for the information. You are talking about the FEP section?

Mr. LINDSAY. The Commission has not been appointed yet.

The final question is this: If a triggering device can be created which is just as fast and just as effective as the administration's proposal, not just for those seven States, but for any other area in the United States where there are 15th amendment voting denials, would you support such a proposal?

Mr. MEANY. I would say so. We are not wedded to any particular bill. We made our position clear that we like to eliminate the discriminatory practice of preventing Negroes from voting no matter where it is, and not just in areas that come into definition of the bill, any area.

Mr. LINDSAY. Thank you very much, Mr. Meany.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Mathias.

Mr. MATHIAS. Mr. Chairman, thank you.

Mr. Meany, in your statement you indicated that you felt the poll taxes should be eliminated and it was objectionable to further sanction and perhaps even to confirm them by recognizing them under the provisions of the bill.

I agree with you completely. In the bill that Mr. Lindsay and I have introduced we provided that you would waive any poll tax when voting procedures came within the scope of the bill.

Would that sort of provision be satisfactory, do you think? It would waive the poll tax, just ignore it for all practical purposes, when there is a Federal examiner.

Mr. MEANY. I think that would be better than what you have in the bill now.

Mr. MATHIAS. Do you feel that we could eliminate poll taxes in local elections as well as Federal elections by an act of Congress?

Mr. MEANY. I don't know whether you could or not. I am not qualified to answer a question of that type, but we would like to see poll taxes eliminated, period.

Mr. MATHIAS. I wonder if either Mr. Biemiller or Mr. Harris would care to give us their legal views on the question of whether or not we can do it by statute rather than by constitutional amendment?

Mr. HARRIS. I think that you could do it by statute and I think that the bill H.R. 6400 must proceed on that legal theory. It does undertake, where a Federal examiner is appointed, to eliminate the requirements for cumulative payment or for early payment in advance of registration.

This must be on the theory that these poll taxes are being used to violate the 15th amendment. If that is so, the poll tax could be banned entirely by the bill. The bill acts like the poll tax is a little bit unconstitutional. Well, it is either unconstitutional or it is not.

Mr. MATHIAS. I think that is a good distinction. I thank the gentleman very much.

The CHAIRMAN. Mr. McCulloch.

Mr. MCCULLOCH. Mr. Chairman, I would like to ask one final question and it will be directed both to Mr. Biemiller and to Mr. Harris.

Would either or both of these gentleman know of any Federal statute that requires a State or political subdivision thereof to pray to a Federal court to validate a State or local statute or ordinance before that statute or ordinance is effective?

Mr. HARRIS. I don't think of any just offhand. I would be glad to look into the matter and if I can find any, I will be glad to drop you a line.

Mr. MCCULLOCH. I think that would be helpful. That is one of the features of this legislation that gives concern to some people. If there is a precedent, it would be helpful for the record.

The CHAIRMAN. Thank you very much, Mr. Meany and Mr. Harris and Mr. Biemiller. We appreciate your coming and taking time out of your busy schedule to present this testimony.

Mr. MEANY. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is Father John F. Cronin, associate director of the Social Action Department of the National Catholic Welfare Conference.

I understand he speaks likewise for the Commission on Religion and Race, National Council of Churches of Christ in the United States of America, and the Social Action Commission of the Synagogue Council of America.

We are glad to welcome you, sir. Father, will you please identify those who are at the table with you?

STATEMENT OF REV. JOHN F. CRONIN, ON BEHALF OF THE COMMISSION ON RELIGION AND RACE, NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA; SOCIAL ACTION DEPARTMENT, NATIONAL CATHOLIC WELFARE CONFERENCE, AND SOCIAL ACTION COMMISSION, SYNAGOGUE COUNCIL OF AMERICA; ACCOMPANIED BY RABBI RICHARD HIRSCH, SYNAGOGUE COUNCIL OF AMERICA; DR. ROBERT W. SPIKE, EXECUTIVE DIRECTOR, COMMISSION ON RELIGION AND RACE OF THE NATIONAL COUNCIL OF CHURCHES; AND DR. J. OSCAR LEE, ASSOCIATE DIRECTOR

Reverend CRONIN. At my right is Rabbi Richard Hirsch, representative of the Synagogue Council of America. Immediately at my left is Dr. Robert Spike of the Commission on Religion and Race of the National Council of Churches, of which he is executive director. With him is the associate director, Dr. Oscar Lee.

We come here as spokesmen for the Racial Action and Social Action Departments of the National Council of Churches, the National Catholic Welfare Conference, and the Synagogue Council of America.

Twenty months ago we, representatives of religious groups in the United States, came before Congress to petition with one voice for racial justice. At that time, we asserted that—

> The right to vote is a human right which is guaranteed by the basic law of the land * * *. Those human rights which men look to government to protect are called civil rights. The churches and the synagogues, indeed our free society as a whole, look to the state to incorporate these rights into its legal system and to insure their observance in practice.

We come before you today because the conscience of the Nation has again been stirred, in an unprecedented way, by the wanton denial of a basic American right—the right to vote. Men of good will everywhere have been shocked by the naked and cynical use of violence to deny that right. In the past months hundreds of ministers, rabbis, priests, and nuns accompanied by thousands of lay people, have responded to the call of conscience by identifying themselves with those Americans who are deprived of their rights on the basis of race or color.

By their presence, they have offered their spiritual support, prayers, and pastoral care in many communities where men have endeavored unsuccessfully to register and to vote.

We know by firsthand experience, that in many communities, men not only risk jobs and economic security, but life itself when the attempt is made by Negroes to register and to vote.

Now is the time to act. As religious bodies, we believe it imperative that the Congress respond to the moral indignation of the Nation by the enactment of the Voting Rights Act of 1965. This legislation will enforce the 15th amendment to the Constitution of the United States and will effectively supplement the Civil Rights Acts of 1957, 1960, and 1964.

We support the proposition that—

> No voting qualifications or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

Therefore, we urge that the formula prescribing the geographical areas to be covered be broad enough to apply to all areas in which persons attempting to register and to vote experience difficulty because of race or color.

We believe that any provision that would unnecessarily delay and complicate the prompt registration of citizens is intolerable. Once the need for Federal examiners has been established, we wish to stress the necessity for making access to their services available immediately.

Congress should do everything in its power to prevent the frustration of the purpose of the bill through intimidation or economic coercion. Therefore, we urge that the penalties provided in section 7 be extended to cover every type of intimidation and coercion which is employed to deny persons the opportunity to register as well as to vote.

Another abridgment of human rights is the poll tax which historically has been and is now being applied to deprive persons of the right to vote because of race or color. We recommend strongly that the proposed legislation eliminate the poll tax as a prerequisite to registration or voting.

These observations flow from our concern to condemn clearly and unequivocally the injustice of voting discrimination and to call for a remedy that is both prompt and completely effective. They are a reaffirmation of positions previously taken by our organizations.

On February 23, 1961, the general board of the National Council of Churches declared:

> The denial of the right to vote contradicts the professed ideals and undermines the democratic heritage upon which this Nation was founded. It is a violation of justice that prevents the exercise of responsible citizenship which is necessary for the creation of the good society.

The Catholic bishops of the United States on August 25, 1963, stated that:

> * * * no Catholic with a good Christian conscience can fail to recognize the rights of all citizens to vote.

The Synagogue Council of America has stated that:

> The right to vote and participate in the affairs of government is necessary both to the establishment of the dignity of man and the strengthening of democratic life.

Mr. Chairman, and members of the committee, it is our task as religious leaders to help articulate the conscience of America. Good and dedicated men have died in recent months because they have sought to insure a right deeply rooted in our concept of human dignity and basic democracy.

As religious men, they respected and honored the sacred dignity of every man.

As loyal Americans, they strove to relive the spirit of Lexington and Concord, when the embattled colonists revolted from the mother country in order to insure the right of self-government.

The eyes of the entire world have been focused on recent events in our Nation. Men in every continent are waiting to see if, in fact, we will live up to the ideals we so freely profess.

It is not too much to say that the honor of America lies in the hands of this Congress. We know that you will not fail this sacred trust.

Mr. Chairman, that is the end of our testimony. We have a brief appendix which I would ask you to put in the record; it lists the denominations and religious organizations that join in presenting this statement.

The CHAIRMAN. The list will be inserted in the record.

(Document referred to follows:)

APPENDIX

TESTIMONY TO JUDICIARY COMMITTEE

MARCH 25, 1965.

The following denominations and religious organizations join in presenting this statement:

The Central Conference of American Rabbis.
The Rabbinical Assembly of America.
The Rabbinical Council of America.
The Union of American Hebrew Congregations.
The Union of Orthodox Jewish Congregations.
The United Synagogue of America.
The Unitarian Universalist Association.
The National Council of Catholic Men.
The National Council of Catholic Women.
The National Council of Catholic Youth.
The National Catholic Conference for Interracial Justice.
National Catholic Social Action Conference.
National Federation of Catholic College Students.
Newman Club Federation.

The African Methodist Episcopal Zion Church.
The Church of the Brethren.
The Episcopal Church, Department of Christian Social Relations.
The International Convention of Christian Churches, Coordinating Committee on Moral and Civil Rights.
Lutheran Church in America, Board of Social Ministries.
United Church of Christ.
United Presbyterian Church in the United States of America.
The Executive Committee, General Board of Christian Social Concerns, the Methodist Church.

Father CRONIN. Thank you, Mr. Chairman.

The CHAIRMAN. We are indeed grateful for you gentlemen coming here and expressing the opinions we have just heard. Your appearance symbolizes the interest and concern of our religious denominations of this country. We certainly realize that we cannot accept the franchise of some people, but deny it to others. These marches that are now going on in Alabama testify to the need or some remedial legislation. We hope that together we will be able to bring it forth.

Mr. Rogers.

Mr. ROGERS. No questions.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. No questions.

The CHAIRMAN. Mr. Lindsay?

Mr. LINDSAY. My thanks and congratulations to each of you.

The CHAIRMAN. Mr. Mathias?

Mr. MATHIAS. Thank you very much.

The CHAIRMAN. Thank you very much, gentlemen, for your testimony. We appreciate your coming down here today.

Father CRONIN. Thank you very much, Mr. Chairman.

The CHAIRMAN. The next witness is Mr. Herman Badillo, commissioner of the Department of Relocation of the City of New York.

Mr. Badillo, identify those who are at the table with you.

STATEMENT OF HERMAN BADILLO, VICE PRESIDENT, LEGION OF VOTERS; ACCOMPANIED BY: MRS. IRMA VIDAL SANTAELLA, PRESIDENT, LEGION OF VOTERS, INC., AND MR. GERENA VALENTIN, PRESIDENT, NATIONAL ASSOCIATION OF PUERTO RICAN CIVIL RIGHTS, INC.

Mr. BADILLO. My name is Herman Badillo, and I am here as vice president of the Legion of Voters.

On my left is Mrs. Irma Vidal Santaella, president of the Legion of Voters, Inc. On my right is Mr. Gerena Valentin, president of the National Association of Puerto Rican Civil Rights, Inc.

We are all here with a delegation of representatives from 125 organizations which are active in the Puerto Rican community of New York City and New York State. Some of them are here. I would like to have them stand so that they may be identified. The others are on the way.

We are here to speak on behalf of more than 750,000 Puerto Ricans who are residents of New York State and who are being denied the right to vote by means of the requirement of a literacy test in the State of New York as well as by other devices. Of course, much of what we have to say applies with equal force to Negro citizens in

New York State who are also denied the right to vote by the same means.

But I will speak here today with particular reference to the Puerto Rican community, since this is the community that we belong to, that we have experience with, and that we are in a position to represent.

At the outset, I would like to commend President Johnson for his magnificant message on Monday, March 15, with respect to voting rights. Those of us who were watching him on television were electrified when he urged local governments to "open your polling places to all people, allow men and women to register and vote, whatever the color of their skin. Extend the rights of citizenship to every citizen of the land." This is precisely what we have come here to ask for.

We have come to the Congress of the United States to urge that the Voting Rights Act of 1965 be extended to guarantee Puerto Ricans and other citizens of the State of New York the right to vote by eliminating what we consider a grossly unjust and undemocratic barrier to the right to vote—the literacy test.

Puerto Ricans are citizens of the United States and have been so for close to 50 years. In the last three decades we have joined the millions of Americans throughout the land who have migrated to new communities in search of better opportunities.

We have settled in more than 100 communities throughout the United States, where we today, number approximately 1 million persons. We have come from a vigorous and dynamic island that has in the last 20 years transformed itself from a once poor land into one of the fastest developing areas of the world.

Puerto Ricans in Puerto Rico are today a major bridge between the two great cultures of the Americas. Ours is a society that has blended a rich Hispanic heritage with a system of government familiar to all Americans for, as you know, the Commonwealth of Puerto Rico is molded in the same pattern as the Federal Government and the States of the Union.

We are very active participants in our government, keenly aware of our rights and responsibilities as citizens both of the Commonwealth and of the United States.

We have demonstrated our responsibilities as citizens in many ways, not the least of which has been in the defense of our Nation. We have served and shed blood in world wars and Korea. It is interesting to note in this regard that service in the Armed Forces is not limited to Americans literate in English, for Americans of any and all linguistic backgrounds are called upon to serve the Nation in time of need.

In the Korean conflict where 91.2 percent of the Puerto Rican participants were volunteers, 1 of every 42 casualties suffered by U.S. troops was a Puerto Rican.

Puerto Rico suffered 1 casualty for every 660 inhabitants of the Commonwealth as opposed to 1 casualty for every 1,125 inhabitants of the continental United States.

We are then, American citizens proud of our heritage, proud of our contribution to the general welfare of our Nation, stand ready to contribute to our Nation's defense against any and all enemies.

In the State of New York today, according to estimates made by the migration division of the Puerto Rican Department of Labor, we number some 750,000 persons. The greater bulk of the Puerto Rican

community resides in the City of New York with smaller populations in Rochester, Buffalo, and other communities.

Of the 730,000 Puerto Ricans in the city of New York, approximately 250,000 are of less than voting age. We have calculated that out of a total of more than 480,000 potential voters, there are today 150,000 Puerto Ricans registered to vote.

In other words, some 330,000 Puerto Ricans are eligible to vote but have not been able to avail themselves of this, the fundamental right of American citizens.

We submit to you that it is the literacy test which deprives this very substantial number of citizens of their voting rights in New York State very much in the same way as literacy tests do in other States of the Union.

One has only to examine the history of literacy tests to see this more clearly. As President Johnson noted in his recent message to the Congress on voting—

> the first literacy tests were legislated in Northern States in an effort to exclude immigrants—especially Irish—from the franchise.

Bigotry and race superiority were clearly evident in the 1915 New York Constitutional Convention debate on literacy tests when a prominent delegate to the convention stated:

> Gentlemen, we must stop to think of what we are. This is not a question of nations, it is a question of races, and when all is said and done, there is not a man in this room who dares deny that we are an English race, born and bred and brought up with the traditions of the men of England; of Anglo-Saxon stock.

One of the most vigorous opponents of literacy tests during that convention was Robert F. Wagner, Sr., father of Mayor Robert F. Wagner of New York. Mayor Wagner, I may point out, is as energetically opposed to literacy tests as was his distinguished father. Our mayor has indeed been a champion in our cause both in the New York City and in the State.

Mayor Wagner's father at the convention in 1915, in an eloquent appeal to the delegates, said:

> Can you not recognize in the amendment a clandestine effort to prevent (the) assimilation of alien blood into our citizenship and to segregate and exclude the foreigner from the rights, the privileges and the opportunities which we have always held out to all men? * * * Literacy is not a test of character or personal fitness but of opportunity * * * In other words he's being penalized for not having had the opportunity to get schooling.

There exists then a myth in our State of New York that a citizen can be an intelligent, well-informed voter only if he is literate in English. We differ with that view very emphatically.

When any New Yorker opens a newspaper in the subway to read about Dr. Martin Luther King in Selma or President Johnson in Johnson City you can be certain that his neighbor, reading a Spanish language newspaper is reading the same news—not only that, but his cousin riding a bus to work in San Juan is also doing precisely the same.

It is highly probable that the story was written by the same reporter, since the wire services that serve the New York English language newspapers also serve newspapers in Puerto Rico and Latin America.

The same is true about columnists—the same Drew Pearson who is syndicated in newspapers throughout the land, also writes for a Span-

ish language newspaper in New York where his column is called "Tio Vivo" instead of "Washington Merry-Go-Round."

The folks in New York who read the Spanish language daily press, the weeklies, magazines, view Spanish language newsreels and listen to the half dozen Spanish language radio programs are as well informed about the world around them as any of their neighbors, for the news they read or listen to has to do with City Hall, Albany, Washington, San Juan, Moscow, or Saigon.

Puerto Ricans in the State and city of New York, however, are increasingly bilingual. Tens of thousands have over the years availed themselves of the free English language instruction program offered in New York and other communities.

Yet, we submit once again that whether a Puerto Rican does or does not write in English should not and must not affect this right to vote.

As one eminent observer has put it: "the vote was never intended to serve as a means of coercing people to learn English."

Gentlemen, we pay taxes to support our city, State, and Federal Government—when asked to serve our country in time of war, we are never asked to take a literacy test—we perform all the obligations of citizens—yet, many of us are denied the most important right: the right to join with our neighbors to choose who will represent us. We seek relief from this injustice.

We point out, however, that it is not only the existence of literacy test requirements that concern the Puerto Rican community in New York State. There are numerous Puerto Ricans who are eligible to become voters who could pass the literacy test.

We are concerned because every year many thousands of citizens who attempt to take the test and to register and who quality for doing so, are prevented from exercising their right to vote by techniques which are designed to impede and obstruct the registration process.

President Johnson stated in his speech:

> The Negro citizen may go to register only to be told that the day is wrong, the hour is late or the officer in charge is absent.

This kind of pattern is reported in the local registration in New York City, year after year.

Literacy test certificates suddenly disappear so that it takes 2½ hours or maybe all day by the time a new supply is received from the central office of the board of education.

Pencils and other supplies are found to be lacking and I can say from personal experience that I have had to buy pencils from a local candy store in order that people in line could go in and take the literacy test.

Polling places and registration places are closed before the time scheduled by law, and I can say from personal experience that in the year 1960 when I was cochairman of the late President Kennedy's campaign in east Harlem, I proved before the county board of elections that 14 Puerto Ricans, some of whom had waited as long as 5 or 6 hours to register, were turned away because a local school was closed a half hour before the time to register had expired.

The CHAIRMAN. How many Puerto Ricans are registered in New York City?

Mr. BADILLO. Approximately 150,000.

The CHAIRMAN. Out of what number that are eligible?

Mr. BADILLO. In my statement I point out that there are an estimated 730,000 Puerto Ricans in New York City.

The CHAIRMAN. 700,000?

Mr. BADILLO. Excuse me, 730,000 in New York City and a potential number of voters of 480,000. Now, out of the 480,000, 150,000 are registered and we say that a vast amount of the 330,000 could register and we also say that the entire amount of 330,000 should register.

The CHAIRMAN. The number of those that tried to register were nonwhites, were they not?

Mr. BADILLO. I don't know of all of them, but I am telling you of my personal experiences, and each one of us who is here could give experiences. I speak of East Harlem, others can speak of the South Bronx, of Chelsea, of West Side, parts of Brooklyn.

The CHAIRMAN. I am in a district that has a great many Puerto Ricans and I have not received a single complaint of any Puerto Rican who wanted to register and could not. I do not say that without any sympathy with the group that you represent. I think the literacy test is wrong and should be stricken from our statute books, I want to be sure to get that clear.

I am in deepest sympathy with you, but I do not think you are right when you say there is discrimination in the use of the literacy test in New York City.

Those literacy tests are applied equally, openly and equitably to all people whether they are Puerto Ricans or not Puerto Ricans. That is generally the situation. There may be some isolated cases, maybe these 14 cases that you indicated.

I made a personal check on this myself and I find no justification for your sweeping allegation that you have made just now.

I say again I want the literacy test wiped out. I do not think it would be fair for you to make this statement unless you could give us exact figures and to show that the statements you have made are true.

Mr. BADILLO. Mr. Chairman, I have been speaking of statements from my personal experience. I point out that the 14 Puerto Ricans that went down to the board of elections were only a sampling from the large number in that particular polling place because we could not get enough people to take time off from work.

I can tell you of my own personal experience. Of course, I am not saying anything about your district, I am talking now about East Harlem. Whatever I say, Mr. Chairman, with respect to specific situations is my own personal experience and whatever any of the people here may say is from their own personal experience.

Now, we have reported these experiences to the newspapers on a day-by-day basis as they have happened.

I can also tell you from my own personal experience, last year in New York City during the local firehouse registration, that there were waiting periods of up to 6 or 7 hours and people who were in line were told that they were in the wrong line; that there were two lines, one for literacy tests, one for registration, and that they were not in the right line.

There are people here who can give you specific examples where prospective voters were given five literacy tests instead of one and they had to take all of the tests in order to qualify for registration until we were able to get there and put a stop to this.

Now, we can document any such number of occurrences during every election period throughout the city and the State of New York.

The CHAIRMAN. I can give you illustrations also where non-Puerto Ricans were under the same handicap due to lack of personnel, lack of instruction. We have that all the time in New York. You have that in the very crowded areas. In some of my own election districts I get those complaints from nonwhites.

Mr. BADILLO. Yes. I said at the beginning I was speaking for everybody but I was only addressing myself to the Puerto Ricans because this is the one we had a personal experience with. I only want to point out that is precisely the danger of a literacy test, that it becomes a device by means of which people because of lack of personnel or difficulties or instructions from an election captain or someone else, are obstructed.

We say the best way to avoid any difficulty whatsoever is to take steps to remove the literacy test once and for all.

Therefore, Mr. Chairman, I submit that the literacy test is wrong as a matter of principle and it is wrong as a matter of practice. We ask that this Congress take action to do away with the literacy test.

You may say why does not the State of New York take action? I want to remind you that the requirement of the literacy test is a provision in the New York State constitution and that when Mayor Wagner spoke out publicly against the literacy test—and we commend him for that, Mr. Chairman—the mail coming into city hall was 4 to 1 against such a change.

It is clear from this experience that an amendment to the State constitution which would require the vote of the people of the State of New York, would encounter great opposition in the State. So, therefore, it would be idle to suggest that we should be the ones to correct this wrong. In fact, those people whose very rights are in question, Puerto Ricans and Negroes, would not be participants in this election since they are unregistered.

Our only recourse, gentlemen, is through action by this Congress. We are proposing that this action could be taken in one of two ways.

1. By amendment to the Voting Rights Act of 1965. I would not, of course, presume to suggest the exact language of an amendment to this committee, but I would request that such an amendment provide that the benefits of this act apply to a political subdivision of a small enough size, such as the assembly district or preferably the election district, that would be of benefit to the Puerto Rican community in New York.

The CHAIRMAN. The Bureau of Census has no records that go as low as an election district as to colored people or Puerto Ricans.

Mr. BADILLO. We have records, as I understand it, from the census that go as low as the assembly district, Mr. Chairman.

The CHAIRMAN. But it does not go to the election district.

Mr. BADILLO. Well, as I said, we asked for election district but assembly district would be helpful to us.

The CHAIRMAN. You mean down to assembly district.

Mr. BADILLO. Fine, whatever the lowest denominator is by which it can be legally determined, whether assembly district or election district.

We ask that this Congress fix it at the lowest possible common denominator.

I want to point out, Mr. Chairman, and this is something that you will appreciate, that the Attorney General when we spoke with him, told us that he had been thinking in terms of the county when he speaks of a political subdivision. Certainly this kind of political subdivision is adequate for many of the rural areas of the South but I would call to your attention that the county of which the chairman of this committee is one of the representatives, the county of Kings, also known as Brooklyn, which is only one of the counties of New York City, has over 3 million residents.

The Puerto Rican community in this county, while considerable in number and larger than that of most counties of the South, forms less than 10 percent of the 3 million people involved.

The only proper way, therefore, in which the benefits of the legislation could be extended to insure the greatest protection of voting rights, would be to provide that the 50 percent requirement of registration of eligible voters be applied to a small enough political subdivision such as the election district, assembly district or the lowest which is possible.

Mr. CRAMER. May I ask a question? I think the gentleman is making a very valid point relating to the shortcomings of the bill before us, because the chairman has said that the Bureau of the Census, as was testified, does not have figures for those levels.

As a matter of fact, the figures they have are based on a November 1964 estimate.

Mr. BADILLO. No, sir; I just want to clarify that point. New York City, I know, because I know some of the people who took the census, is divided into districts because the counties are so large that in New York City you can get census figures for districts within the county of Brooklyn.

As I understand, it goes down to the assembly level because when you get 3 million people as one county, obviously it would be too complicated.

For that reason not only Kings County but Manhattan, Bronx, Queens, and Richmond are subdivided into different units.

Mr. CRAMER. The point I am making is that you cannot dovetail the problem which is local in nature, even to the precinct, city, or district level. You can't dovetail the problem in those areas of discrimination into the machinery set up under this bill because the Bureau of the Census testified that they did not have figures relating to those subdivisions.

Even though they have the responsibility under the proposal of trying to come up with figures, they said they cannot come up with figures and certainly cannot relate them back to November of 1964.

So you are addressing yourself to one of the biggest problems to this type of approach.

Mr. BADILLO. Mrs. Santaella has some figures which were secured from the Bureau of the Census which go below county.

Mr. CRAMER. The administration's bill requires that the Bureau of the Census make a finding with regard to population. But the Bureau of the Census has said that in a smaller area, a political subdivision, they have no figure to base it on.

Mr. BADILLO. Was the testimony of the Bureau of the Census specifically addressed to the city of New York or were they talking about the counties in the South? I think if you would call the Bureau of the Census back and ask them specifically about the city of New York you would find they have figures for smaller units.

Mr. CRAMER. They were talking about countrywide.

Mr. BADILLO. I say there is an exception as to the city of New York.

The CHAIRMAN. If you have those figures we would be glad to receive them in the record, Mr. Badillo.

Mr. BADILLO. All right.

Mr. Chairman, she does not have it in final form. Maybe she could just read it quickly so it would be part of the record.

The CHAIRMAN. You might provide that for the record at a later time.

Mr. BADILLO. By providing a small enough political subdivision you would not only be helping the Puerto Rican, you would be helping the purpose which President Johnson has been seeking. There are many urban areas of the South where the counties are so large that the Negro people who should be registered would constitute such a percentage of the total county as to not be beneficiaries of the provisions of this law.

It may be that there would be detailed information below the county level.

Therefore, our first suggestion, Mr. Chairman, is that amendment to the Voting Rights Act of 1965.

Our second suggestion is as follows: Attorney General Katzenbach was reported in the New York Times, when he testified before this committee last Friday, to have stated that although he was sympathetic to and understood the difficulties of the Puerto Rican community, it was his judgment the present bill could not provide relief for the Puerto Rican.

The news article continued as follows:

> But Mr. Katzenbach told the Constitutional Subcommittee of the House Judiciary Committee that he felt deeply about this situation. It is his view, he said, that the English language test disenfranchises many intelligent citizens of Puerto Rican birth.
>
> It would be preferable, he said, if New York State corrected this obvious discrimination. But if the New York State Legislature did not act, he said, he is confident that Congress could.
>
> He expressed some doubt that the problem could be met under authority of the 15th amendment, which forbids the denial or abridgment of the right to vote because of race or color.
>
> Presumably his doubt rested, first, on the question of whether Puerto Ricans could be covered by the words "race" and "color." Second, there is no evidence, as there is in several Southern States, that New York's literacy test was adopted to permit racial discrimination in registration.

I have already pointed out the reasons why it is unlikely that the Puerto Rican community in New York can expect any relief from legislation in New York State since the abolition would require an amendment to the constitution of New York State where the Puerto Rican would not have a voice in the voting.

Accordingly, it is perfectly clear that if the relief is going to be provided it will have to come from this Congress. If the Attorney General understands the problem, is in sympathy with it, and wants

to prevent the disenfranchisement of Puerto Ricans of New York State, then why is no action being taken by him?

I ask on behalf of the Puerto Ricans of New York for the introduction of a companion bill to the Voting Rights Act of 1965, under the 14th amendment of the Constitution, which would take the action that New York State cannot and will not do, and would unequivocally declare the literacy test provision of the State of New York totally invalid and without effect. I ask that this be done now.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Badillo, I want to compliment you on your very forthright, and very revealing statement. It certainly points to, shall I say, a malignant growth that ought to be cut out; namely, the literacy test in New York which militates against intelligent Puerto Ricans' right to register and vote.

How it shall be done we will try to wrestle with and try to come up with some solution.

Mr. BADILLO. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Rodino?

Mr. RODINO. Mr. Chairman, I merely want to echo your sentiments and compliment the gentleman and the Puerto Rican community for having made this presentation which certainly has been informative as well as constructive. I want to assure you as an individual member of this committee that I will give your suggestions every possible consideration, because I think they have considerable merit.

Mr. BADILLO. Thank you, Congressman Rodino.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. No questions.

The CHAIRMAN. Mr. Corman.

Mr. CORMAN. Mr. Chairman, I want to thank the witness because I want to say being from the other end of the country, I was not aware of this problem, although I have discussed it with Congressman Gilbert. I think we would have some problems nationwide if we eliminated the literacy test as such, because I could not get sympathy for such a proposal where I come from.

I would ask if you are familiar with H.R. 4249, Mr. Gilbert's proposal, which substitutes a sixth grade education in any public school or any approved private school for a literacy test?

Would that meet the problems that face you in New York to any substantial degree?

Mr. BADILLO. It would be extremely helpful, yes. We would certainly support that bill but we would like to go all the way as long as we have the opportunity, as long as the climate is right.

We feel that an opportunity like this may not arise again and therefore I say let's not stop at half measures, let's take the opportunity and go all the way and abolish the literacy test provisions.

Mr. CORMAN. I thank you. I must say your ultimate objective is worthy, but I hope you will sympathize with our problem on the other side attempting to get sympathy where the problem does not exist.

I would hope if we can't go all the way, we might do something in the nature of H.R. 4249.

Mr. BADILLO. If you can't go all the way, go as far as you can.

Mr. CORMAN. I appreciate your testimony.

Mr. GILBERT. Mr. Chairman?

The CHAIRMAN. Mr. Lindsay.

Mr. LINDSAY. I thank the distinguished witness very much for his testimony. In fact, since the bells will be ringing in 1 minute that is as much as we can do, I am afraid.

Mr. BADILLO. Thank you, Mr. Lindsay.

Mr. GILBERT. Mr. Chairman?

The CHAIRMAN. Mr. Gilbert.

Mr. GILBERT. Thank you, Mr. Chairman.

I thank you first for waiving the rule of not permitting those who are not members of the subcommittee to ask questions.

May I thank the witness and those appearing with him today for their appearance and their statements for the record. I have been studying this problem over the years and have introduced bills to eliminate the literacy test in the State of New York when I was in the State legislature and have continued my efforts in Washington.

The bill which my distinguished colleague, Mr. Corman, has just made reference to, was the subject of great discussion before the committee only 2 days ago.

I am very hopeful that the subcommittee and the full committee will accept these amendments to the bill and we will at least get a step forward in the elimination of the literacy test for those that have a sixth grade education.

This bill would cover both for State and Federal elections, and also makes reference to the fact that a person can be conversant in Spanish, and be able to vote in the State of New York providing he has a sixth grade education from the Commonwealth of Puerto Rico.

Thank you.

Mr. BADILLO. Congressman Gilbert, we certainly recognize the importance of the legislation you introduced and would go a long way toward taking care of this problem, and we hope it will be accepted in the event the literacy test cannot be abolished altogether.

Mr. GILBERT. Thank you.

Mr. CONYERS. Mr. Chairman, may I petition for 30 seconds as a nonsubcommittee member to express my complete support to the problem and position that has been enumerated here, and to say that I am further going to introduce a bill that will go a little further than Mr. Gilbert's because I feel this problem should be included in any further legislation of 1965.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

The Chair wishes to place in the record a statement by Martha B. Lewis for the Fellowship for Social Justice which is affiliated with the Unitarian Universalist Association and a statement by the Reverend Duncan Howlett, D.D., chairman of the Washington Advisory Committee of the Department of Social Responsibility of the Unitarian Universalist Association.

(Documents referred to follow:)

STATEMENT BY MARTHA B. LEWIS FOR THE FELLOWSHIP FOR SOCIAL JUSTICE (UNITARIAN UNIVERSALIST)

MARCH 24, 1965.

The Fellowship for Social Justice (Unitarian Universalist) is an independent organizaton which is affiliated with the Unitarian Universalist Association and is a member of the Civil Liberties Union and of the International League for the

Rights of Man. The Fellowship consists of 89 chapters and affiliates across the United States, and of a membership of nearly 2,400 individuals. We are dedicated to the goals of freedom, justice, and peace, and have worked since our organization in 1909 to advance social progress in accordance with our ideals as religious liberals.

As this committee knows well, evasion and intimidation have been the unworthy tools used by many communities, and by State governments as well, to disenfranchise the Negro. There is, as President Johnson said, a "deep and very unjust flaw in American democracy," and this can be corrected by the passage of a broadly based bill such as the Voting Rights Act of 1965.

All of us recognize that the denial of the right to vote because of race or color is a great injustice, and is clearly unconstitutional. We join with the many who are saying that the right of all citizens to vote in local and national elections no longer can be rejected. It is imperative that the Nation have legal means to protect its citizens from further injustice at the polls, and to aid in giving peace and dignity to all.

President Johnson's urgent appeal was full of high purpose. The Congress of the United States can do no less in its response than overcome the bigotry and injustice without "delay * * * hesitation * * * compromised" in opening the ballot boxes to the votes of every citizen of this country.

Defeat of this bill will mean official abrogation of the right to vote for some Americans. It will mean that men who have died in the fight for the basic rights of citizens may have died in vain. One of the men who died, Rev. James Reeb, was a member of the Fellowship for Social Justice.

The Fellowship for Social Justice strongly urges the prompt and full passage of the Voting Rights Act of 1965 (H.R. 6400) to insure that wrongs shall be righted, and that all citizens of the United States will have equal rights under law.

MARTHA. B. LEWIS,
Executive Secretary,
Fellowship for Social Justice (Unitarian Universalist).

STATEMENT BY THE REVEREND DUNCAN HOWLETT, D.D., CHAIRMAN OF THE WASHINGTON ADVISORY COMMITTEE OF THE DEPARTMENT OF SOCIAL RESPONSIBILITY OF THE UNITARIAN UNIVERSALIST ASSOCIATION, ON H.R. 6400

Mr. Chairman and members of the House Judiciary Subcommittee, the Unitarian Universalist Churches of America have long been at the forefront of the fight for civil rights. For this reason we heartily support the present bill, although we favor certain amendments.

But we have a very special reason for wishing to appear on behalf of this particular bill. We have given a martyr to the cause of civil rights. It was this cause that took the Reverend James Reeb, for 5 years assistant minister of All Souls Church, Unitarian, in this city, to Selma, Ala. He went to bear witness by his presence to his support of the attempt to register voters in Alabama. He gave his life in an effort to further the particular aspect of the civil rights program this bill is designed to implement.

We of the Unitarian Universalist Churches of America have long felt that protection of voting rights of Negroes in the South by the Federal Government is imperative, and are greatly encouraged by the fact that such a bill, submitted by the President, is now before the Congress of the United States. We wish heartily to endorse the bill in general and are glad to stand with the many civil rights organizations who have done the same.

There are, however, certain amendments we would urge:

(1) The elimination of the poll tax under all circumstances.

(2) A broadening of the terms of the bill so that it will apply to more States. At present the bill applies only to a few States, yet voting restrictions prevail in many. The provisions of the bill should be extended to apply wherever discrimination is found.

(3) Elimination of the provision that application must first be made to State examiners before procedures under the act may be initiated. We believe that the need for Federal action will already have been established before such application has been made, and that therefore this extra step is not necessary.

(4) Strengthening of the bill where the matter of intimidation is dealt with. This is one of the most serious problems in the use of the ballot in the South, and more explicit provisions should guard against intimidation at all stages in registering and voting.

We believe that the bill would be greatly improved if such amendments were added, but since they will require technical phraseology, we are supporting the principle rather than attempting to state in any detail the manner in which these improvements should be made a part of the bill. However, we think the bill as it stands marks such a stride forward that we would be willing to accept it as it is if necessary. In short, given the choice of losing the bill by attempting to improve it through amendment, we would gladly accept the bill as it is, working for improvements upon it at a later date if necessary.

We urge its passage with the above-suggested amendments, but urge its passage in any case.

The CHAIRMAN. The meeting will now adjourn to meet at 8 o'clock tonight when we will hear Mrs. Victoria Gray, Mississippi Freedom Democratic Party; Mr. James Foreman, executive secretary, Student Nonviolent Coordinating Committee; Mrs. Virginia Y. Collins, chairman, Ad Hoc Committee of Concerned Citizens of New Orleans; and Mr. W. B. Hicks, Jr., executive secretary, Liberty Lobby.

We will now adjourn until 8 o'clock tonight.

(Whereupon, at 12:02 p.m., the subcommittee adjourned, to reconvene at 8 p.m., the same day.)

VOTING RIGHTS

THURSDAY, MAY 25, 1965—Resumed

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 8:05 p.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Donohue, Corman, Cramer, and Mathias.

Also present: Representatives Conyers, Grider, and Jacobs.

Staff members present: Benjamin L. Zelenko, counsel, and William H. Copenhaver, associate counsel.

The CHAIRMAN. The subcommittee will come to order.

Our first witness is Mrs. Victoria J. Gray, for the executive committee, Mississippi Freedom Democratic Party.

STATEMENT OF MRS. VICTORIA J. GRAY, ON BEHALF OF THE EXECUTIVE COMMITTEE, MISSISSIPPI FREEDOM DEMOCRATIC PARTY

Mrs. GRAY. Mr. Chairman, members of the committee: I wish to express the appreciation of the Mississippi Freedom Democratic Party, and my own, to the committee for granting us this opportunity to make our views known to you. As you are well aware, this proposed legislation is long awaited, long needed, and crucial to our efforts to realize true democracy for all people in the South. It is legislation in which Negro people in Mississippi and the South have a vital interest, and it is in the interest of some of those people from the State of Mississippi that I appear here this evening.

I have been instructed by the executive committee of the Mississippi Freedom Democratic Party to say that we fully appreciate the speed and urgency with which the administration has acted in this matter.

We further appreciate the seriousness of purpose with which leaders of both parties in the Congress have united behind this legislation. However, we do feel that there are four particulars in which this bill can and must be strengthened if it is to effectively do the job for which it was intended.

1. The first recommendation that we make is related to new elections: On Monday, the gentleman from New York, Mr. Powell, appeared before this committee to urge that provisions for the holding of new elections be written into this legislation. We overwhelmingly support this suggestion.

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As we are all aware, this is the process followed in cases of legislative reapportionment. Wherever there is the determination that the value of votes in different districts is unbalanced and unequal, whether by gerrymandering or population shifts, the Supreme Court has ruled that new elections must be held following a more equitable and democratic reapportionment of districts. This appears to us to be both reasonable and just.

Similarly, in cases where there has been a systematic practice of disenfranchising huge numbers of the population illegally, thereby keeping them from any participation at all, this same principle must be true to a greater degree.

The Negroes in Mississippi and much of the Deep South suffer at this moment under the jurisdiction of elected officials in whose elections we had no part. Can such officials be responsive or responsible to the needs and rights of the Negro people? The sad truth is that these officials have not been, and as long as they are not, the basis for oppression and injustice will remain and it will be the voteless Negro citizens of the South who will be the victims.

For we in Mississippi, the injustice will be particularly prolonged. In June of this year, municipal elections will be held throughout the State. This will mean that mayors, local law-enforcement officers, and other officials who have been the visible symbol of brutality and intimidation will be elected for 4 more years before Negro registration under this new law will be large enough to have any effect on these elections.

How effective will this bill be in Neshoba County, Miss., if local law enforcement remains in the hands of Sheriff Rainey and Deputy Sheriff Price for 4 more years? How effective will it be in Selma if Negroes en route to the courthouse must pass by Sheriff Jim Clark and his posse?

It is for these reasons that we are asking for speedy relief. We urge that a provision be included that will require the holding of open and democratic elections within 6 to 9 months of the coming of Federal registrars to any given area.

Such action is precedented, constitutional, and just, and will give opportunity to all politically deprived people to begin real participation in the processes by which they are governed. We urge that you take this under serious advisement.

2. We agree with those who have testified to the need for broadening the reach of the proposed legislation, notably Mr. Roy Wilkins in behalf of the Leadership Conference on Civil Rights, Representative A. C. Powell, of New York, and Representative Lindsay.

While the Mississippi Freedom Democratic Party is of Mississippi, we recognize our deep association and concern with all who have been denied their constitutional right to the ballot. While we appreciate the administration's concern for areas such as Mississippi where disenfranchisement has been almost total, we cannot ask our freedom to the neglect of the Negroes and other minorities in the country who are as afflicted as we are in the deprivation and degredation that is second-class citizenship.

We therefore support Congressman John Lindsay in urging this committee to so amend the voting rights bill as to empower the President to appoint Federal registrars to any area where 50 persons have sworn that they have been denied the right to vote.

We believe very deeply that people who have been victimized should be able to directly petition their Government for redress of such grievances, and that the initiative should be in the hands of the people and not solely dependent on involved political and bureaucratic procedures.

3. The MFDP joins with the 70 member organizations of the leadership conference in calling for the total elimination of the poll tax and for the elimination of the provision which necessitates prospective voters to first make application to the State before registration by Federal examiners.

The use of various tests and devices to frustrate the desires of Negroes to participate in the political processes in the South is a matter of record and is well known to you all.

In the bill proposed by the administration—H.R. 6400—procedures are created which will make it impossible for one of these devices, the so-called literacy tests, to be used for purposes of discrimination.

However, another equally infamous device for subverting and aborting democratic processes and the right of Negro citizens to register and vote, still would survive. I refer to the poll tax.

We would urge that a major and necessary amendment to this legislation must be the complete elimination of the poll tax in all these areas affected by this bill, and where the record shows that this device has been used in a discriminatory manner to discourage and obstruct the right of Negroes to register and vote. Any failure of the Congress to do this is to leave untouched one of the very effective techniques which is misused to prevent free access to the vote in the South.

The present bill puts a second hardship on applicants by asking them to go first to the State to prove once again that discrimination exists.

4. It has been our experience in Mississippi that the process of subversion of the right to vote is two pronged. The first prong is obstruction of the process of registration and this is done, as we have indicated, by a variety of bureaucratic delaying actions and "unpassable" tests.

The second prong is the use of economic harassment and physical intimidation to discourage Negroes from even attempting to register or to vote. This intimidation and harassment begins usually after a Negro presents himself to the local registration official to make application.

For this reason the provision in the present legislative proposal which requires a prospective voter to apply to the local registrar first, could be self-defeating. It lays the prospective voter open to great pressure and intimidation which could well discourage him from going on to the Federal registrar.

We urge that the bill be amended so that prospective voters, in areas where the bill applies, may go directly to the Federal officials to be registered.

In summation, what we are asking you to do on the basis of the reasons I have set forth is:

a. Include in whatever voting legislation is passed provisions for the holding of new elections.

b. Completely eliminate the poll tax.

c. Remove all requirements that would place prospective voters at the mercy of local officials.

d. Broaden the reach of the legislation and particularly in such a manner as to give local people some initiative in petitioning for assistance in registering to vote.

We thank you.

The CHAIRMAN. One question. Do you support the bill at all?

Mrs. GRAY. Yes.

The CHAIRMAN. Thank you very much, Mrs. Gray. We appreciate your coming and we will be glad to receive any other additional data you may want to submit to us for the record.

Mrs. GRAY. Thank you.

The CHAIRMAN. Thank you.

Our next witness is Mr. James Foreman, executive secretary of the Student Nonviolent Committee.

Mr. Foreman.

STATEMENT OF RALPH FEATHERSTONE, APPEARING FOR JAMES FOREMAN, EXECUTIVE SECRETARY, ON BEHALF OF THE STUDENT NONVIOLENT COORDINATING COMMITTEE, ACCOMPANIED BY WILLIAM HIGGS, COUNSEL TO SNCC

Mr. FEATHERSTONE. Mr. Chairman, and members of the committee: Mr. Foreman could not be here tonight. My name is Ralph Featherstone.

The CHAIRMAN. Where is Mr. Foreman?

Mr. FEATHERSTONE. I believe Mr. Foreman is in Montgomery and in that case, I will be representing the Student Nonviolent Coordinating Committee. It is well known as the frontline civil rights organization.

The CHAIRMAN. Will you identify the gentleman on your right?

Mr. FEATHERSTONE. Mr. William Higgs, who is legal counsel to the Student Nonviolent Coordinating Committee.

The CHAIRMAN. Are you a member of this organization, Mr. Higgs?

Mr. HIGGS. The organization does not have members, as such, Mr. Chairman. I am the legal adviser to the organization.

The CHAIRMAN. Well, you are going to testify later, are you not?

Mr. HIGGS. I had not asked to.

The CHAIRMAN. Proceed, Mr. Featherstone.

Mr. FEATHERSTONE. SNCC is well known as the frontline civil rights organization in the South. We have more than 200 full-time staff workers in the hard core areas of the South—considerably more than all the other civil rights organizations combined. To say that we have a great interest in this legislation is something of an understatement.

This subcommittee, yesterday morning, heard Mr. Roy Wilkins testify for the Leadership Conference on Civil Rights. We agree with Mr. Wilkins that there is a need for the amendments which he outlined. However, we do not agree that those four amendments are the most important ones. We strongly feel that the most important—the most necessary—amendment to this bill is one requiring new elections in all the areas affected within a short period after the bill has

taken effect, such as no sooner than 6 months, nor later than 9 months after the placing of Federal examiners.

There are a number of reasons why such a provision is absolutely necessary in this bill.

First, it should be pointed out that many of the States most affected by the bill will not hold State or local elections for the next 2 or more years. This means that democracy—in its true meaning of government by the people as distinct from the bill's present thrust of only the right to vote—is years away in many of these States.

The States covered by the bill and the dates of their elections are listed in the accompanying supplement.

Second, it has historically been true in the South that the Negro was, by law, totally excluded from voting. In the Reconstruction Constitution of 1868, provision was made for universal male suffrage. However, with the adoption of this Constitution, the Ku Klux Klan and its lynching, murder, multilation, and terror came into being to prevent the then qualified Negroes from voting. These conditions continued until the adoption of the Constitution of 1890—the instrument of the "legal disfranchisement of the Negro."

This Constitution instituted a literacy test, a poll tax, a constitutional limited discretion by the voting register. Almost every Southern State then followed the lead of Mississippi. Mass violence and terror on such a large scale were no longer necessary to prevent Negroes from voting.

We believe that passage of the bill without requiring new elections will lead directly to a degree of terror and intimidation yet unseen in the civil rights movement. This bill in effect leaves violence and intimidation as the only out for those who would prevent Negro voting.

Third, much of the national revulsion and disgust with racial events in the South concern law enforcement and police brutality. Who can forget the murder of the four children in Birmingham, the murder of Medgar Evers, the murder of Michael Schwerner, Andrew Goodman, and James Chaney in Neshoba County, Miss.; the murder of James Reeb, and—in the same spirit—the refusal of Governor Wallace to do his duty to prevent a potential mass murder on the march from Selma to Montgomery.

Though Governor Wallace's term expires in January of 1967, Sheriff Rainey's in Neshoba County, Miss., extends to January 1968, and that of the Jackson, Miss., law enforcement officials until July 1969.

Unless the subcommittee takes forthright action to require new elections in the areas affected by this bill, the problems of civil rights intimidation, violence, and terror will increasingly occupy the Congress and the President for the next several years.

Fourth, as so eloquently stated before the subcommittee on Tuesday by the distinguished chairman of the Committee on Education and Labor, the poor black people of the South, who are in the greatest need of the programs and benefits of the war on poverty, who need most to be brought into the "Great Society," will be waiting on the outside for years after passage of this bill unless a provision for new elections be included.

Our experiences with the refusals of State and local authorities to provide the benefits of Federal programs to all—much less under grossly discriminatory conditions to the Negro citizens of the South could fill volumes of testimony.

In Mississippi—the poorest State in the Nation, whose Negro population is the poorest of the poor—only one-fourth of the State's 82 counties allow surplus Government commodities of any kind to be distributed to any part of the population at any time of the year.

The State of Mississippi's own figures for 1960 show that racial discrimination in the use of local school funds reached a point of more than $100 being spent for each white child to $1 for each Negro child. Public housing and urban renewal are virtually nonexistent in Mississippi because the State and local governments concluded that these programs would primarily help Negroes.

New education legislation to help poverty-stricken children will be worse than useless in the hands of a racist city school board in Mississippi which is not subject to the will of the voters until 1969.

The community action programs of the war on poverty will be unavailable for years to the poorest of the Nation. In short, maybe there is no need to pass the "Great Society" legislation until 1968. Or perhaps, it might be as well to attach a provision on it saying, "the benefits of this legislation shall become available only after January 1, 1968." Failure to provide for new elections in this bill accomplishes exactly the same result—and worse.

All of the above reasons etch out the absolute necessity for language in the bill requiring new elections in the affected areas.

We believe that the precedents and the constitutional authority for such a provision are clear and ample. The 15th amendment's language is certainly broad enough to empower the Congress to enact legislation correcting the future effects of past denials of the right to vote on account of race or color.

In the reapportionment cases, Federal courts in such States as New York, Connecticut, and Virginia, are requiring new elections and shortening existing legislative terms—current precedent for this proposed amendment.

Moreover, the 15th amendment, which is the basis for this bill, contains much more explicit language than the equal protection phraseology of the 14th amendment; and the power of Congress—as distinguished from the Federal courts—to enforce the amendment is explicitly stated in section 2.

Though we believe new elections to be by far the most important amendment to the bill, there are others that should be made. We have already indicated our support for the four amendments proposed by the Leadership Conference's statement. We are submitting a quickly prepared supplement of proposed amendments. We feel an amendment is necessary to strengthen the very weak enforcement provisions of the bill found in section 9. We believe that a provision similar to the power given in the Resnick bill to void the election and to conduct it under Federal direction should be included. Paragraph 2 of the supplement contains suggested language.

We feel that the problems of intimidation are simply not met by the provisions of the bill. Paragraph 3 of our supplement suggests proposed language to deal with economic intimidation by denying the benefits of Federal programs to persons impeding others in regard to their right to vote.

The proposal is similar to title 6 of the Civil Rights Act of 1964 and would be particularly effective through, for example, the Community Credit Corporation and other such agricultural programs in the South.

As Congressman Lindsay pointed out Tuesday morning, protections of the bill explicitly do not extend to persons registered under State law. This omission must be corrected. We suggest language in paragraph 7 of our supplement.

On March 19, Congressman Corman called attention to the fact that the bill does nothing to guarantee that newly registered Negro voters will be able to vote for candidates of their choice, since the affected States and political subdivisions will be left free to circumscribe those persons who may offer themselves for political service. Paragraph 6 contains suggested language to remedy this defect.

Finally, we suggest that the coverage of the bill be increased through the use of a provision somewhat related to that proposed by Congressmen Mathias and Lindsay. We point out that the provisions we recommend in paragraph 5 of our supplement would meet all cases of pockets of discrimination, whereas, the Douglas-Hart-type 25 percent formula would still exclude all pockets of discrimination in which 26 percent or more Negro voting age population was registered; and it would be impossible to implement.

To be specific, Congressman Cramer's example of Columbia County, Ark., with 32 percent registration of eligible Negroes would be covered by our suggestion, but not by the Douglas-Hart proposal. The exact figures are even more startling, which we hereby submit. Only 20 percent of the voting discrimination in Arkansas would be reached by the Douglas-Hart proposal.

In closing, we must emphatically state that we feel that this voting legislation—however strong it may seem—can only be complementary to a proven demonstration by Congress in the case of the challenge of the Mississippi Freedom Democratic Party.

We believe that the Congress must deny seats to those persons who have been sent here through white-only elections. This voting legislation diminishes by not the slightest particle the duty of the House to right these specific wrongs that have been carefully laid before it.

Moreover, the Members of Congress must know that it was precisely the refusal of the Congress to readmit free and open elections in those States regardless of race or color. Justice in the case of the Mississippi challenge will insure that this legislation will be enforced throughout the South from the top down by State and local authorities.

While this bill will have almost insurmountable difficulty in combating intimidation and violence against the Negro voter, the challenge deals directly and effectively with this blight on our not yet democratic society.

This concludes our testimony.

The CHAIRMAN. Thank you very much, Mr. Featherstone. We appreciate your coming here.

Mr. CRAMER. May I ask a question of Mr. Featherstone?

The CHAIRMAN. Yes.

Mr. CRAMER. By your testimony on the first page, second paragraph, you are suggesting a number of amendments. Do I gather then that

you and the organization do not support the bill in its present form?

Mr. FEATHERSTONE. What was that?

Mr. CRAMER. Do I gather that you and the organization do not support the bill in its present form?

Mr. FEATHERSTONE. Well, we support the bill but we are saying that we have some things that we think could help better bring about the change that we are trying to bring about by passage of it.

Mr. CRAMER. Therefore, you think a number of amendments are needed; right?

Mr. FEATHERSTONE. Yes.

Mr. CRAMER. How many members does your organization have?

Mr. FEATHERSTONE. Well, we are not a membership organization. We suggest that people work and that is the organization. We don't have, say, card-carrying members or anything.

Mr. CRAMER. How are your people contacted? How is your organization set up?

Mr. FEATHERSTONE. Well, there are about 214 members of the staff and that is including administration and people and fieldworkers and whatnot. Of that number, I would say about 175 are located in the South and the remainder are located in the North and they constitute our friends of SNNC groups around the country in the North.

Mr. CRAMER. Do you have any kind of publication that you use to keep in touch?

Mr. FEATHERSTONE. Yes; we have the Student Voice which is a publication of SNNC and we also issue periodicals on all the areas in which we are working.

Mr. CRAMER. I just want to ask one more question. In the second paragraph on page 2, you say—

> We believe that passage of the bill without requiring new elections will lead directly to a degree of terror and intimidation yet unseen in the civil rights movements.

In other words, if the bill is passed, you are saying we are still going to have very substantial problems relating to the specific issue of voting rights.

Mr. FEATHERSTONE. In its present form, and I am basing that on experiences that I had this summer working in Mississippi, especially in Neshoba County, in taking people down to the courthouse to register to vote and seeing the reaction of the local law enforcement agents and the local community.

I feel that there will be more violence.

Mr. CRAMER. Well, I notice that the name of your organization is Student Nonviolent Coordinating Committee.

Mr. FEATHERSTONE. That is correct.

Mr. CRAMER. And yet you suggest that if this bill is not passed, there will be continued terror and intimidation?

Mr. FEATHERSTONE. That is right.

Mr. CRAMER. That is all I have.

Mr. FEATHERSTONE. Well, I don't get the gist of your statement.

The CHAIRMAN. Mr. Corman.

Mr. CORMAN. In experience sometimes violence is visited on the nonviolent.

The CHAIRMAN. I again thank you, Mr. Featherstone.

Mr. FEATHERSTONE. Thank you.

(The following additional material was submitted with the testimony of Mr. Featherstone:)

CHART ON IMPACT OF HART-DOUGLAS 25-PERCENT FORMULA

FLORIDA

Counties with under 25 percent Negro voting-age population registered: Gadsden, Jefferson, Lafayette, Liberty, Union. Total unregistered voting-age Negro population	14,144
Counties with 25–35 percent Negro voting-age population registered: Charlotte, Lee, Levy, Putnam, Sarasota, Seminole. Total unregistered voting-age Negro population	15,988
Counties with 35–50 percent Negro voting-age population registered: Alachua, Brevard, Broward, Collier, Glades, Indian River, Manatee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, St. Lucie, Suwanee, De Soto. Total unregistered voting-age Negro population	88,205
Overall total	118,337

ARKANSAS

Counties with under 25 percent Negro voting-age population registered: Baxter, Benton, Boone, Carroll, Clay, Cleburne, Crittenden, Cross, Fulton, Independence, Lee, Madison, Marion, Montgomery, Newton, Poinsett, Polk, Pope, Searcy, Sharp, Stone, Washington. Total unregistered voting-age Negro population	19,697
Counties with 25–35 percent Negro voting-age population registered: Columbia, Craighead, Logan, Mississippi, Monroe, Phillips, Randolph, St. Francis, Saline, Sebastian	29,018
Counties with 35–50 percent Negro voting-age population registered: Arkansas, Ashley, Bradley, Clark, Dallas, Drew, Faulkner, Grant, Greene, Hempstead, Hot Spring, Izard, Jefferson, Lafayette, Lawrence, Lincoln, Lonoke, Miller, Prairie, Pulaski, Sevier, Union, Van Buren, Woodruff. Total unregistered voting-age Negro population	52,700
Overall total	102,015

PROPOSED AMENDMENTS TO THE ADMINISTRATION'S CIVIL RIGHTS BILL (H.R. 6400)

1. The most important addition to the administration's civil rights bill (except for completely eliminating the poll tax) is probably a provision requiring new elections to be held in those areas affected by the bill. Such a provision is necessary for several reasons: (1) Some of the States most affected by the bill will not hold State and local elections until 2 or more years after the passage of the bill. The States covered by the bill and the dates of their State and local elections are as follows:

Alabama: All State officers including legislature and certain county officers. Primary, May 1966; election, November 1966. Other county officers—election. November 1968.

Arkansas: State, county and township officers with 2-year terms, primary in August 1966; election November 1966.

Florida: State and county officers—primary, May 1968, election, November 1968.

Georgia: County officers—primary, September 1968; election, November 1968. Legislature—primary, September 1966; election, November 1966.

Louisiana: State and parish officers—primary, March 1968; election, April 1968.

Mississippi: All offices except municipal—primary, August 1967; election, November 1967. Municipal offices, primary, May 1969; election, June 1969.

North Carolina: Primary—offices not specified, May 1968; election, November 1968.

South Carolina: State and certain county officers—primary, June 1966; election, November 1966; other county officers, primary, June 1968; election, November 1968.

Virginia: County and district officers—primary, July 1967; election, November 1967. State and municipal officers, July 1969; primary; election, November 1969. Mayoralty; election 1968.

2. The removal of discriminatory voting qualifications forces those persons bent on preventing Negroes from voting to resort to intimidation, threats and violence. Historically, it is relevant that in the State of Mississippi prior to the adoption of that State's constitution of 1890 establishing discriminatory voting qualifications, the Ku Klux Klan and its lynching flourished as the major instrument for suppression of the Negro vote.

3. There will be a long gap before the new voting power will be able to elect law enforcement officials to secure justice and to elect local governing boards to secure the benefits of existing programs, such as surplus commodity distribution and future programs, such as the war on poverty and the new education legislation. It should be noted that the Federal courts have already established the precedent of cutting short the terms of State officeholders in the reapportionment cases, for example in New York, Connecticut, and Virginia. The proposed new provision is as follows:

Add the following and renumber the subsequent sections:

"Section 11. Any State with respect to which determinations have been made under subsection 3(a) or any political subdivision with respect to which such determinations have been made as a separate unit shall hold elections for all State, district, county or local offices not sooner than 5 months nor later than 8 months after the date of the last determination under subsection 3(a): *Provided, however*, That this section shall not apply to any State or political subdivision to which subsection 3(a) no longer applies because of a declamatory judgment rendered pursuant to subsection 3(c) or because of a stay rendered in the latter proceeding."

2. Unfortunately, as written, the bill apparently does not have sufficient enforcement provisions, since the only effective penalty for denying listed persons the right to vote seems to be enjoining the election results.

Experience has shown that criminal and criminal contempt penalties are just not effective. Therefore, a provision similar to that of the Resnick and Republican bills, providing for mandatory voiding of the election in which 50 or more listed persons are not allowed to vote. The new election would be held by the examiners pursuant to Civil Service Commission regulations.

The suggested amendment could read as follows:

Add a new subsection (f) to section 9 and reletter the present subsection (f) as subsection (g)

"(f) Whenever 50 or more persons from a political subdivision, or 1,000 or more persons from a State allege to an examiner within 72 hours after the closing of the polls that notwithstanding their listing under this act, they have not been permitted to vote or that their votes were not counted, the examiner shall forthwith notify the U.S. Attorney for the judicial district. The U.S. Attorney shall, unless such allegation appear not to be true, initiate proceedings in the district court to void the election. The court shall issue such an order if it finds the allegations to be true. Upon the issuance of such an order, the District Attorney shall notify the Civil Service Commission, which shall then direct its examiners to conduct the election and certify the results thereof. The Commission shall prescribe regulations to carry out the provisions of this subsection."

3. The problem of economic intimidation is bad already, but it will become more acute as the restrictive state voting laws are removed by the provisions of this act. Therefore, all that can possibly be done to forestall and prevent such economic intimidation should be done. A very useful approach would be that of penalizing those recipients of Federal financial assistance who in any way intimidates, coerces or prevents another person attempting to register to vote. A simple section could be added to the bill that any person receiving Federal financial assistance who in any way intimidates, coerces, or prevents another person from voting or registering to vote on account of race or color shall not be eligible for further such assistance for a period of 2 years after the date of the determination. Such a determination would be made by the particular Federal agency involved. An example of the operation of such a provision would be the case of Mrs. Fannie Lou Hamer who was discharged from her position as a cotton weigher on a Mississippi cotton plantation because she tried to register to vote. In such a case, Mrs. Hamer could complain to the Agriculture Department which then would conduct a hearing to determine the validity of the complaint. If the complaint were found to be true, the plantation owners' Commodity Credit Cor-

poration, Farmers Home Administration and other agricultural financial benefits would be stopped for a 2-year period. The proposed language could be as follows:

Add a new section 12. and renumber subsequent sections.

"Section 12. Any person coercing, intimidating or interfering with any citizen of the United States for the purpose of infringing on account of race or color on his right to vote shall not receive the benefits of any Federal financial assistance or program for a period of 2 years. This section shall be enforced by each agency administering Federal financial assistance."

4. The poll tax is simply intolerable and the present provision of the bill, section 5(e) is totally inadequate in spite of the Attorney General's testimony before the House Committee on the Judiciary on Friday, March 19, that the poll tax is not an effective bar to voting. He is simply wrong. In fact, in Mississippi, for example, $2 or $3 poll taxes are large sums of money for the majority of Mississippi's rural Negro families, whose average daily income per family is $2 or $3 or less. The poll tax, when incorporated into the Mississippi Constitution was designed to discriminate against Negroes and it is still effective today. The average white per capita income is three times that of the average per capita Negro income. Furthermore, the Attorney General's position on the constitutionality is directly disputed by constitutional law professors Paul Freund and Mark deWolff Howe of the Harvard Law School in their letters supporting the Resnick bill printed in the Congressional Record on Monday, February 8, 1965. The provision suggested could simply read:

Delete section 5(e) and add a new section 13, renumbering subsequent sections.

"Section 13. The Congress hereby finds that the poll tax as a condition of suffrage is today almost exclusively used to deny the right to vote on account of race or color and has little or no legitimate value as a means of raising revenue. Therefore, the right to vote in any election shall not be denied or abridged by reason of failure to pay any poll tax or other tax."

(Note: If the Attorney General still has constitutional questions about absolute abolishment of the poll tax, it is a simple matter to tie in so that it is abolished in those areas affected by the bill. This could be done so as not to affect the State of Texas, which admittedly should not come within the scope of the bill. An even weaker device to obviate the effectiveness of the poll tax would be for the examiner to include a check-off box in his listing form whereby the United States paid the poll tax to the State and the individual became indebted in a loan arrangement to the United States.)

5. As pointed out by Congressmen Lindsay and Cramer, there are a number of areas in which racial discrimination admittedly exists which are not covered by the bill. It is also clear from the testimony of the Bureau of the Census officials that the use of a Douglas Hart-type 25 percent of additional Negro population provision would be impractical for the Census Bureau in terms of expense and time required to secure the figures (6 months to a year). Therefore, it would seem that another provision would be desirable. It is hereby suggested that whenever 50 or more citizens of any political subdivision petition the Attorney General stating that they have been denied the right to vote on account of race or color and listing the test, device, procedure, or other means which were used to accomplish this result, then the Attorney General is required to issue a certificate which shall prohibit the use of such device, test, procedure, or other means as stated. Immediately upon receipt of such petition, the Attorney General is required to notify the authority of the political subdivision and give them 30 days in which to demonstrate that the statements in the petition are not true. If such a showing is not made, then the Civil Service Commission is required to appoint the appropriate examiners with necessary instructions. Suggested language would be as follows:

Reletter the present subsection 4(b) and add a new subsection 4(b):

"(b) Whenever 50 or more citizens of any political subdivision petition the Attorney General stating that they have been denied the right to vote on account of their race or color and listing the test, devices, means, or other procedures which have been used to accomplish such disenfranchisement, then the Attorney General shall forthwith notify the governmental authority of such political subdivision that such petition has been filed and that such authorities have 30 days from the date of the notice to demonstrate that the statements in the petition are not true. If such showing is not made to the clear satisfaction of the Attorney General within such 30-day period then the Civil Service Commission is required to act and shall deem the requisite determina-

tion and certification made pursuant to subsections 3(a) and 4(a). The Commission shall instruct the examiner to disregard all tests, devices, procedures, or means as stated in the petition which has not been successfully controverted by the governing authority of the political subdivision."

6. As incisively pointed out by Congressman Corman during the March 19 hearing, the bill does nothing to guarantee that the prospective newly registered Negro voters will be able to vote for candidates of their choice since the affected States and political subdivisions will be left free to circumscribe those persons who may offer themselves for political service. This tendency has been noted, for example, in the State of Mississippi in the past year or so. That State has begun to tighten up its laws relating to who may run for public office with the clear intent of excluding such political candidacy on account of race or color. It is therefore necessary that the bill contain a provision dealing with this problem. It is suggested that such a provision be incorporated into section 8 of the bill by simply adding the following words: "or being a candidate for any elective office" after the word "voting" in line 1 of page 8.

It should also be added that other consequences follow from one's being a qualified voter. For example, in Mississippi jury service is in this category. It is therefore suggested that a provision be added stating that persons listed under the act shall be deemed fully qualified voters for all purposes. Such a provision would be written as follows:

Section 5:

"(b) Any person listed under this act shall be deemed by all State and Federal officials to be fully qualified as a voter for all purposes."

7. As Congressman Lindsay pointed out in his testimony Tuesday morning, March 23, the protections of the bill explicitly do not extend to persons registered on State law. This omission seems to allow a State to register persons and not allow them to vote and suffer none of the penalities provided by the bill for not allowing persons listed under the bill to vote. Therefore the following amendment is suggested:

On page 4, line 18, insert "(1)" after the word "contain"; in line 24 remove the period and add the following language:

"or (2) an allegation that the applicant has probable cause to believe that, though otherwise registered to vote, he will be intimidated in the exercise of his right to vote, be prevented from voting or not have his vote counted; *provided* that the requirement of this allegation may be waived by the Attorney General."

8. There are a number of other miscellaneous changes that would probably be advisable. Some of these are as follows:

(a) Though Congressman Corman made the point in his interrogation of the Attorney General, it might be wise to spell out that section 2 prohibits any qualification or procedure whose purpose or effect is to discriminate on account of race. This could be done by adding the following language after the word "applied" on line 6, page 1, "whose purpose or effect," such an amendment would answer some of the questions raised by Congressman Cramer as to the lack of inclusiveness of the four listed tests or devices directly prohibited by the act—subsection 3(b).

(b) As Congressman Lindsay pointed out, the Attorney General's discretion in section 4(a) is very broad and perhaps should be made somewhat less so and the provision made more automatic.

(c) It is quite apparent that the definition of "political subdivision" needs to be spelled out for practical reasons of the Census Bureau. The testimony of the Census Bureau also bears this out.

(d) Congressman Kastenmeier's incisive observation pointing out that it would be very difficult if not impossible for a person to secure protections held out under subsection 9(e) within the short time provided (24 hours) unless there is some means by which he could know that his vote is not being counted. Therefore it is suggested that the examiner be requested to conduct a recount of any ballot box or voting machine as to which a complaint stating probable cause has been made.

(e) It is suggested that the presumption in favor of the correctness of the original listing should be increased by removing the words "the hearing officer and" in lines 8 and 9 on page 7. This amendment would uphold the listing unless and until finally overturned by the court.

(f) It is suggested that the words "15th Amendment" in line 8 page 8 be deleted and that "Constitution and the laws of the United States" be substituted. This is simply a precautionary measure to broaden section 8.

(g) Subsection 9(e) should be amended as follows:
1. Change "24 hours" in line 14 of page 9 to "72 hours."
2. Change "may" to "shall" in line 20, page 9.
3. After "founded" in line 23, page 9, add the following sentence: "The court shall also continue such order in effect pending appeal."

(h) Since there can be no appeal from the Attorney General's determination under section 10, it is suggested that the following be included beginning on line 21:

"Such notification shall be appealable de novo to the Court of Appeals of the District of Columbia and shall not take effect until after final determination of such appeal."

(i) On page 6, line 4, delete "years" and substitute "state general elections."

(NOTE.—It should be added that these suggested changes are not complete. They are, however, made after rather extensive consideration of the bill, attendance at most of the hearings held to date by the House Judiciary Committee and discussion with a number of members of that committee, and conference with a number of other informed civil rights persons. It is also to be noted that this memorandum is being typed and stenciled directly from the dictation, and there may be typographical errors and syntactical discrepancies.)

The CHAIRMAN. Our next witness is Mrs. Virginia Y. Collins, chairman of the Ad Hoc Committee of Concerned Citizens of New Orleans.

STATEMENT OF MRS. VIRGINIA Y. COLLINS, CHAIRMAN, AD HOC COMMITTEE ON CONCERNED CITIZENS OF NEW ORLEANS

Mrs. COLLINS. Mr. Chairman and members of the committee, I want to thank you for granting me permission to testify on the proposed voting legislation in the 89th Congress.

I should like to speak on voting problems in the State of Louisiana. We are concerned about our State. Although 32 percent of the total population of Louisiana, over four times as many whites are registered to vote than Negroes.

The Negro citizens of our State want to vote. We are more poorly educated than whites generally, but this is because our schools have been segregated and kept run down. We are just as intelligent as whites, and just as aware of our local, State, and National problems.

If the 100,000 Negroes kept off the voter rolls in Louisiana by conniving registrars, white citizens councils, and the Ku Klux Klan were allowed to register, the vast majority would vote.

If Negroes were allowed to vote, we would then be able to participate and help solve many of the problems which face us today such as bad education, unemployment, bad housing, and the like. We could then vote for men who would truly represent us.

Free and honest elections in the South would mean more responsible representation of our State in the House of Representatives, by men who are representative of the real national as well as local interests, and who do not have to submit on election day to an ignorant, inflamed, misled, and unhappy group of racists and bigots.

The bill the President has submitted is a good one. 100,000 people, black and white, including all major civil rights organizations, religious groups and all institutes of higher learning, endorsed this bill in a petition we sent to the Clerk of the House last week.

We only say that unless you want us back next year, and the year after that and the year after, to make this bill meaningful, there must be provision for new elections to be held 6 to 9 months after registrars enter an area.

Unless this is done, we will not reap the effects of this statute and implementation will break down and drag on for years needing the annual weary attention of this House and the agony of a Nation and people in turmoil.

This ends my testimony.

The CHAIRMAN. You have a petition that you mentioned and that will be filed.

How many members are there to your group, Mrs. Collins?

Mrs. COLLINS. Our group is represented, I should say, by about 200,000 citizens because it is represented by all the major religious organizations, all the civil rights groups, civic groups, and the major institutions of higher learning.

The CHAIRMAN. Are they all in New Orleans?

Mrs. COLLINS. Yes; they are.

The CHAIRMAN. Any questions?

Thank you very much, Mrs. Collins.

Mrs. COLLINS. Thank you, Mr. Chairman.

The CHAIRMAN. I will ask the final witness, Mr. William W. Hicks, executive secretary of Liberty Lobby.

Mr. Hicks.

STATEMENT OF W. B. HICKS, JR., EXECUTIVE SECRETARY, LIBERTY LOBBY

Mr. HICKS. Mr. Chairman, and members of this committee: I am W. B. Hicks, Jr., executive secretary of Liberty Lobby, representing the more than 100,000 persons who subscribe to our legislative reports, testifying on the President's Voting Rights Act of 1965.

The President's law is punitive. It is designed to punish the South for what it has done for nearly 100 years in semilegal contravention of the 15th amendment—for what it has done to the political ambitions of those who would exploit the Negro vote—and, for what it did to Lyndon Johnson last November.

The punishment contemplated is more than severe—it is a death sentence.

For the next 10 years, this law forbids the poorest and least educated part of the Nation to use any qualifications for voting other than age and residence. The result of this punishment can be seen as clearly as if it had already happened.

First, the rise of a new class of Southern State politician—a breed of demagogues—coming into political power on a wave of pie-in-the-sky promises of free State money for everyone.

Next, the futile attempts to carry out those promises by taxing the farms, business, and industry of the South at ever-increasing rates, even while failing to satisfy the demands of the poor for more and more and more and more.

Then, the flight of business and industry from the unbearable demands of the welfare state, and the tragic streams of white refugees—following their jobs to the North and West.

Finally, the necessary establishment of the all-black States as Federal "reservations," populated only by Government bureaucrats and their Negro dependents, but—unlike their counterparts on the Indian reservations—represented in Washington by a powerful voting bloc of nearly 40 Congressmen and 8 Senators.

Let there be no question about it. If the President's law is passed, the South will disappear from the civilized world just as surely and certainly as did Haiti in 1804. Under the terms of this punitive law, the South will be sentenced to government by its least capable inhabitants for 10 long years. No civilization so governed has ever survived and there is no reason to believe that this one will.

It is clear that the President's law is designed to punish, rather than to correct an "evil." There is no provision in the law to allow the "guilty" South to "mend its ways.' No opportunity is offered to reform and avoid the punishment, no matter how much the people might be willing to sacrifice to escape the chilling implications of the death sentence.

In the long run, we will all pay.

For are we not one Nation, faced with one threat—and that one at our very throat? How can the rest of us survive the amputation of the South from our economy and our civilization?

Even granting that the South has sinned, as so many believe, by trying to have its cake and eat it, too—by using literacy tests to restrict the Negro vote while letting whites vote without restriction—did we not all help establish the pattern for the South—never insisting, until now, that the South make the hard decision—the decision to apply the same necessary standards to whites as well as blacks?

Now, are we to give the South no opportunity to choose; to do the thing that is necessary to its own survival, as well as ours? Are we to pass a law or a death sentence?

The very first article of the Constitution forbids the passage of ex post facto laws. An ex post facto law is one that makes it a crime today to have done some act yesterday, or that increases the punishment today for the crime of yesterday.

Good law is never ex post facto. Good law demands that the governed have the opportunity to obey the law and also to know what the punishment is for not obeying.

The President's law is ex post facto. Look how it is framed—so that if on November 1, 1964, the State did so-and-so, then the State is "guilty" and the ex post facto nature of this law is obvious.

Why does it not say, instead, that if on some future date, the State is doing this-or-that, then the State will be guilty?

Notice that the law goes back 10 years to establish the guilt of the State. What is this, but ex post facto law?

Those who support this law will explain that, according to the 15th amendment, it is already illegal to discriminate in voting rights, so that the Congress is justified in going back to include last year's "crime" in this year's law.

This argument tries to separate crime and its punishment—but the two are not separable. Would it be justice to increase the penalty for tax evasion to life imprisonment today, then to sentence last year's tax dodger to "life," even though the limit of the law at the time of the crime was only 5 years? To do so would be unconstitutional, ex post facto law.

The President's law is ex post facto, in that it first increases the penalty for voter discrimination, then applies the new punishment to the already committed act of the past.

Punishment for voting rights discrimination has been provided for under the 14th amendment, which allows for reducing the representation of discriminating States. It is provided for through filing suits under the 15th amendment. It is also provided for under the Civil Rights Acts of 1957, 1960, and 1964.

If the punishment provided for under these laws is not sufficient, then let the punishment be increased, but not by an ex post facto law.

A right or power that is recognized in the Constitution can only be changed or taken away by amending the Constitution. The President's law does not seek to legally amend the Constitution, but to illegally take away the constitutional power of certain States to set nondiscriminatory voting qualifications.

Only 6 years ago, in the case of Lassiter versus Northampton County Board of Elections, Justice Douglas and the Supreme Court ruled that, as in the previous case of Guinn versus United States, "A State may, consistently with the 14th and 17th amendments, apply a literacy test to all voters irrespective of race and color."

The Constitution still stands. It has not changed. But, the President's law proposes to punish the South by depriving the States of a power granted and upheld in the Constitution. Regardless of what the South has done, there is no way for the Congress to legally do what the President wishes. Yet, today, the Congress prepares to violate the Constitution by taking away the vital power to set voter qualifications from the States of the South.

Commonsense cries out in vain: "Seek willing compliance and reconciliation; the Union is in danger." Does the Congress hear?

Instead, the mood of the Congress is one of punishment and divisiveness.

Can the President's law be changed into something more effective, more legal, and less punitive than it is?

Not by the suggestions so far offered, of "making the law stronger," and "broadening it," et cetera.

What this law needs applied to it is commonsense—not common politics.

It needs to be altered from a law to punish the South to a law to prevent future discrimination. This could be done by simply abandoning the use of references to the past, such as the November 1, 1964 date, and to the incidents of the past 10 years.

A new date of effectiveness could be set, such as 1965 or 1966, without even altering the formula that determines "discrimination." Thus, the ex post facto nature of the law would be removed, as well as its punitive aspects.

Instead of forbidding any use of literacy qualifications, the law could be made both constitutional and effective by simply allowing for Federal examiners to oversee the administration of State tests in cases where complaints are lodged charging discrimination.

If we are sincerely interested in effective, constitutional legislation to prevent discrimination, we will adopt such a course as outlined above.

If on the other hand, we persist in placing political expediency above the Constitution and commonsense, we are leaving to unborn generations of Americans the painful task of retracing our steps. In that case, we can only hope that they will have the courage and strength that we do not have—and that they will learn from our mistakes.

Liberty Lobby will support a constitutional, nonpunitive Voting Rights Act that meets the following requirements:

1. An act that becomes effective no sooner than January 1966. This will allow time for States to alter their voting requirements to conform with the act, and it will also allow time for insuring its effectiveness for the 1966 elections.

2. An act that will prevent the use of discriminatory voting tests anywhere in the Nation; not just in certain States.

3. An act that will allow the use of truly objective literacy or educational standards wherever the people of a political subdivision or a State decide they are needed. The act could be written to require that such tests be in written, or multiple-choice form to insure objective grading standards, and should provide that the original test forms be maintained as public records open to inspection.

4. The act could provide that any time the Attorney General felt there was a violation of the 15th amendment, he could—as in H.R. 6400—send Federal examiners to inspect the original test forms.

If the Federal examiner found that different standards of qualification had been applied to different applicants, he could then inform the Attorney General, who would file suit in a Federal court for immediate hearing on the case, and appropriate punishment for the officials involved could be meted out by the court.

Likewise, if any State or political subdivision failed to properly administer or maintain their records of voting tests, an immediate injuncton could issue. One punishment that might be established would be a court order to a political subdivision to require immediate retesting of all its voters. Such provisions should be sufficient to insure against violations.

The act would have teeth—but not fangs. It would accomplish what the President says he wants to accomplish, without violating the Constitution or commonsense.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hicks, this hearing, of course, is a place of free speech; that is why we allowed you to make this statement. I personally am not going to dignify it because of some of the unjustifiable and rather abrasive and abusive statements that you have made, and I am therefore not going to ask any questions.

Any questions?

Mr. DONOHUE. No questions.

The CHAIRMAN. Any questions?

Thank you very much, Mr. Hicks.

Mr. HICKS. Thank you, sir.

The CHAIRMAN. The chairman wishes to submit a statement by our distinguished colleague from New York, Representative Howard W. Robison.

(Statement referred to follows:)

STATEMENT SUBMITTED BY HON. HOWARD W. ROBISON, U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK

Mr. Chairman and members of the committee: I welcome this opportunity to express my thoughts to you on H.R. 6400, the Voting Rights Act of 1965.

My statement will be brief, because there are many others who are so much more qualified than I to speak on this issue, and because I am well aware of the urgency with which you view your present task after the extremely high priority that has been assigned to it by the President.

However, as one who on February 24 of this year introduced a comparable proposal—H.R. 5424—designed to finally implement the full meaning and intent of the 15th amendment to our Federal Constitution, I should like to urge you to make sure, this time, that we will be doing all we can to completely eliminate all barriers to the right to vote based on race, and to do this once and for all.

There is a need to do this with dispatch—but not, I submit, to try to do it with heedless haste. In the legislation which we seek we must make sure that, hereafter, all citizens of this land who walk toward the voting booth shall be treated alike, for the mood of the people demands no less, nor should our own consciences.

In that popular mood there is much that is emotional, and that is fully understandable; but we who have the responsibility to translate that mood, and the tugging of our own consciences, into effective and responsible legislation—as compared to legislation that will merely be temporarily responsive—must take care, first, that what we do will stand the tests of both need and time, and then, secondly, that in our urgency we do not unintentionally sweep away the good with the bad.

With such an approach, then, and with no desire to prolong this proceeding, let me state to you the reservations that I have concerning the President's bill, H.R. 6400:

First, permit me to say that I think H.R. 6400, limited as it is in its application to those States having literacy tests or similar qualifying devices and then, again, to only those of such States in which there were fewer than 50 percent of voting-age residents either registered or actually voting in the 1964 presidential elections, rests on too narrow a basis.

Those of us who are not privileged to serve on this subcommittee—and have not had the benefit of hearing the Attorney General's defense of this rather restricted approach—are still trying, after our own fashion, to interpret what such an approach would accomplish.

You may, by now, have been assured otherwise, but to me, at least, I must ask you to consider whether limiting H.R. 6400's application to those States—or to a "political subdivision" therein—as may fall into such a category, is wise. We all know, do we not, that there exists the possibility of discrimination with respect to voting rights because of race in States that now have no literacy tests or similar device? Those States, such as Texas, and Florida, as well as Arkansas and Tennessee, and perhaps others, which have no such tests, are not completely free of discrimination against would-be voters of the Negro race, Mr. Chairman, or are they? This, I think, is a question that your subcommittee must ask.

Or, again, even if more than 50 percent of voting-age residents were registered and voted in the 1964 presidential elections in any such State that becomes one of our target areas because of the existence of such a test, what of that less than 50 percent of would-be registrants and voters who may have been discriminated against, or discouraged from registering and voting through some other fashion? Is such discrimination, if it did in fact exist, to be permitted to continue merely because it only affected 40 percent, or 10 percent, or even 1 percent of the citizens of that State or of a "political subdivision" thereof? This, too, is a question that I think your subcommittee must ask.

It may perhaps prove to be true that the basis on which H.R. 6400 apparently rests, narrow though it be, will suffice to remove most of the source of the present voting restrictions on account of race in such States as Alabama, Mississippi, Louisiana, Georgia, Virginia, and South Carolina, but, after we have erased this many of our more demonstrable problems, what will we do about the remainder? This, finally, is also a question I think you must ask yourselves, even if I ask it of myself.

I share with you, all, the desire to make the legislation we shall undoubtedly enact as sound and as amenable to swift passage through this Congress as is possible. But it is also my desire, as I assume it is the desire of a majority of you, to make that legislation fit the sum total of our need, and not just a part thereof. Those who seek to aid and protect have been disappointed and disillusioned too often before; we should not disappoint and disillusion them again, and if we do so, we must know that we do so only at the future peril of the peace and unity of our Nation.

Therefore, Mr. Chairman, I urge this committee, despite the evident desire on the President's part for it to move in the most expeditious manner, to take time to ensure that the voting-rights legislation you will soon recommend to us rests

on a sufficiently broad basis for its application to produce equal justice for all our citizens and not merely justice—as some one has recently referred to this phase of H.R. 6400—meted out by resort to percentages.

I cannot say to you that the approach suggested in my bill, H.R. 5424, is the best to use under the circumstances; I can merely say to you that I still consider its approach to be preferable to that contained in H.R. 6400, and to urge that your committee, as well as this subcommittee, give it your full and objective consideration along with any other proposals that may be made. I should also add, at this point, that those of my colleagues with whom I joined in introducing H.R. 5424, which is a companion bill to their various bills, are presently working on some changes and improvements in our basic proposal, which we will hope to also have before you in revised bill form at the earliest possible moment.

One other point, Mr. Chairman, and then I shall be through. There are those—and you have heard from some of them or will shortly do so—who have taken the position that H.R. 6400, as now drafted, makes something of a frontal assault on the continued existence of any sort of a so-called literacy test.

The constitutional basis for the use of literacy tests has been well established. It involves the principle—derived from article I of our Federal Constitution—granting to the States the right to decide the qualifications of voters in both State and Federal elections.

It seems to me that we must be most cautious in taking any action which may have the effect of altering that principle—whether that is the intended result or not. For the time being, I will be content to leave the actual effect of the President's proposal on such tests to your consideration, but I do wish to suggest that our aim should be not to eliminate every such test, but only to eliminate those which are unfairly drawn or are so administered as to have the effect of denying any citizen his right to vote on account of his race.

There are literacy tests, Mr. Chairman, and there are literacy tests, and the great majority of them are designed solely to promote—insofar as they ever can—the intelligent use of the ballot. Fairly drawn, and impartially applied they should be "wholly neutral insofar as race, creed, color, or sex" may be concerned—to borrow the phrase from Justice Douglas speaking for the Supreme Court in *Lassiter* v. *Northhampton County Board of Elections*, in 1959.

My own State of New York has such a test, as the Chairman well knows—and I have some familiarity with it because, some 28 years ago when I was a "first voter," I had to take it. This came about because, although a first voter is excused from taking the test if he can produce evidence of having completed the equivalent of eight grades of education in a public school, I could not, at the time, find my eighth-grade diploma. I offered my local registration board my graduate diploma from Cornell University but was told that this did not fit the "letter of the law," and so was required to take New York's then literacy test.

The questions were simple enough—somewhat after the nature of the famous "quiz" question: "Who is buried in Grant's tomb?"—and, to my relief, I passed.

Admittedly there are those, now, who question whether the bare requirement of rudimentary ability to read and write English is justifiable qualification for the privilege of voting. To my mind, this is not an improper requirement—if the people of a State want to continue it—and if, and this is the crux of the problem, any such test is fairly devised and is applied to all would-be voters alike.

If, however, it now becomes our intent to do away, eventually, with some such qualifying tests in certain States—as seems to be the intent of H.R. 6400—should we not be ready to apply the same standard to every State? So, again, I ask you to consider whether this is to be our intent and, if so, if what we may be about to do is wise and in the best interests of good government.

By contrast, H.R. 5424, and its companion bills, would have the proposed Federal registrars—in determining the qualifications of would-be voters against whom discrimination at the local level has been found—apply whatever State qualifying standards existed, expect that any applicant who had completed six grades 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, shall (be deemed to) have fulfilled all literary, education, knowledge, or intelligence requirements."

Mr. Chairman, again I cannot say that this proposal is better, under the circumstances, than that contained in the President's bill; I can merely tell you that here again I consider its provisions to be preferable to those contained in H.R. 6400, and to urge that you give them your full and objective consideration.

I thank you for the privilege of filing this statement with you and, in closing, wish to assure you that you have my full support in the overall endeavor upon which you have embarked.

The CHAIRMAN. The Chair wishes to announce that hearings will be held on Monday morning at 10 o'clock. We will then hear from the attorney general of Virginia.

A request has been made for the return of Mr. Wilkins and Mr. Joseph L. Rauh to enable members of the minority who were not able to query these gentlemen on their last visit here, to ask questions. We have not heard from them whether they will be here Monday, but as soon as I know the members will be notified.

The committee will now adjourn——

Mr. CRAMER. Mr. Chairman, do I understand there will be no hearings tomorrow, then?

The CHAIRMAN. No hearings tomorrow. Our next meeting will be on Monday at 10 o'clock.

Mr. CRAMER. Would the Chairman indicate what the plans are, if it is possible, for next week's hearings?

The CHAIRMAN. Yes. We will continue the hearings on Tuesday, Wednesday, and Thursday when we will hear during those days, except as to Mr. Wilkins, those who are in opposition to the bill.

Mr. CRAMER. Will there be a further opportunity, not necessarily that they are in opposition, but will there be a further opportunity for members to be heard?

The CHAIRMAN. We hope to be able to have those members heard during next week. We may have to have night sessions next week to do that.

Mr. CRAMER. The reason I asked is that I have had a few members ask if they would be given an opportunity at a later date.

The CHAIRMAN. Every opportunity will be given to them.

Mr. CRAMER. Thank you, Mr. Chairman.

The CHAIRMAN. The subcommittee will now adjourn to meet Monday morning at 10 o'clock.

(Whereupon, at 9:53 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Monday, March 29, 1965.)

VOTING RIGHTS

MONDAY, MARCH 29, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Byron G. Rogers, presiding.

Present: Representatives Rogers of Colorado, Brooks, Corman, McCulloch, and Lindsay.

Also present: Representatives Grider, King, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and Allan D. Cors, associate counsel.

Mr. ROGERS. The committee will come to order.

Our first witness this morning in the Honorable Howard H. Callaway, Member of the House of Representatives. We are pleased to have you here, Mr. Callaway. You may proceed in your own manner with your testimony.

STATEMENT OF HON. HOWARD H. CALLAWAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. CALLAWAY. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the committee: I thank you for the opportunity to appear here today.

I am here, gentlemen, because I consider the bill before the committee, the Voting Rights Act of 1965, a bill of utmost importance to all Americans. Proof of its importance is the interest that this subject has generated throughout the country. Like all Americans, I wholeheartedly agree with the aims and objectives of this bil as stated in section 2, that "no voting qualifications or procedure shall be imposed or applied to deny the right to vote on account of race or color."

The right to vote is already a basic American right guaranteed to all qualified citizens by our Constitution and our laws. To deny this right to a single person because of race is unthinkable.

In looking at the complaints before the courts, I believe that the problem is less one of adequate laws, than one of expeditious enforcement of the laws that we have. In some cases deliberate roadblocks have been placed to thwart or at least delay justice. This is wrong; we cannot condone it; I do not condone it. We have a duty to correct it. But in correcting what is clearly wrong, let us not create further wrongs. Let us attack the problem, let us analyze each complaint, let us examine what went wrong and then enact corrective legislation.

I am here to wholeheartedly support any reasonable legislation

that attacks the real problem of voting rights—legislation that eliminates delays in procedures, to assure every qualified citizen the right to vote regardless of race or color.

But I cannot support H.R. 6400 as it stands. I cannot support this bill because, though I agree with its stated end, I do not agree with its means. For in pursuing its proper goal of assuring voting rights, H.R. 6400 would establish a dangerous precedent, and would be discriminatory in application.

I base my first objection, that it would establish a dangerous precedent, on section 4(a) of the bill—that section pertaining to the appointment of Federal examiners or registrars. Under this section the Attorney General would have the power to authorize the appointment of Federal registrars for National, State, and even local elections; not only upon the complaint of 20 residents, but in addition, he could do so without any complaints, when "in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment."

Let us consider this subsection for a moment. The Attorney General is here given what appears to be total discretion and power. With no rules set forth to guide his judgment, he alone, at his own whim, can impose Federal registration control at any time, and the people have no recourse. His decision shall be final. His power is absolute, and it has been said that absolute power corrupts absolutely.

Therefore, before this extreme step is taken, let us consider the nature of this office of Attorney General. We do not have to look far to see that during 11 of the last 15 years, the Attorney General has been a key campaign figure for the successful presidential candidate.

The Attorney General from 1949 to 1952 was J. Howard McGrath, chairman of the Democratic National Committee during the 1948 campaign. In 1953, the appointment went to Herbert Brownell, a former Republican National Committee chairman and one of the top directors of three Republican presidential campaigns. And Attorney General Robert Kennedy was the successful manager of his brother's presidential campaign.

These men had the highest responsibility of getting out the vote for their party. Clearly then, the Attorney General can be a man whose mind is not entirely free of partisan politics.

Keeping in mind the unlimited authority given to him in section 4(a) of this bill, it is not impossible that some day, some politically minded Attorney General—Republican or Democrat—could decide to use this power for political gain.

Let us suppose "that in his judgment the appointment of examiners is necessary to enforce the guarantees of the 15th amendment" in an area that he knows to be sympathetic to his party. Could he then appoint the county campaign chairman as chief registrar with strong precinct bosses as his deputies, and send them into that area to register voters door to door? The answer is "yes," he could, because there are no specifications for methods of registering, and there are no tests or rules involved in the selection of examiners.

If you are now thinking that my suppositions are farfetched, let me ask you to indulge me one more time by extending your imagination even a little farther. Consider with me the possibility that

this bill, once the precedent is established, is only a first step. Could it then lead beyond Federal control of registration to complete Federal control of polling officials and polling places? Of course it could, and in taking that chance, this Nation of free men could conceivably lose the very basis of its freedom.

And now, Mr. Chairman, I would like to direct your attention to that portion of H.R. 6400 which I consider to contain the greatest injustice, section 3(a). This section would single out selected States for punitive treatment.

Section 3(a) of the bill divides this Nation into two groups of States. Group 1 consists of States which "the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting and with respect to which 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."

Group 2 consists of all other States.

Under this bill the second group of States may require a voter to read or write. The first group may not. The second group may require a voter to have a sixth grade education or its equivalent. The first group may not. Group 2 may require a voter to have good moral character. Group 1 may not. This bill would result in dividing our Nation into two different kinds of States, some with more rights than others.

I do not speak at this time on the question of the merits of literacy tests or the tests of moral character, but only on the question as to whether it is right to have different sets of rules for different States.

Obviously, there is no constitutional or moral basis for giving certain States more rights than others. The only claim of constitutionality lies in the contention that the formula in H.R. 6400 is a reasonable way of separating the States that are discriminating because of race in violation of the 15th amendment, from those that are not. I submit, Mr. Chairman, that this is not a valid contention.

The formula separates States where the 1964 presidential vote was more than 50 percent of the persons of voting age from those States where the vote was less than 50 percent. The assumption is that a low percentage of voters must be due to the discrimination that is prohibited under the 15th amendment.

But is this assumption true in fact? Or are there other factors—perhaps even more important factors—contributing to the low voter turnout in the Southern States? I say that there are.

The report of the President's Commission on Registration and Voting in November 1963 discussed psychological and legal causes of a low voter turnout. Particularly significant to me is a paragraph on page 1 of the summary of this report as follows:

> The Commission strongly believes that effective two-part competition in all areas of the Nation will build and maintain interest in public affairs and lead to greater voter participation.
>
> In 1949, a Texas scholar, Dr. V. O. Key, former head of the Political Science Departments of Johns Hopkins, Yale, and Harvard, noted that "the low level of participation in southern voting can by no means be attributed entirely to Negro disfranchisement. Nonvoting by Negroes does not alone produce the low turnout percentages; in most States in the South the rate of participation by whites falls far below the rates of the total voting population in two-party States.

Mr. Chairman, here we have the key. Look at the seven States singled out by the Attorney General as the only complete States affected by the formula—Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia, and Alaska. Of these States, six are Southern States with a low voter turnout due primarily to the one-party system. The seventh, Alaska, has a low turnout apparently because of the problems of cold weather and isolation of voters.

We may not like the one-party system of the South or we may not like the cold of Alaska, but these reasons for low voter turnout have nothing to do with the 15th admendment or racial discrimination.

It is a well-known fact that Democratic primary victories in the South have been "tantamount to election" and that in most instances Democratic primaries far outdraw the general elections that follow.

For example, in the last Governor's race in my own State of Georgia, the Democratic primary drew 852,000 voters while the general election for that office drew only 312,000.

Similar figures for presidential elections are of course not available, since they are not preceded by popular primaries. But there is ample evidence to show that a two-party system, with its consequence of many contested elections on the same ballot, brings out a much larger presidential vote.

Let me quote again from the President's Commission on Registration and Voting: "When an election is expected to be close, the strong partisan is even more inclined to vote."

I ask you, gentlemen, how many elections are expected to be close in a State where 90 percent of all candidates run unopposed? The report goes on: "A great ally in the long-range fight against apathy is politics itself—the two-party system. Effective two-party competition prompts political involvement, spurs interest in politics and campaigns, and strengthens a person's feeling that his vote counts. We believe that two-party competition is essential to build and maintain interest in public affairs, and consequently leads to greater voter participation."

The President's own Commission obviously felt this point to be tremendously important—yet, it was apparently overlooked by the framers of H.R. 6400.

Competition is the basis of active politics. It is a truism to say that with more contested elections—more people vote. But in the Southern States affected by this bill, there were few contested elections.

In my own State of Georgia, at the time of the November 1964 presidential election and on the same ballot with the presidential electors, 4 of 10 congressional seats were uncontested, 32 of 54 State senate seats were uncontested, 191 of 205 State house seats were uncontested, and 34 of 35 candidates for solicitor general were uncontested.

There were uncontested State elections for 37 superior court judges, 2 public service commissioners, 3 supreme court justices, and 2 appellate justices. Thus you see in Georgia that in our congressional, general assembly and statewide races, 305 out of 348 State elections were uncontested.

Also on the ballots of the various counties were a total of more than 1,000 local officials, such as county commissioners, city commissioners, mayors, clerks, ordinaries, and justices of the peace. While no figures are available to me at this time on the number of contested

local races, I would estimate that there were no more than 25 contested races in the more than 1,000 local elections.

It doesn't take a strong imagination to see how many more voters would have presented themselves to the polls in November 1964 if each of these thousands of posts were contested.

Let me return for a moment to the report of the President's Commission on Registration and Voting Participation. Their study found that "it is no coincidence that the growth of the Republican Party in the South has impelled many more voters of both parties toward the polls."

This is true, but our Republican Party in Georgia is still weak. It is still struggling, but the progress of this struggling party has been remarkable.

In the 1960 presidential elections, there were only four congressional Republican candidates and very few local Republican candidates. The total vote in Georgia in this election was 728,759. In 1964, with the increase in the number of contests, both in congressional races and in local races, the total presidential vote rose to 1,139,352. An increase of 56 percent. My own district increased its congressional vote turnout by 43 percent over 1960 when given a good two-party fight in which to vote.

By 1968, with the growth of the Republican Party in Georgia, I have no doubt that the figure will rise above 50 percent of those of voting age. But of course, under this bill which is based only upon the November 1964 election, Georgia would still be singled out as a State not having the right to determine its own voter qualification.

Let me point out one other fallacy in relating voting percentages to racial discrimination. The fallacy is that figures on voting age population do not actually reflect the number of persons who might be reasonably expected to vote. These figures include transients, noncitizens, military personnel, and others who would not normally vote in the areas where they are recorded.

Now this may not make a significant difference in some areas, but in my district, the Third Congressional District of Georgia—the home of Fort Benning and Warner Robins Air Force Base—it makes a great deal of difference.

Let me cite the example of Chattahoochee County. In Chattahoochee County, only 4.4 percent of those of voting age voted in the 1964 presidential election—4.4 percent. Surely if the percentage of those voting is a valid criteria for racial discrimination, this county must be the most discriminatory county in the Nation.

But is this the case? There have been no complaints of racial discrimination in Chattahoochee County. What then is the situation? It is simply this: the military base of Fort Benning covers approximately three-fourths of the county. Included, therefore, in the voting-age population of Chattahoochee County are thousands of troops and students at the infantry school who do not vote there.

So this county, which voted 86 percent of its registered voters in the 1964 election, is credited with voting only 4.4 percent of those of voting age. The problem is compounded by the fact that even in so obvious a case of injustice, there can be no appeal from the census statistics.

There is no formula for Chattahoochee County to ever get out of this situation.

Mr. McCULLOCH. Would you mind an interruption?

Mr. CALLAWAY. Not at all.

Mr. McCULLOCH. Do you have the total number of residents in that county of voting age, 18?

Mr. CALLAWAY. The figure that I have, Mr. McCulloch is one given by the Civil Rights Commission. It does not break down those who are military from those who are not military. I have no way of getting that information; I tried to get it. I have in this report by the Civil Rights Commission the total number given by the Department of the Census for Chattahoochee County: 8,016 whites, 1,839 nonwhites; for a total of 9,819. This includes both troops and local residents.

Mr. McCULLOCH. And of course a number of the troops that are interested in public affairs are undoubtedly registered to vote and do vote at their legal voting residence.

Mr. CALLAWAY. Yes, sir. This is just a guess, I would say far more than half of them vote by absentee ballot at home.

Mr. McCULLOCH. Thank you.

Mr. CALLAWAY. I thank the gentleman.

This is one more example why I say that H.R. 6400 is based on an unsound, unfair formula.

Mr. Chairman, let me reiterate my position.

1. The right of an American citizen to vote is basic and must not be abridged because of race or color.

2. The present problem is not one of inadequate laws, but rather one of enforcement of the laws that we have. The problem is particularly one of delay in proceedings.

3. Any voting rights legislation should be aimed at speeding up proceedings and guaranteeing registration of all qualified voters throughout the country.

4. The granting of uncontrolled authority to the Attorney General and Federal registrars sets a dangerous precedent.

5. The fact that a State voted less than 50 percent of those eligible in the 1964 election is more likely to be caused by a one-party system rather than by discrimination under the 15th amendment.

Gentlemen, my closing plea is this: Do not attempt to end voting discrimination among the races by setting up deliberate discrimination among the States. Do not report favorably a bill that picks out one section of the country and treats it differently from all others.

Remember, as the President said, that those affected by this bill still have to live and work together. Therefore, give us a bill that all responsible elements—North and South, Democrat and Republican, white and Negro—can support. By doing this you will see all States and all races united and working together to forever end voting discrimination wherever it is found.

Mr. ROGERS. Thank you.

May I inquire whether in your opinion Congress has the authority under the 15th amendment to see that people regardless of color may vote?

Mr. CALLAWAY. Yes, sir; I think it does have the authority under the 15th amendment.

Mr. ROGERS. Having that authority, are you familiar with the Civil Rights Act of 1957, 1960, and 1964?

Mr. CALLAWAY. Not as familiar as the gentleman is. I was not in Congress until this year. I have a general broad knowledge.

Mr. ROGERS. All of those were directed at the right trying to get discrimination against those who were of color and who had not been permitted to vote in the States eliminated, and I am sure you are familiar with the Supreme Court decisions since that time.

As an example, in your own State, the case of Raines versus the United States 362 U.S. 17. Are you familiar with that?

Mr. CALLAWAY. Is this the Terrell County case, Mr. Rogers?

Mr. ROGERS. Yes

Mr. CALLAWAY. Yes, sir; I am familiar with that.

Mr. ROGERS. In that instance the people had to go to court to even get to register in your State.

Mr. CALLAWAY. Yes, I am familiar with that.

Mr. ROGERS. What is that?

Mr. CALLAWAY. I am familiar with that.

Mr. ROGERS. Yes. Are you here denying that in the State of Georgia those with color cannot vote without having to go to court as in this case?

Mr. CALLAWAY. Mr. Rogers, yes. I say that in Georgia you are allowed to vote without——

Mr. ROGERS. Can you give us any reason why it was necessary in the Raines case to file this action?

Mr. CALLAWAY. Mr. Chairman, I do not say that in the past there has not been some discrimination.

Mr. ROGERS. Oh.

Mr. CALLAWAY. I would like to quote, though, if I may, since you brought up the Dawson case, a letter I got unsolicited from the Terrell County Board of Registrars in Georgia.

Mr. ROGERS. Go ahead.

Mr. CALLAWAY. This is from Mr. J. W. Whitaker, chief registrar. I would like to place it in the record, if I may. It says:

> We are deeply concerned about the voting bill that is now before Congress.
>
> As you know, the first civil rights suit in the United States was filed against the Terrell County Board of Registrars. Since 1960 we have been under injunction. To meet any criticism or charges that might be directed our way, the Board of Commissioners of Roads and Revenues authorized the employment of Mrs. Wren B. Smith, official court reporter then of the Pataula Judicial Circuit, to report all of our meetings and to keep the voting records. This has been done since 1960.
>
> The Department of Justice has checked us periodically and, to date, have been very complimentary of our system. A Mr. Martin with the Justice Department called Mrs. Smith personally sometime in the latter part of last year and complimented her on the way the records are maintained.
>
> The purpose of this letter is to offer you our assistance in any way that we can in fighting the voting bill. We will be glad to come to Washington, bring our records, appear before any committee, or assist in any way that we can.
>
> It seems absurd to us that the literacy test be done away with as there are such things as constitutional amendments, bond issues and things of that nature, besides the election of public officials, to be voted on.

I would like to submit this for the record.

Mr. ROGERS. That may be done.

(Letter referred to follows:)

TERRELL COUNTY BOARD OF REGISTRARS,
Dawson, Ga., March 24, 1965.

Hon. HOWARD "BO" CALLAWAY,
Member of Congress,
Washington, D.C.

DEAR "BO": We are deeply concerned about the voting bill that is now before Congress.

As you know, the first civil rights suit in the United States was filed against the Terrell County Board of Registrars. Since 1960 we have been under injunction. To meet any criticism or charges that might be directed our way, the Board of Commissioners of Roads and Revenues authorized the employment of Mrs. Wren B. Smith, official court reporter then of the Pataula Judicial Circuit, to report all of our meetings and to keep the voting records. This has been done since 1960.

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The purpose of this letter is to offer you our assistance in any way that we can in fighting the voting bill. We will be glad to come to Washington, bring our records, appear before any committee, or assist in any way that we can. It seems absurd to us that the literacy test be done away with, as there are such things as constitutional amendments, bond issues and things of that nature, besides the election of public officials, to be voted on.

Please call me if you wish or let me know at your earliest convenience if you would like our assistance in this instance and in what manner you think we can be of help. We have the greatest confidence in your ability but realize that at a time like this you need all the help you can get.

With kindest regards, I am

Yours very truly,

J. W. WHITAKER, *Chief Registrar.*

Mr. ROGERS. You have made reference to the record in the President's Commission, I believe.

Mr. CALLAWAY. That is correct.

Mr. ROGERS. I want to read from page 39 of that report. It says:

Literacy tests should not be a requisite for voting. A minority of our States continues to impose some form of literacy test as a condition of registration. The problem posed by such tests depends on the State in question.

Apparently it was in question in Georgia, because they had to file a lawsuit.

I will go even further:

Literacy tests in some States are unfairly administered, particularly to deprive Negroes of their right to vote. Only with rigid safeguards is a State likely to eradicate the sort of maladministration reported by the U.S. Commission on Civil Rights. Racial discrimination by means of unfair administration of literacy tests is a perversion of the democratic process.

A more basic question, though, is whether any literacy test can be justified today. When noncitizens could vote, literacy requirements made some sense, but today only citizens may vote, and the process of naturalization involves a test for literacy, so the original reasons for the test as a part of registration are gone.

Many media are available other than the printed word to supply information to potential voters. The Commission is not impressed by the argument that only those who can read and write or have a sixth grade education should have a voice in determining their future. This is the right of every citizen no matter what his formal education or possession of material wealth.

The Commission recommends that no literacy test interfere with the basic right to suffrage.

Now, what do you think of that statement?

Mr. CALLAWAY. Mr. Chairman, I am glad you read that statement. I think it in many ways documents what I am trying to say. You will notice in my testimony I did not go into the merits of literacy tests. I think you will find that the Supreme Court has ruled that literacy tests are legal, and my point is that the States should be allowed to determine whether they want literacy tests.

You gave one side of the argument; there is another side. We can argue this but it should properly be argued in the legislatures of the several States. I would like to wholeheartedly agree with the statement I made and you made in saying when these tests are used to discriminate, they should not be used. Whatever legislation you get to stop discrimination I will approve of, but not the Federal legislation to say to a State that it does not have the right to determine its own reasonable voting qualifications.

Mr. ROGERS. You and I recognize this has been going on a long time, even since the end of the War Between the States, and it has taken over 100 years to get this far.

How much longer is it going to take in order for those who want to register to be permitted to register under the laws that you say should be fairly administered?

Mr. CALLAWAY. Mr. Chairman, I propose speeding up the delays that there have been in the past, but let us say our record in the South, in Georgia, is good. Approximately 300,000 people registered in Georgia last year and they registered in approximately the same ratio of white and colored as the total population ratio in Georgia. In the 11 Southern States, the Civil Rights Commission says, 43 percent has registered. I do not say this is enough, but we are making very good progress in the South. Just because something has been abused like a literacy test, I find no reason to throw it out.

Mr. ROGERS. How would you delete the problem if you do not throw it out?

Mr. CALLAWAY. What would be my solution to the problem, Mr. Chairman?

Mr. ROGERS. Yes.

Mr. CALLAWAY. I hesitate to tell this committee how to draft a bill.

Mr. ROGERS. You and I are Members of Congress, together trying to resolve this problem. You say that you are in favor of the 15th amendment?

Mr. CALLAWAY. Yes, sir.

Mr. ROGERS. You do not want any discrimination because of color but you do object to the proposal that we have before us.

Now, what we would like to know and what we are looking for is how can you solve this problem which has been with us so long?

Mr. CALLAWAY. I will be glad to speak to that, Mr. Chairman.

Mr. ROGERS. Yes.

Mr. CALLAWAY. First of all, I would support any bill that applies equally to all States, that allows the States to set their own standards, although you have no discrimination. I agree with that although it takes control of the election. I have tried to be practical. I am going further.

Mr. ROGERS. When you say "takes control of the election," is there anything in this bill that takes control of the elections in the State of Georgia?

Mr. CALLAWAY. Yes, sir; I say there is.

Mr. ROGERS. Where?

Mr. CALLAWAY. Well, shall we finish on what I would propose or shall we go back?

Mr. ROGERS. Go ahead with what you propose.

Mr. CALLAWAY. Yes. Then I would like to come back to that other subject.

I have felt that as a Southerner my motives might be suspect and it might be difficult for some of you to approve my bill. I intend to introduce a bill unless one is introduced that I can support. I would like someone else to introduce it because I think it would have a better chance of passing. The bill that I am working on triggers when 25 complaints are filed. I would like to have it trigger on one complaint but the attorneys say that is not practical. You get spurious complaints. Once it is triggered anyone may apply to this examiner upon alleged discrimination and he must be notified in 7 days whether he is registered or not.

The examiner reports to the court, the court directs State and local officials. Note that this still gives our local officials control over elections. The bill also permits appeals. Any decision by the examiner is in full force and the people vote pending this appeal.

We have a 7-day delay, not 2-year delay. I am against a 2-year delay. This, in my opinion, would solve the problem, would be a bill that all responsible elements could support and would not have all of these objections that I see.

Mr. ROGERS. You are aware in 1960 we provided a method where, if a pattern or practice of discrimination has been shown to the court, registrars could be appointed. Apparently that has not proved successful in getting these people registered.

Mr. CALLAWAY. The only complaint I have, Mr. Chairman, it goes too slow, it takes too long.

Mr. ROGERS. The situation leading to the Raines case is one of the reasons it takes too long. Do you propose to speed this up?

Mr. CALLAWAY. Yes, sir.

Mr. ROGERS. How? Let the man go down to the district court or how does he go about this?

Mr. CALLAWAY. Once it is triggered with 25 people—and again I hope I can get someone else's bill to support instead of mine. Once it is triggered you have the Federal examiners appointed.

Mr. ROGERS. Who appoints them? Who would you suggest appoint them?

Mr. CALLAWAY. Under this bill they would be appointed by a three-judge panel from the circuit court of appeals.

Mr. ROGERS. That is if the Attorney General——

Mr. CALLAWAY. Once it is triggered; yes, sir.

Mr. ROGERS. Yes. And your thought would be that if 25 people in the county went to the Federal Court and said, "Look, this registrar won't let us vote, set up a couple of registrars and register us," that should be the method that should be followed in your State.

Mr. CALLAWAY. Again, I do not have any particular love for this bill except I think it is a way of speeding up the procedures. Yes, I think this would work. I am not wedded to the 25. I notice the administration bill is 20, that suits me all right.

Mr. ROGERS. Any reasonable number, let's put it that way?

Mr. CALLAWAY. Yes.

Mr. ROGERS. But you would then continue to permit the appointed registrars by the court to apply the literacy tests, would you not?

Mr. CALLAWAY. Yes, sir. I think we must say in fairness to the South, Mr. Chairman, in very, very few places have these tests been used for discrimination. In the largest county in my District there is no discriminaton.

I have seen them registered; I can explain the test, it is not discriminatory.

Mr. ROGERS. You are aware of the decisions of the Supreme Court about 3 weeks ago as relating to Mississippi and Louisiana?

Mr. CALLAWAY. Not in detail, but generally.

Mr. ROGERS. In effect the Court said an injunction should issue because there was broad discrinmation. Now while we are on it, may I read this to you which is part of the statement of the Attorney General in that regard:

> The premise of Section 3(a) as I have said, is that the coincidence of low electoral participation and the use of tests and devices results from racial discrimination in the administration of the tests and devices. That this premise is generally valid is demonstrated by the fact that of the six States in which tests and devices would be banned State-wide by Section 3(a), voting discrimination has unquestionably been widespread in all but South Carolina and Virginia, and other forms of racial discrimination, suggestive of voting discrimination, are generally in both of those States.

Now, if the Attorney General and the Commission appointed by the President give us these reports, what are we to consider? Are these people arriving at these conclusions erroneously? Is it better to let it take another 100 years for these people to be able to vote?

Mr. CALLAWAY. This is a question of judgment, Mr. Chairman. I do not question the motives of the Attorney General when he says there has been widespread discrimination in Georgia, but the last complaint that the Attorney General has made was 5 years ago and he is free to make one every day.

Mr. ROGERS. One more question. When you say "turn over the election machinery of your State to the Federal Government," you recognize that once they register under a charge, H.R. 6400 transmits them to the proper people who conduct the election?

Mr. CALLAWAY. Yes, sir.

Mr. ROGERS. Now, once that is done, would the Federal Government be charged with providing any election machinery?

Mr. CALLAWAY. They would have charge of getting these people registered by the so-called Federal examiners.

I see nothing in the bill that would stop the Attorney General from coming into my district which is covered under this particular bill, I think, unfairly. I have 19 counties—and appointing each of the 19 county democratic chairmen as registrars, I see nothing to stop this. Could we do this, Mr. Chairman?

Mr. ROGERS. Assume he does——

Mr. CALLAWAY. I am afraid of it.

Mr. ROGERS. And assume that they do register. Now under this bill, once they are registered they are taken to the proper election officials of the State and the election is then conducted according to the State law.

Mr. CALLAWAY. But a valid part of an election is registration.

Mr. ROGERS. The point that I am trying to get at is where does the Federal Government control the election machinery of the State of Georgia, as you so bitterly complain?

Mr. CALLAWAY. In complaining about the registration, Mr. Chairman, which is a part of that machinery, let me say that you are assuming we can put these Democratic men in. Every one of us knows there are pockets of strength and pockets of weakness. He can register in the area he wants to, I see nothing to stop him.

Mr. ROGERS. He makes a list of them which is available for inspection. If they are not properly registered or qualified to vote, do you not have challenging statutes in the State of Georgia? As an example, suppose I went down and registered and the registrar took me although I did not reside in the State of Georgia. My name would be published on the list?

Mr. CALLAWAY. Yes, sir.

Mr. ROGERS. And if I was in your county and you were a Republican running for Congress and I was going in there to vote do you not think you could come and challenge me?

Mr. CALLAWAY. Yes, Mr. Rogers, I could. Here is my point: A part of the election procedure that all the counties go through is registration. We try to register our people, the Democrats try to register their people. As the first Republican since the Reconstruction I am afraid of Democratic control. I am afraid that under this bill we could have a federally-appointed official paid for registering their crowd and I would have to get volunteers to register my crowd. I do not think it is fair.

Mr. ROGERS. If you have qualified colored people that want to go down there and vote or register, you can take them down to the same registrars, can't you?

Mr. CALLAWAY. I can go take them down, but I do not have the people paid by the Federal Government doing it for my side.

Mr. ROGERS. It would be the same people, would it not? The registrars, the examiners that are called in this bill would be the same ones. If you take that person, he is obligated to register them.

Mr. CALLAWAY. Yes, sir; if you once take the assumption, as you did, Mr. Chairman, that he can appoint a partisan in this job, this partisan can affect the registration.

Mr. ROGERS. Even though he is paid for by the Civil Service Commission, not the Attorney General?

Mr. CALLAWAY. Mr. Chairman, I am a freshman in this Congress, and I hate to sound as if I know something I do not, but is not the Post Office under Civil Service with all kinds of tests that are not shown in this particular bill? The bill I quoted, Mr. Chairman, says "without regard to Civil Service laws." In my district they are using the Post Office as politically as they can and they are under Civil Service.

Mr. ROGERS. If there is any bipartisan commission in the Government, it is in the Civil Service.

Mr. Brooks, any questions?

Mr. Brooks. No questions.

I think we have two other very able Members of Congress waiting to testify and I was hoping we would get to them.

Mr. McCulloch. Mr. Chairman, first of all, I would like to compliment our colleague for his able statement.

I should like to ask a couple or three questions about your local election procedure in Georgia.

Is your election machinery manned by an equal number of Democrats and Republicans?

Mr. Callaway. Not to my knowledge. We do have a situation where both parties come down, bring people to the registrars, but that is under the State government. I am not saying that as of now there is any particular discrimination between Democrats and Republicans but there is no requirement that there shall be equal Republicans and Democrats in registration.

Mr. McCulloch. At the risk of being a bit pensive unintentionally, I should like to suggest not only to Georgia but to every other State in the Union, if any there be, that they man their election machinery by an equal number of persons from the two major parties in this country.

That is the system by which my State operates and that is the system which, with few exceptions, has given us an election process that is above reproach.

Furthermore, I should like to say this: Ohio was admitted to the Union in 1803 or 1804. We have never had a literacy test in Ohio and if a person who is utterly illiterate and is of voting age, under no legal restraint and meets the basic test of residence, he may vote.

Mr. Callaway. If I may comment, I misunderstood your last question, Mr. McCulloch. I thought you meant the registration. The election does not call for both parties to be present. A bill which requested this was defeated by the Democratic house. We have asked our election commission to have a Republican observer present at the polls and we were denied this.

Now, many counties do allow a Republican in the sense of fair play but there is no requirement for it. I think there I am speaking with some feeling on this, that the control of one party is a dangerous thing.

Mr. McCulloch. I would agree with that conclusion.

There is evidence on the record that there has been discrimination solely by reason of race and color in certain States of this country, including at least one Northern State, that that discrimination was massive and so massive that in one or more States it resulted in less than 10 percent of Negroes of voting age being registered to vote.

Now, if those States have seen the light and they apply their literacy tests strictly in accordance with the letter of the law and there would be the refusal to register on that test, would that not in itself be discriminatory against these 50, 60, or 70 percent of Negroes who have been refused the right to register by reason of the application of the literacy test in the past?

Mr. Callaway. It could be, Mr. McCulloch. I have heard this point before. I understand, however, that the Supreme Court has ruled literacy tests valid. You are giving one argument. There can be many valid arguments why there should be literacy tests.

Again, I think that State should have that point clearly, the point that you have made—that the State will not discriminate.

Mr. McCULLOCH. And provided a grandfather clause will not prevent equally qualified people from voting when literacy tests are justly applied.

Mr. CALLAWAY. Provided, Mr. McCulloch, there is no grandfather clause or no clause which discriminates because of race.

Mr. McCULLOCH. What I am trying to see is if 90 percent of the whites in a given registration district are registered to vote and have been registered during the time when there was a planned process and procedure of discrimination and at the same time only 5 or 10 or 3 percent of the Negro people registered and the tests are equally applied from now on, have we not in effect discriminated and will we not be continuing to discriminate against people solely by reason of race and color contrary to the 15th amendment?

Mr. CALLAWAY. From the facts you give, I would tend to agree with you. I do not think those are the facts in my State.

Mr. McCULLOCH. I did not mean to imply that; I named no State and I failed to name a State intentionally.

If those facts be correct, do you have now or will you supply us with the plan by which we can reach those people who have been discriminated against in the past?

Mr. CALLAWAY. I will be glad to look into it and see what I can come up with.

Mr. McCULLOCH. I want to say this and it will end my questioning because of other witnesses who are here.

I believe in the constitutional right of States to fix qualifications for registration and voting, and I have no desire to break down those State laws wherever they have been and are now being properly administered.

I think that is a matter for the States themselves.

Again I want to compliment you for an excellent statement.

Mr. CALLAWAY. Thank you, sir.

Mr. ROGERS. Mr. Lindsay.

Mr. LINDSAY. I thank our distinguished colleague for appearing before this committee. Thank you very much.

Mr. ROGERS. Thank you so much. We certainly appreciate your testimony, Mr. Callaway.

Mr. CALLAWAY. Mr. Chairman, if I may, I would like to submit for the record a correction. During the research on this, I found out the Civil Rights Commission had entered in testimony some misleading information which I have talked to them about and I think they would like that corrected as much as I would.

Mr. ROGERS. It will be received for the record.

(Document referred to follows:)

CORRECTION FOR THE RECORD SUBMITTED BY REPRESENTATIVE HOWARD H. CALLAWAY

MARCH 29, 1965.

Mr. Chairman, during the preparation for this testimoney, I noted an error in the registration and voting statistics of the U.S. Commission on Civil Rights submitted during their testimony. I have been in touch with the Commission and I am sure that they would like to have this error corrected for the record.

But let me say before doing so that the result of this unfortuante error was that those who heard this testmony were left with the impression that Georgia

was not doing its job in registering voters. We in Georgia are proud of the strides that we are making in voter registration and do not like to have our records falsified.

I refer to page 17 of the Georgia section of the registration and voting statistics. Report submitted by the U.S. Commission on Civil Rights as part of the testimony of the hearings before this committee. I show below a portion of the report from this page:

	Voting age population [1]	Number registered [2]	Percent registered
Total	2,409,072	1,292,078	[3] 53.6

[1] 1960 census.
[2] Unofficial figures. Published by Atlanta Journal and Constitution, Apr. 28, 1963, representing registration as of December 1962.
[3] If the estimated total population as of Nov. 1, 1964 (published the U.S. Bureau of Census in news release dated Sept. 8, 1964), were used as a base, this percentage would be 49.0.

It seems that these figures are designed to show several things. First, that the percent registered in Georgia is quite low or 53.6 percent when comparing 1962 registration figures with 1960 census. But note 3 seems to show by comparing 1964 census figures with 1962 registration figures that the percent of registered voters in Georgia is decreasing, and, as a matter of fact, it has probably decreased to the point where it is below 50 percent, and thus Georgia would fall within the group of States described in the Voting Rights Act of 1965 with less than 50 percent registration.

These figures do not take into account the unbelievably large registration of both whites and nonwhites in Georgia within the last 2 years. I am told that in the last year alone more than 300,000 Georgians, over 100,000 of which were Negro, have registered. The official registration figures for the 1964 election stood at approximately 1,670,000.

These new 1964 registration figures could have been obtained by a letter or a phone call to the secretary of state of Georgia. They are official and public figures. It should obviously occur to any fairminded person that if a table would use 1964 census figures, it would also use 1964 registration figures. If this had been done by the Civil Rights Commission, the percent of registered voters would have been shown as 63.5 percent, and not the 49 percent that they showed.

Mr. McCULLOCH. Mr. Callaway, that was the error I referred to and again I wish to compliment you for your industry in digging out the accurate figures.

Mr. CALLAWAY. I believe this is an additional error, Mr. Chairman.

Mr. ROGERS. Congressman Tuck, would you come forward?

STATEMENT OF HON. WILLIAM M. TUCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. TUCK. Thank you, Mr. Chairman.

Mr. ROGERS. Would you call your witnesses?

Mr. TUCK. Mr. Chairman, members of the committee: It is a privilege and pleasure for me to have this opportunity to present to the subcommittee this morning three distinguished Virginians whom you have agreed to hear and who are now prepared to offer their views and comments on the pending bill.

Mr. David J. Mays, of the law firm of Tucker, Mays, Moore, & Reed, is a noted authority on constitutional law. He is chairman of the Virginia Commission on Constitutional Government. He is an able attorney and Pulitzer Prize winner for historical biography.

The Honorable Robert Y. Button is here in his official capacity as

attorney general of the Commonwealth of Virginia. He is serving in that high office in the finest tradition of our State. Before he was elected attorney general, he served for a long period as State senator.

Mr. James Jackson Kilpatrick, able and brilliant editor of the Richmond News Leader, has distinguished himself in the field of journalism and is recognized nationally for his sharp and penetrating editorial comment. He has also participated in numerous nationwide public forums on important subjects.

I am sure that these gentlemen will make able and profound representations, which should warrant the serious consideration of this committee. I am confident that they, along with all who love justice, share my indignation and resentment that the Attorney General of the United States and this administration have undertaken to besmirch the fair name of Virginia and hold up to public scorn our State and its honorable citizens.

Although there has been no suggestion of voter discrimination in Virginia, and although the U.S. Civil Rights Commission on page 22 of the 1961 report absolves Virginia of discrimination against voters, and although as late as February 1965 the Southern Regional Council reported to the U.S. Civil Service Commission that in Virginia there is a variation of less than 1 percent of qualified registered Negroes and qualified registered white voters, yet the Attorney General and this administration, disregarding the facts, would require Virginia to prostrate itself before a three-judge Federal court in a foreign jurisdiction and establish its innocence of discrimination.

Even in the heat of the close of the War Between the States. U. S. Grant, in his letter to General Lee at Appomattox Courthouse April 9, 1865, was more considerate of the character and the feelings and civil rights of the paroled southern soldier than the Attorney General of the United States is of our present-day citizens when he presents these vindictive and punitive proposals on behalf of an administration seeking unheard of political power to be centered in a central government with utter disregard of the rights of the States and the people thereof, and in violation of all known established procedures.

I have no doubt that Virginia can establish its innocence in any impartial inquiry and before any honorable forum, but we still have, in our State, many people who love the Constitution and to whom such a fantastic and reprehensible proposal as is now made is repugnant in the highest degree.

This legislation seeks to demean and to denigrate and to humble the people of the Commonwealth of Virginia, whose son, Thomas Jefferson, wrote the Declaration of Independence; whose son, George Mason, penned that matchless instrumentality of freedom, the Bill of Rights, from which the first 10 amendments of the Constitution of the United States were bodily lifted; and another of whose sons, James Madison, goes down in history as the father of the Constitution of the United States. This new regime in this new hour seeks to substitute a new leadership for the great men I have mentioned.

As a representative of the people of Virginia and as one who has been honored by them, as they have honored few others, for a period extending over more than 40 years, I resent those implications and

aspersions coming from sources having little regard for the Constitution and even less for the facts.

Mr. Chairman, it would not be appropriate for me to consume more time now when I hope that, as a member of this committee, I may have the opportunity at a future date to propound many pertinent and searching questions to the proponents of this incredible bill.

I thank you for indulging me in these prefatory remarks and I now have the great honor to present to you Mr. David J. Mays, distinguished constitutional lawyer of Richmond, Va.

Mr. ROGERS. Thank you, Governor, we appreciate your statement. I am sure you will have many more things to say in this full committee as this matter is presented and I am hopeful that you continue to offer suggestions and amendments.

Mr. TUCK. Thank you, sir. I have a good many.

Mr. ROGERS. Yes, sir.

Mr. Mays, would you proceed in your own manner?

STATEMENT OF DAVID J. MAYS, CHAIRMAN, COMMISSION ON CONSTITUTIONAL GOVERNMENT, RICHMOND, VA.

Mr. MAYS. Mr. Chairman, and gentlemen: I appreciate very much the opportunity to appear. I realize that there are two others to appear and I know about the time they will take. I will confine my remarks, I hope, to 4 or 5 minutes.

I want to address myself primarily to the constitutional feature of this bill and I will be talking in ABC's and I will say nothing that every member of the committee does not already know, I am sure, at least so far as the constitutional references are concerned.

This bill is going to be governed as to constitutionality by four or five provisions of the Constitution: They are article I, section 2, which generally sets forth the powers of the States and four amendments: 15, 17, 19, and 24. As far as I know, those are all of the relevant provisions of the Constitution affecting this bill.

As you all know by heart, article I, section 2, provides that: "The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

There is no limitation imposed there and in the absence of amendment it means the States have full power to determine the basis of representation, the basis of the qualifications for vote.

Now, the Supreme Court has reiterated again and again that the plain wording of this section leaves entirely to the States these qualifications. One hundred and twenty-five years after the Constitution was adopted, that is in 1913, it was amended by article XVII for the popular election of Senators and this same language was reiterated. That is, it said, "The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures."

Now, this is the state of the law unless modified in some other way and it has been modified in three ways, each time by constitutional amendment.

The 15th amendment adopted in 1870 as part of the package after the Civil War, provides in section 1:

> The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

It was designed to give to the Negroes the same vote as the whites in both Federal and State elections.

The 19th amendment, adopted in 1920, provided in this first paragraph: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

It, too, applies to both Federal and State elections.

Finally, the 24th amendment, adopted last year, provides in section 1 that:

> 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.

This provision by its terms applies to Federal elections alone. The poll tax may still be required by a State in elections for State and local offices.

In sum, then, as I read the Constitution with the amendments, the effect of article I, section 2, and the amendments quoted, is this: The States on their own have power to determine the qualifications of voters except that they may not bar Negroes because of their race or women because of their sex, nor may they require the payment of taxes as a prerequisite to vote in Federal elections.

The Congress has no power to impose new restrictions upon the States' power to fix a qualification of electors. If it could have done so, it would not have sent the 15th amendment to the people for ratification, it would have simply passed a bill rather than a resolution.

The same is true of the 19th and the 24th amendments. Why did they go to all that trouble if Congress had the power to circumscribe article I, section 2? Congress does have the power of enforcement of the amendments 15, 19, and 24, all of which carry the identical language, and I quote:

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

Clearly, the Congress can by statute set up machinery to insure Negroes that they will not be denied the vote because of their race; to assure women that they will not be denied the vote because of their sex; and to assure those who pay no taxes at all in support of government that they can nevertheless vote for Federal officeholders.

Furthermore, I submit that Congress certainly cannot restrict literacy tests because the Constitution as amended does not do so, it can only see that such tests do not discriminate against any electors.

How does the bill before you stand? It begins with the statement that it is, and I quote: "to enforce the 15th amendment to the Constitution of the United States." Its sole purpose therefore is to assure the Negro that he will not be discriminated against at the ballot box on account of race, and the Congress has the undoubted power to pass appropriate—and I emphasize "appropriate"—legislation to give him that assurance to see that the tests, including literacy, are applied to him in the same way they apply to whites, but the Congress has no power to wipe out the tests themselves or impose others in their stead.

Its power is coextensive with the mode to prevent discrimination and there it ends. It cannot disregard a provision of the Constitution

such as article I, section 2, because it is abused, but only take appropriate steps by statute to wipe out the abuses; that is, to see that there is no discrimination between the races.

Now, the Attorney General of the United States has recently appeared before the Judiciary Committee of the Senate—possibly here, I don't know—and sought to sustain the validity of the bill before you by saying that it would set up a similar system to the Enforcement Act of 1870 which was adopted to make effective the 15th amendment and adopted in the same year as the adoption of the 15th amendment.

He states, and he states correctly, that the validity of that force bill was sustained by the Supreme Court in ex parte 100 U.S. 371, but as he himself concedes, this act relates to the congressional and not State elections.

The Enforcement Act having been practically ignored by the Federal Government after 1876, was ultimately repealed by the House. Report No. 18, 53d Congress, 1st session, made this protest against the repeal, and I quote:

> It must be borne in mind that the Federal election laws do not in any way interfere with the State laws as to State elections nor do the Federal supervisors assume the responsibility of enforcing either State or Federal laws at the polls, but are there simply to report the facts when the irregularities occur.

Now the diehards who fought against repeal, themselves conceded the limitation of Federal power. That those powers are clearly exceeded in this bill is clear.

I am not going into all the details of the bill, the attorney general of Virginia is going to follow me and comment on some of them.

We have just heard from a distinguished gentleman from Georgia and I do not want to repeat the observations he made there. This bill is not legislation, it is a war measure.

Mr. ROGERS. What?

Mr. MAYS. It is a war measure, w-a-r. Now when I say this, may I submit this to you——

Mr. ROGERS. What do you mean "war"?

Mr. MAYS. I am going to tell you now.

Mr. ROGERS. Okay.

Mr. MAYS. There has been no showing that I know of, of a refusal to register Negroes in Virginia. In my city of Richmond, when the Negroes found that the deadline was coming and they had not taken the trouble to register, the registrar kept his office open after hours and registered by the hundreds. I know of no complaints.

If there are complaints, they are very few and scattered, there is nothing massive.

We are dealing with a war measure, that is what I call it. It is urged upon you in an atmosphere of deliberately whipped-up hysteria. It is based upon a presumption from which is drawn an inference from which comes a new force bill. In my State where Negroes register and vote freely, both the presumption and the inference are false. In trying to cure what in some quarters are called abuses, and there are admitted abuses in some States, we adopt the old Chinese way to burn down the house to roast the pig.

In recent years our Constitution has suffered some severe blows. Each weakens it and this would weaken it much further.

I would comment on one or two things in the bill itself because I know time is running out. I remember, Mr. Chairman and gentlemen, the debates fairly well in State convention in 1788 at the time the Constitution was ratified. I remember at that time Virginia was very much afraid that it would be putting its neck in a noose and for that reason, Patrick Henry was one of those who opposed the adoption of the Constitution right down to the end.

One of the arguments he made was that people would be dragged away to a distant place for trial, that people of Virginia would be required to go to a national capital to assert their rights, not just on appeal but in the first instance; and now after 175 years, we have arrived there.

You will observe that one section of the bill, that is 9(f), makes it simpler when the Government wants a quick remedy in order to get something done with the registrar, it can go immediately into the office of the Federal judge of the locality; but if the State wants redress, it has to come not to the judges in its own neighborhood—even though the Federal judge is appointed by the President and confirmed by the Senate, they are not to be trusted—they must come to the three-judge court.

I say, at least it took 175 years, but he made a prophecy here as he made a prophecy on many other occasions.

I submit to you, sir, that this bill violates the basic concepts of the Constitution and if it does, there is no sense in sitting down and taking each little piece of this bill and saying, "Would you do this? Would you do that? Would you do the other?" You don't pick specks out of rotten apples, Mr. Chairman, and that is what this is.

Understand me, sir, and gentlemen, I understand that there has been much provocation, I know that. I have heard it said by judges that bad cases make shipwreck of principle, but we better not make shipwreck of this principle.

If you are going to weaken the Constitution in order to accomplish what you think is a good result, it will not be there to protect you when you need it very badly.

Thank you, sir. I will answer questions.

Mr. ROGERS. Questions, Mr. Brooks?

Mr. BROOKS. No questions of this gentleman.

Mr. ROGERS. Mr. Corman?

Mr. CORMAN. I wonder, sir, if in your opinion the abandonment of public education in portions of the Commonwealth of Virginia will have any effect on the ability of young people growing up in those areas to pass the Virginia literacy test?

Mr. MAYS. Well, of course a question asked by a member of a committee is always deemed relevant. I have no way to answer that. I say the people of Virginia are getting their education.

If you are speaking of Prince Edward County, those schools were open and it is true they were private schools. In Prince Edward County, may I say to you, sir, the people there, when they closed the public schools in that one county, offered to the Negroes the same kind of treatment they offered to the whites, to give them a free private education of the same quality, and they refused.

The white people offered to pay for that education and the colored people refused, they would rather stand on what they deem was their

principle and not go to school at all rather than go to a private school which would have given them an education.

Are there further questions, sir?

Mr. ROGERS. Just a minute.

Mr. McCulloch?

Mr. MCCULLOCH. I should like to ask Mr. Mays if he believes the bill before us, the administration's bill, is so utterly objectionable that it cannot be improved to the point where the gentleman could approve it?

Mr. MAYS. I am not sure I follow your question.

Mr. MCCULLOCH. Well, first of all, let me separate the question.

Do I understand the gentleman to say that he was utterly opposed to the bill as it is now constituted?

Mr. MAYS. Yes, sir.

Mr. MCCULLOCH. Did I understand the gentleman to say that he was not disposed to take the time to point out the defects by reason of the fact that it was in the nature of a rotten apple and it could not be improved?

Mr. MAYS. That is right, sir.

Mr. MCCULLOCH. Then, could I conclude finally that you are so opposed to this bill in the present form that you are not in a position to make suggestions to us for the improvement of it?

Mr. MAYS. I would start over.

Mr. MCCULLOCH. That is all.

Mr. ROGERS. Thank you.

Mr. Lindsay?

Mr. LINDSAY. Thank you, Mr. Chairman. I just have this question. I take it that you believe that H.R. 6400 is unconstitutional?

Mr. MAYS. You take it correctly.

Mr. LINDSAY. Why do you say that in view of the 15th amendment? Isn't the 15th amendment total?

Mr. MAYS. No, sir; the 15th amendment is not total. The 15th amendment sees to it that we give the Negro the vote, and heaven knows, he is entitled to it, and we do it in our State. The 15th amendment also has a provision, as do the others I mentioned, the Congress may pass appropriate legislation. Any legislation which is necessary—I will add the words "necessary and appropriate" or "appropriate" alone if you like—is perfectly all right as long as it does not transgress some other provision of the Constitution.

Mr. LINDSAY. Now I can understand the quarrel with the devices and techniques of the administration bill, H.R. 6400, but the fact of the matter is that in the event there is an area where no literacy test has been used to deny the Negro the vote, the State or local government can go to court to demonstrate that, and they are out from under the coverage of the bill.

Mr. MAYS. That is what the bill says, but it means a State must go hand-in-hand which already has the constitutional authority to do these things and prove they have that authority, they have not violated any rules.

Let me go back and say one more thing, Congressman.

Mr. LINDSAY. You are talking about a problem involved in the burden of proof.

Mr. MAYS. No; it is more than a burden of proof, we have a constitutional question.

May I state it again this way: Article I, section 2, gives the State carte blanche power to determine what the provocation of voters are. Out of experience——

Mr. LINDSAY. That article was adjusted by the same amendment.

Mr. MAYS. And two others. To the extent that that is changed by those amendments, it has been modified, but except as to those degrees and in those ways, it stands as it is.

Now, there is nothing in the three modifying amendments which take away the literacy tests. It simply says that you must not discriminate against colored people; it does not take away the test, it simply says you must apply the test uniformily when there is a discrimination and appropriate legislation may be applied to do it. But appropriate legislation does not include something which would violate the other provisions of the Constitution and you are trespassing again on article I, section 2, if you do.

I see you shake your head, sir, but you are saying in effect that it was not necessary to amend the Constitution to take care of the colored people, it was not necessary to take care of the women, it was not necessary to take care of the poll tax, we could have done it by legislation in the last 100 years. That is a novel thing.

Mr. LINDSAY. I do not wish to prolong this. I must say that the 15th amendment states that literacy tests shall not be used discriminatorily and where there are reasonable findings to that effect, the Federal Government under the 15th amendment has the power to see to it that they are eliminated.

Mr. MAYS. Well, the 15th amendment does not deal with literacy tests at all, it says there must be no discrimination between the races.

Mr. LINDSAY. And section 2 of the 15th amendment gives Congress the power to do whatever is necessary in order to guarantee the right contained in the 15th amendment.

Mr. MAYS. Whatever is appropriate. My point is that in doing something which the Congress deems appropriate, it must not infringe upon the part of the Constitution that is still there if these tests that the State has are still within the States' power.

Now if you find it is abused in a given State and we set up machinery by which a Federal representative can come in and watch it and police it and see in one way or another that the 15th amendment is enforced so there is no discrimination, all right; but I can't come there and say we will do a literacy test, that is a constitutional right the State has.

Mr. LINDSAY. We won't debate that point because I think we have discussed it earlier. The State can be free of the effects of the bill if it demonstrates it has not discriminatorily used literacy tests against the Negroes.

Mr. MAYS. The State does not have to be put to that under the Constitution.

Mr. LINDSAY. Thank you.

Mr. ROGERS. Thank you. We appreciate your being here.

Mr. TUCK. Thank you.

Next is the attorney general of Virginia, Mr. Robert Y. Button.

STATEMENT OF HON. ROBERT Y. BUTTON, ATTORNEY GENERAL OF THE STATE OF VIRGINIA

Mr. BUTTON. Mr. Chairman, gentlemen of the committee: My name is Robert Y. Button and I am currently attorney general of Virginia. I have not had an opportunity to correlate my statement with that of Mr. Mays; I regret there will be some repetition.

H.R. 6400 is among the most dangerous pieces of legislation ever offered in the Congress of the United States. I make this statement advisedly, for I earnestly believe it goes further than any step yet attempted to erode the basic concepts of constitutional government in which the individual States are acknowledged to be sovereign. The legislation is not only patently unconstitutional, but it is shockingly discriminatory.

Section 2 of H.R. 6400 provides, "no voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color." Enactment of this section is fully justified by the inhibition of the 15th amendment to the Constitution of the United States.

Surely, no one will argue with the wisdom of that prohibition; yet, by some mental gymnastics not yet clearly determined, the authors of H.R. 6400 have reached the amazing conclusion that requiring a person to read or write his own name in registering to vote is a voting qualification which abridges the right in question on account of race or color.

Apparently, such a requirement is considered in some States a "test or device" which abridges the right to vote on account of race or color. How, then, are we to determine the States in which such a test or device violates the proscription of the 15th amendment?

It will be seen from the provisions of section 3 that this bill would apply to States that maintained on November 1, 1964, some "test or device" as a qualification for voting only (a) if less than 50 percent of the persons of voting age were registered on November 1, 1964, or (b) if less than 50 percent of such persons voted in the presidential election of 1964.

Take particular note that it does not apply equally to all States, even though there may be in effect a voter qualification, test, or device in a State to which the law does not apply, far more stringent than that utilized in a State to which the legislation does apply.

In Virginia, for example, a prospective voter is required to register in his own handwriting. Under this bill, such a requirement could be construed to constitute a "test or device."

In November of 1964, only 41 percent of the voting age population of Virginia voted in the presidential election. In Alabama, 36 percent of the adults voted; Alaska, 48.7 percent; Georgia, 43.2 percent; Louisiana, 47.3 percent; Mississippi, 32.9 percent; South Carolina, 38 percent.

Although less than half of the adults of Arkansas and Texas voted in that election, these States reportedly employ no "test or device" as defined in this legislation and would therefore be excluded from its provisions.

Although less than 50 percent of the adults voted in Virginia in 1964, this circumstance surely cannot be attributed to any discrimina-

tion in registering prospective voters, since more than 50 percent of the adults were registered at the time.

Despite the fact that 1,311,023 adults were qualified to vote in the 1964 presidential election, and despite the unprecedented efforts of both major political parties to encourage those persons to vote, only 1,042,267 eligible persons voted; 268,756 failed to exercise their franchise.

Notwithstanding, under the test prescribed in this legislation, the State of Virginia will be penalized for the failure of those registered voters who did not take sufficient interest in the candidates offered for their consideration in 1964 to exercise their franchise.

The basic premise of this legislation thus fails; for, despite the absence of a "test or device" in States such as Arkansas and Texas, less than 50 percent of the adults voted in the last presidential election.

On the other hand, the State of New York has a literacy test far more rigorous than that employed in some States but, because 63.2 percent of the adults in that State voted in the last election, New York is exempt from this punitive legislation.

This bill manifestly brings about the very evil it purports to cure; namely, the creation of a separate and distinct standard of voter qualifications in all elections. No person with the slightest regard for the Constitution of the United States could conceivably read this legislation and fail to conclude that it abolishes all qualifications for voting within a minority group of States, while simultaneously permitting all other States to impose their own qualifications no matter how stringent they may be.

This, gentlemen, is not only unconstitutional; it is discrimination of the rankest order—discrimination that has neither reasonable classification nor rational justification.

Section 2 of article 1 of the Constitution of the United States specifically provides that the electors in each State shall have the same qualifications requisite for electors of the most numerous branch of the State legislature. It has always been uniformly considered the right of the various States to set the qualifications for the electors of the most numerous branch of its State legislature.

With the exception of the prohibitions against classifications based upon race or sex enunciated in the 15th and 19th amendments, no provision of the Constitution of the United States has to this date changed that fundamental principle. Indeed, the principle was expressly reaffirmed in the 17th amendment. And yet, if a State falls within the provisions of this bill or if, in the uncontrolled judgment of the Attorney General, Federal examiners are appointed, such examiners will then register and place on the list of those eligible to vote persons who may not be qualified under State law.

In other words, the Federal Government will disregard the qualifications of the States and setup its own rules and regulations for persons who may register and vote in all elections—Federal, State and local.

This action on the part of the Federal Government would apply only to those States in which Federal examiners were appointed, either because those States were indicted under section 3, or because, in his unfettered judgment, the Attorney General thought the same necessary.

This would mean that in all other States the law applicable to the qualifications of electors would still be in force and govern; while in the small minority of States in which Federal examiners were appointed, this would not be true.

The Federal Government would thus apply its judgment as to qualifications of electors in certain States and not in others. This would be the most far-reaching denial of constitutional State power yet devised and the obliteration of the most fundamental rights of the States by their transfer to the Federal Government.

In practical effect, the States so irrationally indicted and (though guiltless of racial discrimination) convicted without trial would no longer be sovereign entities but simply departments of the Federal Government.

Also, if examiners are to be appointed in some political subdivisions of the States, different rules as to registration would apply in those subdivisions having examiners and those which do not. In those subdivisions where no examiners were appointed, the laws of the State would still be effective.

If we are to assume this legislation is to stand or fall on the strength of the 15th amendment, we should look to the question of voter discrimination based on race or color. I can, of course, speak only for Virginia.

The U.S. Commission on Civil Rights, in its 1961 report on voting, found no discrimination in Virginia on account of race or color. Indeed, there has been no report of any recognized agency or responsible individual which even suggests that discrimination exists in Virginia in the right to vote on account of race or color.

Moreover, anyone who had the temerity to allege that Negroes are denied registration or the right to vote in Virginia because of their race could not sustain that allegation by proof and would be guilty of manifest and willful misstatement.

In the city of Richmond, where there is a large Negro population, 14,086 Negroes applied for registration in 1964 alone, and 14,786 were duly registered. Only 200 applicants were rejected, and the applications of these 200 on file in the registrar's office reveal that these 200 were rejected solely because they were unable to fill out the registration form which merely required—and this is what Virginia requires on an application form—insertion of the applicant's age, date and place of birth, residence and occupation at the time of registration and for 1 year next preceding, whether or not he has previously voted, and if so, the State, county, and precinct in which he last voted. That is not a literacy test.

Richmond is typical of the State as a whole, and no person who has even attempted to inform himself can truthfully state that Negroes in Virginia have been subjected to discrimination in either registration or voting.

Mr. McCULLOCH. May I interrupt at that point?

Mr. BUTTON. Yes.

Mr. McCULLOCH. I was impressed by your reciting the law of Virginia with respect to its qualifications for voters. Must the applicant to register, or must a voter be able to read those qualifications himself or may he meet the test by having them read to him and orally answering the questions?

Mr. BUTTON. He has to read them and answer in his own handwriting.

Mr. MCCULLOCH. Thank you.

Mr. BUTTON. And that is all of the questions that are asked of him, sir. Those questions are printed on the form that are given to him.

Now, it is true under our law, that the registrar may question him but he can only question him as to his qualification as an elector; that is, whether he has ever been convicted of a felony and so forth.

Indeed, no accusation has been received from any quarter that any person of voting age in Virginia, whether white or Negro, has ever been denied the right to register or vote by imposition of a "test or device" based on race or color.

I would also focus your attention on the power conferred upon the Federal Government in this legislation which would discriminate against registered voters who do not elect to vote.

Under this bill, Federal examiners are to be appointed in the minority States to which the enactment applies. These examiners prepare and maintain lists of persons eligible to vote in Federal, State, and local elections.

If, for any reason, those registered voters—whether white or Negro—do not see fit to vote at least once during 3 consecutive years, their names are to be removed from the list.

I have always entertained the view that the right to vote was just that—a personal right, not a governmentally imposed obligation.

So far as I am aware, there has never heretofore been proposed a Federal law which would compel a State to see that registered persons actually voted, or to penalize registered voters for failure to exercise the franchise.

To insure that illiterates, felons, and other unqualified individuals do not vitiate the electorate, many States have imposed some form of voter qualification. This power, exclusively one reserved and confirmed to the States, has heretofore been founded upon article I, section 2, of the Constitution of the United States and the 10th amendment.

Apparently, Congress is now to substitute its own judgment for that of the individual States regarding voter qualifications, not only in Federal elections but in State and local elections as well.

Thus, the States affected by this legislation will be compelled to extend the franchise indiscriminately to all, or to anyone deemed to be qualified in the unlimited discretion of a Federal examiner.

Finally, with due respect, I offer this admonition. This bill is merely one step in a scheme for ultimate Federal control of the conduct of all State and local elections—even to the extent that later there will be federally appointed election officials in elections involving public office in every State, county, city, and town in the Nation, as well as elections upon such limited questions as creating local debt or imposing local taxes.

Today, it is a select minority of States which Congress is so gleefully and impetuously grinding under its heel.

Tomorrow, under other circumstances, your own States may feel the weight of this tyranny, for surely there is no man here so blind as to be unable to see that the criteria designed today to eliminate the reasonable voter qualifications in Virginia can as easily be redesigned

tomorrow to abolish voter qualifications in New York, California, or any other State.

Individually, Virginia has no fear of the spotlight being turned on its electoral process. We stand justly proud of our system and the public servants who administer it. Any citizen who feels that his right to vote has been abridged or affected in any way, either by the system itself or through its administration, has ample remedy under Virginia law to redress this condition without reliance upon Federal legislation such as that proposed in H.R. 6400. But, as already pointed out and everywhere conceded, no remedy is required under Virginia law, for no wrong exists to be corrected.

By enacting this legislation, Congress would not only burn down the house to roast the pig, but burn down the houses of those guiltless of racial discrimination in their electoral processes as well as those who may properly be the object of "appropriate legislation" under the 15th amendment.

Also destroyed will be the edifice of constitutional government in this country, under which the founders of the Union sought to protect and advance the cause of liberty primarily by distributing governmental power between the Nation and the States, each supreme within its sphere, thus forming an indestructible Union of indestructible States.

Sober reflection, objective analysis, and dispassionate deliberation should characterize the congressional approach to legislation such as this, for the rights of no citizen can be guaranteed tomorrow if the Constitution is rent assunder in an impulsive, misguided, and illegal effort to secure the rights of certain citizens today.

Wrong means employed by good men today are inevitably utilized to justify the act of a tyrant tomorrow. The Members of Congress should think well before evading the Constitution we have all sworn to uphold. Some day we may be in sore need of its protection.

Thank you.

Mr. ROGERS. Thank you, Mr. Attorney General.

Do you feel that the mere fact that some people may be registered in your State and qualified to register by the examiners that come out of this bill, that that alone will be sufficient for the Federal Government to take over the voting machinery in the State of Virginia?

Mr. BUTTON. Mr. Chairman, I do not say that the present bill does. I say that if we take this step today, then I am sure that you realize this is not the last step of which you will be asked to act at some future time.

Whatever the future holds, it is a step in that direction.

Mr. ROGERS. We have had the similar 1957 act, 1960 act and 1964 act, and now we are into 1965.

Mr. BUTTON. And you will have others.

Mr. ROGERS. I am not so naive to argue that we are going to solve all of our problems in this bill but we are trying to solve some of them.

Now, if you have any method or any suggestions as to how we may bring about proper registrations in some of the States other than your own, why, I would be delighted to hear it.

Mr. BUTTON. Mr. Chairman, my main statement was this, sir, that I think that what you are attempting to do is to see that no Negroes are prevented from registering or voting on account of their rights.

Mr. ROGERS. Yes, sir.

Mr. BUTTON. I say to you in all sincerity that that situation does not exist in Virginia and yet under the terms of this bill, Virginia may be caught in that net.

Mr. ROGERS. Well, if it is caught and they are permitted to register and vote, then how could it hurt Virginia?

Mr. BUTTON. Well, we do not think, sir, that we need Federal examiners and under the bill you could have Federal examiners appointed in our State.

Mr. ROGERS. I know but you have made the statement that qualified Negroes in Virginia are permitted to vote.

Mr. BUTTON. Right.

Mr. ROGERS. Yet, you have no problem in connection with a colored man in Virginia presenting himself to vote.

Mr. BUTTON. Right.

Mr. ROGERS. If that is true, then why should Virginia worry whether there is Federal examiners down there or not if they can qualify and vote that way?

Mr. BUTTON. Well, sir, it violates the Constitution, I believe, because it is, first, discriminatory to the States; and, secondly, it deals with matters that the Federal Government does not have the right to deal with in our judgment and we are opposed to that feature of the bill, sir.

Mr. ROGERS. You agree that the Federal Government has a right to deal with it under the 15th amendment.

Mr. BUTTON. Limited to the fact that under the qualifications of the individual States there is no discrimination in its administration.

Mr. ROGERS. Yes.

Mr. BUTTON. That we have the right to select our own qualifications but they must be administered without discrimination as to whites and Negroes.

Mr. ROGERS. Yes, but if there happens to be administration of those clauses because of color, you would be the first to advocate that that administration is wrong, would you not?

Mr. BUTTON. We don't have any administration of discrimination in Virginia on the right to vote.

Mr. ROGERS. Yes, but if there were States that did, then you would be the first to say that they should not be permitted to do it, would you not?

Mr. BUTTON. I don't think, sir, that what a voter coming to register has to do in Virginia is a literacy test but we do think that you should be able to write your own name, your age, your address, and whether or not you have ever voted—that is a reasonable test. If you have Federal examiners in Virginia, there is no assurance that they would not disregard that information and simply register them contrary to what our present law is now.

Mr. ROGERS. Thank you.

Any questions, Mr. Brooks?

Mr. BROOKS. None, Mr. Chairman.

Mr. ROGERS. Mr. McCulloch?

Mr. MCCULLOCH. Yes.

Mr. Attorney General, I was out of the hearing room for a moment and I do not recall whether you expressed an opinion concerning the

constitutionality of H.R. 6400, as it is now written. Do you have an opinion or did you express it during your statement?

Mr. BUTTON. Yes, sir. I said in my opinion it was unconstitutional as now written.

Mr. MCCULLOCH. I wonder if you have had ample time to fully study the statement of the Attorney General of the United States before this committee on March 18?

Mr. BUTTON. I frankly have not seen it, have not heard it, and have not had time to study it.

Mr. MCCULLOCH. The Attorney General, in my opinion, made a very learned statement on the question of constitutionality of this proposed legislation.

Mr. BUTTON. Of course, Mr. McCulloch, you are aware that we frequently disagree?

Mr. MCCULLOCH. Oh, certainly. Lawyers disagreed over the Civil Rights Act of 1964 and some still disagree.

Beginning on page 14 of the Attorney General's statement in section 5 entitled "The Constitutionality of the Bill." It runs on for at least four or five pages. In view of the fact that you have not had the time to study it or it has not come to your attention, I would be pleased if you would take with you the statement of the Attorney General and reply to his statement of and concerning the constitutionality of the bill.

You know, Mr. Attorney General, we sit here as members of this committee in two capacities, or at least, some of us do. Some of us sit here as advocates of legislation which we think is necessary to end discrimination in some States, in violation of the 15th amendment.

We also sit here in the nature of judges who are listening to the presentation of a case by the opponents and by the proponents. One of our major duties, if not our major duty, is not only to consider our position as advocates but to most seriously take our responsibilities as judges.

I ask you for this material so that I at least can have your help in reaching a final decision in this most important manner.

Mr. BUTTON. Mr. McCulloch, if you will give me a copy of it, I will be glad to do that.

Mr. MCCULLOCH. I have it right here. We will see that you get at least one copy.

Mr. BUTTON. If you will give Congressman Tuck a copy, he can send it to me.

(Subsequently, the following letter and statement were submitted by Attorney General Button:)

COMMONWEALTH OF VIRGINIA,
Richmond, April 7, 1965.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Congress of the United States, Washington, D.C.

DEAR MR. CELLER: I enclose herewith statement filed in accordance with the request of Subcommittee No. 5 at the time I testified on March 29, 1965. The statement is self-explanatory and I would appreciate it if you, as chairman of the committee, would have this filed with the records of the hearing.

Sincerely yours,

ROBERT Y. BUTTON,
Attorney General.

THE CONSTITUTIONALITY OF THE VOTING RIGHTS ACT OF 1965—H.R. 6400

A RESPONSE TO THE ATTORNEY GENERAL OF THE UNITED STATES

On March 29, 1965, in my capacity as attorney general of Virgina, I testified before Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives of the United States in opposition to H.R. 6400, entitled the "Voting Rights Act of 1965." On that occasion, I began my testimony with the statement that the proposed bill was:

"* * * among the most dangerous pieces of legislation ever offered in the Congress of the United States. I make this statement advisedly, for I earnestly believe it goes further than any step yet attempted to erode the basic concepts of constitutional government in which the individual States are acknowledged to be sovereign. The legislation is not only patently unconstitutional, but it is shockingly discriminatory."

During the course of the hearings on that date, my attention was directed by a member of the subcommittee to the following observation made by the Attorney General of the United States while testifying on the same bill before the House Judiciary Committee on March 18, 1965:

"I have shown why this legislation is necessary and have explained how it would work. It remains to determine whether it is constitutional. The answer is clear: the proposal is constitutional."

In light of this obvious conflict of opinion concerning the constitutionality of H.R. 6400, I was invited by the subcommittee to submit a more elaborate expression of my views on this subject in the form of a response to those previously announced by the Attorney General of the United States. I accepted this invitation, and I wish now to express my appreciation to the members of the subcommittee for this opportunity to detail my position on this aspect of the legislation under consideration.

In essence, H.R. 6400 provides that no person shall be denied the right to vote in any election (Federal, State, or local) because of his failure to comply with any voter qualification test established by State law, in any State or political subdivision thereof (1) which maintained a voter qualification test on November 1, 1964, and (2) in which less than 50 per centum of the resident persons of voting age were registered on November 1, 1964, or in which less than 50 per centum of the resident persons of voting age voted in the presidential election of November 1964. In effect, H.R. 6400 would abolish any voter qualification test (including racially nondiscriminatory tests) in certain States only, i.e., those States falling within the ambit of one or the other of the two "50 per centum" formulae mentioned above.

The only provision of the Constitution of the United States upon which its proponents attempt to justify enactment of the legislation in question is the 15th amendment. In its entirety, that amendment prescribes:

"Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

The Attorney General of the United States asserts that H.R. 6400 constitutes "appropriate" legislation under section 2 of the 15th amendment. I submit, however, that H.R. 6400 is constitutionally invalid because (1) in its direct operation and effect under the "50 per centum" formulae, the bill arbitrarily and unjustifiably includes within its terms States which are demonstrably free of any racial discrimination in the establishment or administration of their electoral processes and (2) in its direct operation and effect, the bill infringes the constitutional power of the individual States of the Union to impose such racially nondiscriminatory qualifications upon the exercise of the right to vote as each State may select. I shall discuss these two fundamental constitutional objections to the bill seriatim.

In considering the first stated objection to the constitutionality of H.R. 6400, it is well settled, as the Attorney General points out citing *Katzenbach* v. *McClung*, 379 U.S. 294, that Congress must have a "rational basis" for the findings upon which its legislation is predicated. It must be noted, however, that the Attorney General's attempt to establish a "valid factual premise" for congressional action with respect to voter discrimination in Virginia is completely refuted by the findings of the U.S. Civil Rights Commission. In its 1961 Report on Voting, the Commission declared:

"The absence of complaints to the Commission, actions by the Department of Justice, private litigation, or other indications of discrimination, have led the Commission to conclude that, with the possible exception of a deterrent effect of the poll tax—which does not appear generally to be discriminatory upon the basis of race or color—Negroes now appear to encounter no significant racially motivated impediments to voting in 4 of the 12 Southern States; Arkansas, Oklahoma, Texas, and Virginia." (Volume 1, p. 22).

"In three States—Louisiana (where there is substantial discrimination), Florida (where there is some), and Virginia (where there appears to be none)—official statistics are compiled on the State level by county and by race." (Volume 1, p. 102).

As the Supreme Court has repeatedly pointed out, a statute, valid on its face, may be assailed by proof of facts demonstrating that the statute as applied to a particular class is without support in reason. See, *United States* v. *Carolene Products Company*, 304 U.S. 144. In light of the findings of the U.S. Civil Rights Commission summarized above, it is unarguably apparent that no racial discrimination exists in Virginia with respect to the right to vote. This circumstance completely undermines the indispensable factual foundation upon which H.R. 6400 is based. The power of Congress to enforce the guarantee of the 15th amendment is specifically limited to the enactment of "appropriate" legislation for this purpose; yet it is manifest that the "50 per centum" formulas which would activate the proposed legislation operate to include within the ambit of the bill States in which no racially motivated voter discrimination exists. Clearly, Congress may not—under the guise of enforcing the 15th amendment prohibition against denial of the right to vote on account of race or color—enact legislation which would suspend the electoral laws of a State in which racial discrimination in the exercise of the right to vote is known by Congress, as a matter of public record, to be nonexistent. Legislation having such an effect is clearly without reasonable classification or rational justification, amounts to no more than a mere arbitrary fiat and cannot constitute "appropriate" legislation under the 15th amendment.

Consideration of the second stated objection to the constitutionality of H.R. 6400 begins with the premise that the right to prescribe the qualification of electors is one constitutionally vested exclusively within the province of the individual States, subject only to the limitations contained in the Federal Constitution forbidding qualifications based upon race (15th amendment), sex (19th amendment), and the payment of a poll tax in Federal elections (24th amendment). Thus, article 1, section 2, of the Constitution of the United States and the 17th amendment provide that electors for the House of Representatives and Senate, respectively, shall have the qualifications requisite for electors of the most numerous branch of each State legislature. Under these provisions, the qualifications of electors in congressional elections must be those qualifications established by each State for electors of the most numerous branch of the State legislature. Further in this connection, the Supreme Court of the United States has repeatedly declared that a State is free to conduct its elections and limits its electorate as it may deem wise, except as its actions may be affected by the prohibitions of the Federal Constitution, and that the power of Congress to legislate at all the subject of racial discrimination in voting rests upon the 15th amendment and extends only to the prevention by appropriate legislation of the discrimination forbidden by that amendment.

Decisions of the U.S. Supreme Court since ratification of the 15th amendment dispel in conclusive fashion any doubt concerning the validity of this fundamental premise. In 1876 (*United States* v. *Reese*, 92 U.S. 214), the Supreme Court declared:

"The Fifteenth Amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another, on account of race, color or previous condition of servitude * * * If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be * * * *The power of Congress to legislate at all upon the subject of voting at State elections rests upon his Amendment.*" (Italics supplied.)

Moreover, in 1959 (*Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45), the Court stated:

"The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised * * * So while the

right of suffrage is established and guaranteed by the Constitution * * * *it is subject to the imposition of State standards which are not discriminatory* and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed * * * While Sec. 2 of the Fourteenth Amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of 'the right to vote,' *the right protected 'refers to the right to vote as established by the laws and constitution of the State.'* " (Italics supplied.)

Finally, on March 8 of this very year (*Carrington* v. *Rash*, —— U.S. ——), the Court confirmed:

"*There can be no doubt* either of the historic function of the States to establish, on a nondiscriminatory basis, and in accordance with the Constitution, other qualifications for the exercise of the franchise. Indeed, '*the States have* long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.' * * * 'In other words, the privilege to vote in a State *is within the jurisdiction of the State itself*, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violations of the Federal Constitution.' " (Italics supplied.)

In light of these decisions, it is manifest that for almost a century the Supreme Court of the United States has consistently and repeatedly proclaimed the power of each State under the Federal Constitution to establish racially nondiscriminatory criteria governing the exercise of the elective franchise of its citizens. The language in which this fundamental power of the individual States has been declared, reaffirmed and protected consists of such plain English words that he who runs may read and the ingenuity of man cannot evade them. The prescription of racially nondiscriminatory qualifications upon the right to vote is the exercise of a power vested in each State by the Constitution of the United States. If this power rests with the States under the Constitution—as is unarguably true—then its exercise may not be interdicted by the Congress or any department of the Federal Government, under the 15th amendment or any other provision of the Constitution. If the constitutional powers of the States could be thus manipulated out of existence by the legislative action of Congress, the guarantees of our Constitution are illusory indeed.

Let me attempt to clarify this proposition and emphasize its validity by reference to an analogy with which, perhaps, not even the Attorney General of the United States will disagree. Section 2 of the 14th amendment authorizes Congress to reduce the basis of representation of States in the House of Representatives whenever the right to vote in a State is denied or abridged except upon stated grounds. By contrast, the right of a State to equal representation in the Senate of the United States by two Senators, each of whom shall have one vote, is a right guaranteed to each State without qualification by article V of the Constitution. If the Congress of the United States—purporting to act under the 15th amendment—should enact a law diminishing Senate representation in those States in which the right to vote has been denied or abridged upon the ground of race, would such a law be constitutional? Manifestly not, and I do not believe that even the Attorney General of the United States would have the temerity to suggest that it would be. In enacting appropriate legislation under the 15th amendment, it simply does not lie within the power of Congress to violate other provisions of the Federal Constitution which expressly guarantee certain rights to, and confer certain powers upon, the States or other independent coordinate branches of the Federal Government.

Yet the right to prescribe racially nondiscriminatory voting qualifications is one no less vested in the States by the Federal Constitution than the right to equal representation in the Senate. If the latter right of the States cannot be infringed by Congress under the 15th amendment, the former right equally cannot be.

Let me emphasize at this point that I do not make the broad (indeed, too broad) assertion that each State has the power to prescribe any voting qualifications it may see fit. It is the power to prescribe racially nondiscriminatory qualifications which each State constitutionally possesses, and when a State establishes such nondiscriminatory qualifications, it exercises a constitutionally protected power with which no branch of the Federal Government may permissibly interfere.

Just such a situation exists in my State. Under Virginia law, a prospective voter is required to fill out in his own handwriting a form indicating the applicant's age, date and place of birth, residence and occupation at the time of registration and for 1 year next preceding, whether or not he has previously voted and if so, the State, county and precinct in which he last voted. These requirements are not only reasonable but are utterly devoid of any racial connotation whatever, and their imposition neither denies nor abridges anyone's right to vote because of race or color. Under the Constitution of the United States, Virginia has the power to impose these nondiscriminatory voter qualifications upon its citizens, and the Congress has no authority whatever to suspend them. If these qualifications were discriminatory, or if they were discriminatorily administered, then, and only then, would these circumstances provide an area in which Congress, under the 15th amendment, could legislate. However, if neither of these circumstances exists, as is concededly the case in Virginia, no enactment of Congress can vary them in the slightest degree. Congress cannot substitute its own voting standards for the nondiscriminatory voting qualifications prescribed by the State without infringing the constitutionally established and judicially protected power of the State in this field.

During the course of his testimony before the House Judiciary Committee on March 18, 1965, the Attorney General of the United States made reference to the following observation of the late Mr. Justice Frankfurter, speaking for the Court in *Gomillion* v. *Lightfoot*, 346 U.S. 339, 347, a 15th amendment case:

"When a State exercises power wholly within the domain of State interest, it is insulated from Federal judicial review. But such insulation is not carried over when State power is used as an instrument for circumventing a federally protected right."

Precisely so. And when a State establishes nondiscriminatory voting qualifications, it exercises a power wholly within the domain of the State and is insulated not only from Federal judicial review but from Federal legislative interference. It adds nothing to emphasize that such insulation is not available when State power is used as an instrument for circumventing a federally protected right, for when a State's voting standards are, in fact, nondiscriminatory, they cannot be an instrument for such purpose nor come within the reach of congressional power.

The Attorney General of the United States also referred to certain observations of Chief Justice John Marshall in the historic cases of *Gibbons* v. *Ogden*, 9 Wheat. 1, and *McCullough* v. *Maryland*, 4 Wheat. 316, for alleged support of the power of Congress to enact H.R. 6400. In this connection, he quoted the following classic utterances of Marshall in those cases:

"this power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, *other than are prescribed in the constitution.*" (9 Wheat. 196).

* * * * * * *

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, *which are not prohibited, but consistent with the letter and spirit of the constitution*, are constitutional." (4 Wheat. 421).

In light of the phrases of the quotations which I have italicized above, it is manifest that these declarations lend no support to the Attorney General's position. On the contrary, the great Chief Justice was abundantly careful, on both occasions, to point out that congressional power was subject to the limitations "prescribed in the constitution" and that the only means properly available for the exercise of congressional power are those "which are not prohibited * * *." However, as we have seen, the power of Congress to deal with State prescribed voter qualifications is severely limited by the Constitution and the suspension by Congress of the racially nondiscriminatory qualifications of a State is clearly prohibited.

Equally irrelevant and misleading are the Attorney General's reference to *Ex Parte Siebold*, 100 U.S. 371, and his statement that in the cited case the Supreme Court "sustained a system of Federal supervisors for registration and voting not dissimilar to the system proposed here." Not only was the legislation under review in Siebold limited to Federal elections, but it did not even purport to interfere with State laws prescribing voter qualifications. It is thus apparent that the legislation validated in Siebold was not even remotely similar to the legislation currently under consideration by Congress.

I lay no claim to reputation as an authority on the subject of constitutional law, and certainly I have no talent for predicting the future course of Supreme Court decisions on the basis of existing precedent. I do believe, however, as Mr. Justice Harlan made clear in his address dedicating the Bill of Rights Room in New York City on August 9, 1964, that the Framers of the Constitution:

"* * * staked their faith that liberty would prosper in the new Nation not primarily upon declarations of individual rights *but upon the kind of government the Union was to have.* And they determined that in *a government of divided powers* lay the best promise for realizing the free society it was their object to achieve." (Italics supplied.)

One aspect of this governmental edifice which the Framers sought to erect, and which H.R. 6400 would manifestly subvert, was the distribution of power between the Nation and the States, each supreme within its sphere, thus forming an indestructible Union of indestructible States. I speak today for the preservation of this governmental ideal and for the preservation of the right of every citizen to vote, without regard to race or color, within the framework of this ideal and in a manner consistent with the letter and spirit of the Constitution.

Mr. ROGERS. Mr. Lindsay?

Mr. LINDSAY. Mr. Attorney General, I would only add this point to what Mr. McCulloch just said. I would urge you, in the course of your examination, to do that most difficult thing for all of us to do; that is to separate disagreements in policy from points of constitutional law.

There may be areas in the administration bill where many people may disagree with the policy involved, but that does not necessarily mean that it is unconstitutional, as I am sure you agree.

Mr. BUTTON. Yes, sir.

Mr. ROGERS. Thank you, Mr. Attorney General.

Mr. MCCULLOCH. Mr. Chairman, I am very pleased that the Attorney General and Mr. Mays have been here to point out, what they believe to be, defects of this bill. I shall look forward to constructive suggestions from each of you. Thank you so much.

Mr. ROGERS. We have one more witness.

Mr. TUCK. I would like to present Mr. James J. Kilpatrick, better known as Jack Kilpatrick, who as I pointed out, is the distinguished editor of the Richmond News Leader in Richmond, Va., and he is one of the finest writers I think I have ever read.

I just hope he can talk as well as he writes.

Mr. Kilpatrick.

Mr. ROGERS. Thank you.

STATEMENT OF JAMES J. KILPATRICK, VICE CHAIRMAN, COMMISSION ON CONSTITUTIONAL GOVERNMENT, RICHMOND, VA.

Mr. KILPATRICK. I certainly join Mr. Tuck in that statement.

I am vice chairman of the Virginia Commission on Constitutional Government. I am here to back up my chairman, Mr. Mays, in entreating you gentlemen not to adopt an act, that seems to so many of us, so thoroughly unconstitutional.

It seems to me, from my own study of the Constitution, which stretches back over a long period of years, that you are embarking here on a most dangerous precedent. I have a feeling as I read this bill that you are attempting to cure manifest injustice by acting unjustly, that you are going after a bad unconstitutional situation by acting unconstitutionally, and that you are trying to remedy subversion of the Constitution by further subversion.

I do not believe this is something that Congress, in a moment of tranquillity, as distinguished from an hour of turmoil, would reasonably want to do. I believe that you gentlemen are embarked in dropping an atom bomb in the course of trying to kill a few squirrels.

The trouble with the bill is not, sir, in its policy, I would say to Mr. Lindsay. I think all of us can agree on the aim of this bill. There is no quarrel, really, there. The difficulty with this bill is in the means that it adopts to go after this aim. I say this, sir, with a background of long advocacy of the right to vote for the Negro people of the South.

Neither in person nor through my newspaper did we raise the slightest objection to the bills of 1957 and 1960, because those were plainly predicated, sir, on the 15th amendment and upon the power that is vested in the Government to adopt appropriate legislation to prohibit the States from discriminating on account of race or color.

We did object to those provisions in the 1964 Civil Rights Act which undertook to fix a sixth grade level as a presumptive qualification of voting, because we felt, there, the Congress was getting into the area of qualifications for voting that were broad in general, and were not restricted to discrimination by reason of race or color.

As I read this bill, I got past section 2, which was all right:

> No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

Then I got to section 3, and I started to read:

> No person shall be denied the right to vote in any Federal, State, or local election because of his—

and I expected the next words to be "race or color," but I say to you that these were not the next words.

This is not the trigger provision at all. The trigger has nothing to do with denial by reason of race or color.

This section reads:

> Because of his failure to comply with any test or device, in any State or in any political subdivision of the State

and so on, in which these 50 percent trigger provisions obtain.

Mr. ROGERS. May I interrupt you there?

Mr. KILPATRICK. Yes.

Mr. ROGERS. If after the words "because of his failure to comply with any test," we put the word "color" or "previous condition of servitude" as provided in the 15th amendment, do you think that that would help the situation?

Mr. KILPATRICK. Some such language at this point, yes, sir, would vastly improve your bill. I believe you would begin to get a predicate on the 15th amendment which this key section of the bill, in my judgment, now lacks.

Mr. ROGERS. We appreciate your suggestions in that regard because all of us want to stay within the confines of the Constitution. In fact, I asked the Attorney General, when he was here, why the bill did not spell out more about the 15th amendment.

You feel that if we added that it would at least help meet the constitutional objection in that area?

Mr. KILPATRICK. Yes, sir, though I certainly do not want to be put in the position of endorsing the atom bomb when I think you ought to

go after the problem with a rifle. I do not think, myself, that this bill provides a vehicle for an amendment or rewording. I think as Mr. Mays said, you have to about start over and aim at your narrow situation.

The problem that you are coping with, in my judgment, Mr. Chairman, is a problem that is concerned with relatively few localities in the Deep South where this situation exists.

Mr. ROGERS. Have you any suggestions as to how we may do that? I think we agree that is what we are trying to get at. Have you any suggestions?

Mr. KILPATRICK. Yes, sir. Generally, I believe if you can devise a means for establishing some presumption of discrimination by reason of race or color, whether it is on the basis of number of Negroes registered or the number of Negroes who vote, then I think you are staying within the parentheses of the 15th amendment.

In those localities in which this condition exists, I, myself, would have no objection to the appointment of temporary Federal registrars under some sort of procedure that would assure Negroes—persons who had been denied the vote because of their race or color—of their immediate registration and the right to vote.

Mr. ROGERS. I think that is the only thing that we are trying to work out here.

Mr. KILPATRICK. I hope that it is, but this bill goes so much beyond that. Under section 3 it would apply to a State hypothetically in which there was not a single Negro resident. If fewer than 15 percent of the voters were registered or did not vote, the trigger provisions of this bill would come into effect under section 3.

I don't believe that is a precedent that the Congress wants to set, because I don't think it is a fair precedent for one thing, and I don't think it is related to the 15th amendment for another.

The gentleman from Georgia who spoke to you earlier put some figures in the record on voter apathy as a factor in this, and it is a very real factor.

We in Virginia have a long tradition of practically no contest for most public offices; this is a strange condition but it is true. I went to the records for our 1963 general election in Virginia, a perfectly typical election. We have in Virginia 36 State senate districts with 40 seats, but there were contests in only 13 of those districts.

We have 70 house districts but there were contests in only 24.

We have 98 counties in which there were commonwealth attorneys elected, but there were only contests in 18 of them.

In 98 counties we elected sheriffs but there were contests in only 41.

We had 95 counties in which we elected commissioners of the revenue but there were contests in only 20.

In 95 counties where we elected treasurers, again there were contests in only 20.

This sort of situation back in the boondocks simply does not stimulate much interest in voting and it is a very real factor. This is not racial discrimination or denial of any of the ballot by reason of race or color. It is simply that there is not much interest in these local elections.

The same applies to elections for U.S. Senator. In the period between 1930 and 1964 there were 25 opportunities for contests in elec-

tion for U.S. Senator in Virginia—that is, 12 primaries and 12 general elections and one special—but in only 5 of these, only 5 out of 25 opportunities over a span of 34 years, was there any significant contest for U.S. Senator in Virginia.

You gentlemen may be impressed with the ease by which our Virginia Congressmen seem to get back in office. We made a study of elections in Virginia between 1934 and 1964 for the U.S. Congress. In this span of 30 years there were 307 opportunities for contest for seats in the House of Representatives but there were actually only 46 contested elections, significantly contested elections, in the whole span of 30 years.

Now that sort of situation, I submit to you gentlemen, does not create an atmosphere in which active, vigorous voting and registration are likely to take place, but this is no discrimination on account of race or color. This is the way we rather contented and perhaps complacent Virginians are, we elect good men to the Congress and the Senate and we keep them there.

Mr. ROGERS. You would conclude from that that the Congressmen did a good job for the people at home.

Mr. KILPATRICK. Oh, yes, sir, they certainly do. They do such a good job that the distinguished Members from the Fifth District have faced only three contests in a span of 34 years. This is an agreeable situation.

My beloved friend, Mr. Tuck, states that opposition is the most hateful thing that he knows of, but he does not have to face it very often.

My point is this condition does exist and it is not related to race or color, but it is related to section 3 of this bill because this bill would be triggered by this 50-percent provision.

Some of you gentlemen raised the question earlier: What is wrong with Virginia getting out from under this 10-year provision?

The answer that Mr. Button gave you is, of course, the answer we would give. We just think the bill is unconstitutional; whether or not we can get out from under it is not the point.

The bill would apply to Virginia. The language is perfectly clear in section 3(b) where it excludes any demonstration of ability to read or write or understand. In Virginia you have to be able to pick up this form and read it and then write out the answers, which certainly does not seem to us unreasonable.

The test is administered without discrimination in regard to race or color but it would apply to us.

Mr. ROGERS. Then you would say that 3(b) would apply?

Mr. KILPATRICK. Yes, I have no question that it would apply.

Mr. ROGERS. Regardless of the other factors?

Mr. KILPATRICK. That is right; yes, sir. It certainly would because we only voted 41 percent last November. So we would have to go through the humiliating procedure of going to this court in Washington to exempt ourselves. The section violates the spirit of the Constitution, for we would go in with the presumption of guilt and have to prove our innocence. This seems to me a disgraceful burden to put on a State in which for 10 years it has been established there has been no wrongdoing because of race or color.

Mr. McCULLOCH. I wonder, Mr. Kilkpatrick, if you know of any such precedent in any Federal statute enacted in the entire history of this country?

Mr. KILPATRICK. No, sir; I know of none that would put this sort of burden on a State to prove its innocence, and to establish that its power under article I to provide for the qualifications of its own voters has been abused. This seems to me a humiliating thing to do to a State and it ought not to be done under a proper respect for our Federal system.

Mr. McCULLOCH. Is there any reflection upon or possible encroachment on the Federal system by this kind of a procedure?

Mr. KILPATRICK. Yes, sir; beyond any question, in my judgment. This seriously encroaches upon our system of federalism, and I think the system is enormously important to the vitality of the Republic. We have to let States exercise their powers, sir; whether they exercise them wrongly or injudiciously or unwisely, we have to leave some area to turn around in.

Now, where they have exercised them unlawfully or unconstitutionally or discriminatorily—yes, sir, under the 15th amendment, go after them with appropriate legislation and correct those evils.

I don't think we ought to tinker with the whole structure of federalism in order to get at an area of wrongdoing that all of us know is wrongdoing. It ought to be eliminated.

Mr. McCULLOCH. Mr. Kilpatrick, I would like to continue because section 8 of this bill appears to be without precedent, so far as I know. Do you know of any precedent for section 8?

Mr. KILPATRICK. No, sir; I know of none, and I call your attention to the manner in which it would operate. Section 8 provides, as you know, that whenever a State or political subdivision shall enact any law or ordinance imposing qualifications or procedures for voting that are different from those as of November 1964, that the State or subdivision must go to this three-judge court in Washington to get approval of what it does.

Here is a resolution that was introduced in our city council on March 8 providing additional voting precincts. That is all it does. We have 68 voting precincts in Richmond now and some of them got too crowded, and this is a little local ordinance to provide for additional voting precincts in Richmond.

Under this bill we could not adopt as simple a paper as this without running to Washington and getting it approved and proving that this was not intended to discriminate on race or color.

I think this is preposterous.

Mr. McCULLOCH. Does Virginia have a machine or ballot voting?

Mr. KILPATRICK. We have authority to use machines and certain machines are now being tested by our State board of education. Localities are authorized to use them if they want to.

Mr. McCULLOCH. Therefore, if the provision for paper ballots was changed to provide for a machine ballot, it would be necessary, in your opinion, under this bill, to come to Washington to have that resolution evaluated.

Mr. KILPATRICK. If that is a procedure for voting; yes. I think unquestionably that would be true. The language is too broad and should be pulled down if this is to be retained. The scope of the bill should be greatly narrowed so that there is some complaint procedure

perhaps, if this is to be. I am trying to be as realistic and helpful as I can because I read in all the newspapers that this bill is going to be passed and I would like to contribute what I can constructively to improve it.

If there were such a complaint charging that this little ordinance in the city of Richmond changing our number of precincts from 68 to 75 as a convenience to the voters was intended to cause some skullduggery, and that it was really a vicious thing aimed at the Negroes—if you had some complaint well founded, then all right; if you are going to go ahead with this approach, adjudicate that.

The bill provides for no such trigger provision, it just says flatly that we cannot do anything different from what we were doing on November 4, 1964, without the permission of the court.

This would apply not only to Virginia but to the other States, each political subdivision, each town and county in these States.

I think it is too far-reaching a provision.

Gentlemen, my time is up. If there are any questions, I will answer.

Mr. LINDSAY. Yes; there are, Mr. Chairman.

Mr. ROGERS. Mr. Lindsay.

Mr. LINDSAY. I want to make sure the record is complete.

What is the commission on constitutional government?

Mr. KILPATRICK. It is an official agency of the State government that was created by the General Assembly in 1958. It is financed by the Commonwealth of Virginia and its duties are to propound a sound doctrine of the Constitution of the United States, especially in the area of State and Federal relationships. Mr. Mays is the chairman, I am the vice chairman, there are 15 members; 7 appointed from the legislature, 8 appointed by the Governor from the State at large.

John Dos Passos, the distinguished novelist, has just come on our commission.

We have attempted to work in our field largely through publications. We recently put out a new edition of the Constitution of the United States. We put out a publication called "The Right Not to Listen." We publish several publications, we have one on the fire now, dealing with the eighth amendment protection against cruel and unusual punishment.

Mr. ROGERS. Did you publish an analysis of the Magna Carta?

Mr. KILPATRICK. The Commission on Constitutional Government has not. That came from the separate Magna Carta Commission, of which I am chairman.

Mr. ROGERS. Due to the bell we cannot go beyond this time, but if you have any additional information to submit for the record, we would be happy to receive it. We will adjourn at this time.

Mr. LINDSAY. I have not finished. I have one or two questions.

Mr. MCCULLOCH. Mr. Chairman.

Mr. ROGERS. Mr. McCulloch.

Mr. MCCULLOCH. If this be proper, I should like to have unanimous consent for Mr. Lindsay to continue.

Mr. LINDSAY. Parliamentarywise if someone objects, we cannot sit.

Mr. ROGERS. Is that the parliamentary situation?

Mr. BROOKS. That is, I think, an accurate analysis, Mr. Chairman. The House has not given permission to sit. I would be perfectly willing to stay and listen.

Mr. ROGERS. Do you want to come back?

Mr. BROOKS. Come back tonight at 8 o'clock, 6 o'clock.

Mr. LINDSAY. What does the Chair rule? I have two questions.

Mr. ROGERS. It is 12 o'clock, we cannot sit beyond that hour.

Mr. KILPATRICK. Could I answer Mr. Lindsay's questions in writing and submit them because I have to go home and go to work this afternoon. Can I do that?

Mr. LINDSAY. That is up to the chairman. I take it the chairman has objected to us sitting.

Mr. ROGERS. I have no objection to sitting, we cannot meet.

Mr. TUCK. I want to take this opportunity of thanking you and the members of the subcommittee for hearing these witnesses today and I want to thank them for their sacrifice in coming up here and making this contribution.

Mr. ROGERS. Thank you. I will place in the record at this point the statement of the Honorable Richard Fulton of Tennessee.

(Statement referred to follows:)

STATEMENT OF HON. RICHARD FULTON, U.S. REPRESENTATIVE FROM TENNESSEE

The two most sacred rights we enjoy as citizens of the United States are the right to worship as we please and the right to vote. From these rights all our other rights and responsibilities follow.

Yet, in the United States today, all men can rejoice in the freedom of worship while many can only aspire to and dream of the right to vote.

Certainly, there is no more precious right than the right to vote under our democratic system of government. And it is inherent philosophical concept of a democratic form of government that every person enjoy and exercise that right.

When Abraham Lincoln spoke of that "government of the people, by the people and for the people," he meant *all* the people.

In the early days of this Republic, there was a malignancy planted in this young Nation. It was the practice of human bondage, trafficking in human lives * * * it was the practice of slavery. The word itself is the complete antithesis of democracy.

Over the years the chains of slavery were gradually loosened and finally removed. Yet the vestiges of slavery continued through the decades. While free, the slaves and their descendants, were to remain in too many instances, citizens of the United States in name more than fact.

For 100 years they have labored to participate in and share fully of the true promise of this great land. Their efforts have been painstakingly slow and there have been setbacks.

Mr. Chairman, the right to vote is basic to participation in any free society. If a man has no voice in the selection of those who will speak for him in the legislative halls and councils of this Nation, he will make his voice heard through other methods. And this, I would remind you, this protest for representation and a voice in the affairs of government is why the Stars and Stripes fly in American today instead of the Union Jack.

Through the years Congress has moved step by step to eliminate discrimination in voting. In 1957, 1960, and again in 1964, legislation was enacted seeking to insure the right to vote as granted by the 15th amendment. However, evidence is clear that a determined minority can frustrate the wishes of the vast majority reflected in the legislation adopted by the Congress. Documented testimony affirms that procrastination, manipulation, and intimidation in perpetuating voter discrimination is still widespread in some areas of the country.

I have no wish to interfere in the affairs of any State. But I have no wish to stand by idly when someone, whether it be a State official or a local registrar, interferes with someone's constitutional right to vote. If I permit this discrimination against my neighbor I am, in effect, making possible the practice of this same discrimination against me at some future date.

No. The right to vote is an all-inclusive right. To tell a man he is intelligent enough to pay taxes but not wise enough to vote is a disgrace. To require a man to face death in combat against his nation's enemies and then deny him the right to a voice in the government of that nation is abhorrant.

To guarantee rights to all in a nation and extend them to only some is to plant the seeds of national destruction.

In a message to the 88th Congress, the late President John F. Kennedy said, "The right to vote in a free American election is the most powerful and precious right in the world—and must not be denied on the grounds of race or color."

These words were valid then. They are valid today.

Mr. Chairman, I support H.R. 6400 and urge early and favorable action by your committee.

(The following resolution was submitted for inclusion in the record:)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OMAHA, NEBR.

Whereas article XV, section 1, of the Constitution of the United States of America states that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by an State on account of race, color, or previous condition of servitude; and

Whereas the Congress shall have the power to enforce this article by appropriate legislation; and

Whereas all persons are by nature free and independent and have certain inherent and inalienable rights; among these, the rights of life, liberty, and the pursuit of happiness; and

Whereas to secure these rights and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed; and

Whereas certain people in certain areas of these United States have been denied these basic fundamental rights; and

Whereas, more particularly, people in Selma, Ala., and people in Jackson, Miss., are entitled to all the rights that each and every other citizen of the United States have; and

Whereas the City Council of the city of Omaha is in sympathy with these people from Selma, Ala., and Jackson, Miss.; and

Whereas the City Council of the city of Omaha is in sympathy with any Federal legislation that will be directed to correct the voting situations in Selma, Ala., and Jackson, Miss.; Now, therefore, be it

Resolved by the City Council of the city of Omaha, That this city council is in sympathy with any Federal legislation that would be directed to correct the voting situation in Selma, Ala., and Jackson, Miss.

By HARRY IMSTIN, *Councilman*.

Adopted February 23, 1965.

MARY GALLYAN CORNETT, *City Clerk*.

Approved February 25, 1965.

JAMES J. ALWORD, *Mayor*.

I hereby certified that the foregoing is a true and correct copy of the original document now on file in the city clerk's office.

MARY GALLYAN CORNETT, *City Clerk*.

Mr. ROGERS. Tomorrow at 10 o'clock we will hear, among other witnesses, the attorney general of South Carolina.

We are adjourned.

(Whereupon, at 12:02 p.m., the subcommittee recessed, to reconvene at 10 a.m., Tuesday, March 30, 1965.)

VOTING RIGHTS

TUESDAY, MARCH 30, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Corman, McCulloch, Cramer, and Lindsay.

Also present: Representatives King, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and Allan D. Cors, associate counsel.

Mr. ROGERS. The committee will come to order.

We have as our first witness the Honorable Armistead Selden, Member of the House from the State of Alabama.

Mr. Selden has a prepared statement. You may proceed in your own manner.

STATEMENT OF HON. ARMISTEAD SELDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. SELDEN. Thank you, Mr. Chairman. I am grateful to you and to the members of the Judiciary Committee for allowing me to appear here this morning. Since events that have transpired in recent weeks in my home State of Alabama obviously have been the instrument which triggered the legislation now under consideration, let me refer briefly to those events.

The architects and the planners of the demonstrations that have been taking place in Alabama since January have operated successfully on the theory that constant harassment would result in a climate favorable to the passage of legislation similar to that presently under consideration.

Despite the pleas of many Alabamians, including myself, for the discontinuance of demonstrations until the issues in controversy could be ruled on by the Federal courts, three tragic and unnecessary deaths have taken place in Alabama.

Not only do the overwhelming majority of the people of Alabama oppose violence in any form, but they, too, have been perfectly aware throughout the demonstrations that any violence could inflame public opinion against the people of an entire State and section of our Nation.

Unfortunately, the restraint shown by millions of Alabamians has been submerged by isolated acts of violence, and Congress is being

called on in this highly emotional setting to enact, by a majority vote, legislation that amends the Constitution of the United States.

H.R. 6400 represents the latest effort to force the long arm of the Federal Government into an area which our Founding Fathers, for good and sufficient reasons, thought best left to the individual States.

The proponents of the measure would force six States of this Union, and six States only, to register and vote all persons in utter disregard of local literacy requirements; requirements designed to insure not just another vote, but a thoughtful, considered, and responsible vote. This, mind you, will not occur in all 50 States of this Union, but under this measure only in 6.

The voters in 20 States now have to meet literacy prerequisites before their names are enrolled on any voters' list. Fourteen of these States will continue to disenfranchise illiterates. Yet, in six States, where over 50 percent of the prospective voters fail to register and/or vote, Congress is asked to suspend the States' privilege to decide the qualifications of their voters. This privilege is guaranteed by the Constitution of the United States in section 2 of article I and section 1 of article II and by the 10th and 17th amendments.

I respectfully call to your attention a thought-provoking editorial which appeared in the March 22, 1965, edition of the Wall Street Journal. Although you are probably familiar with this editorial, I would like to refer to several paragraphs from it, and I quote:

> The very first article of that Constitution authorizes the individual States to decide the qualifications of voters in both Federal and State elections, subject only to the proviso that whoever is deemed qualified to vote for "the most numerous branch of the State legislature" is automatically qualified to vote in Federal elections.
>
> Making this a State function was no casual decision. It was reaffirmed in identical language in the 17th amendment—adopted, incidentally, more than 40 years after the 15th amendment, which provided that such qualifications should be impartially applied among all citizens.
>
> This principle in the Constitution has been repeatedly upheld and affirmed by the U.S. Supreme Court, not merely in dusty antiquity but as recently as 1959 by judges presently sitting upon that bench.

As presently written, H.R. 6400 has many inequities. For example, the State of Texas, while maintaining a poll tax, has no literacy requirement. Therefore, in its present form, H.R. 6400 would not apply to that State. However, there are in Texas, according to figures compiled by Congressional Quarterly, 137 counties in which less than 50 percent of the prospective voters actually voted in November 1964. This is twice the number of counties as there are in the entire State of Alabama. But, if this legislation is enacted into law in its present form, Texas would not be affected by it.

I am not here suggesting in any way that Texas discriminates against any of its citizens. The point is that the officials of any county in Texas could discriminate if they wanted to do so, and they would not be affected by H.R. 6400.

Consider the State of North Carolina. Again, I am not suggesting that there are any practices in North Carolina that would disenfranchise voters. North Carolina, however, does have a literacy test for prospective voters. Yet, in the presidential election of 1964, 51.8 percent of its voters cast ballots, according to Congressional Quarterly.

Therefore, the provisions of H.R. 6400 will not apply to that State as a whole, only to counties in which less than the minimum voted. Any county in which 50.1 percent of the voters cast ballots can dis-

criminate and the heavy hand of the Federal Government cannot interfere.

In the State of New York, we also find a literacy test. Statistics indicate that, in the State as a whole, 63.2 percent of the voters actually cast their ballots in the last election. However, in New York City alone, thousands of persons of Puerto Rican descent are prohibited from voting because they cannot read and write in the English language. I understand that New York law provides that any person who has reached 21 years of age after January 1, 1922, must be able to read and write in English.

Therefore, the following paragraphs from the March 22 editorial in the Wall Street Journal are particularly apropos; and I quote again:

> Of more consequences is the fact that if we have this law a citizen, white or Negro, can be entitled to vote in Alabama no matter how illiterate he is, or for that matter, even if he is a moron. But if the same citizen, white or Negro, lives in New York State he will not be entitled to vote.
>
> This would create a truly ingenious paradox. The illiterate citizen, Negro or otherwise, would find himself with more "rights" in Alabama and her five outcast sister States than in the great State of New York. More, the educational level of the voting citizens of Alabama, the low level of which is part of the general complaint against it by civil rights leaders, would be further reduced. And this by Federal sanction.

Mr. Chairman, it was the practice, until very recent times, to determine the validity of a proposal by laying it alongside the Constitution. Every attempt at the exercise of authority had to be traced to some grant of power within the four corners of that document.

Now, however, this time-tested method of reconciling purpose and power has been supplanted by a new standard. The new criteria for determining the constitutional validity of so-called civil rights bills consists, like the old audience reaction test of radio, of taking soundings of parading demonstrators. The old and secure moorings of a Nation of laws are in danger of being supplanted by mobs who hold the threat of mob action over the head of the Federal Government and its leaders.

The catalog of defects suffered by this proposal makes it unquestionably unconstitutional.

It would bar a State from using a literacy test for voting.

It would disregard valid State requirements for the payment of poll taxes in order to vote in State elections.

It assumes, without proof, that a coincidence of low registration or voting and the use of literacy tests necessarily means that there has been discrimination because of race.

It thrusts the burden of proof upon a State to demonstrate that it has not discriminated; no prima facie case of present discrimination is required of the Federal Government.

It makes past actions, going back 10 years, the basis for the imposition of present coercive reprisals.

It vests virtually all jurisdiction to hear cases arising thereunder in the U.S. District Court for the District of Columbia to the total disregard of the authorized and convenient forum.

It gives virtually unlimited discretion to the Attorney General to send Federal officials to superintend State election processes and procedures.

What is the new-found source of power to legislate away the powers of the individual States, Mr. Chairman? The bill states as its pur-

pose the enforcement of the 15th amendment. Is that amendment the fountainhead of the limitless power presupposed by the sponsors of this proposal? Its framers did not think so.

The Federal judiciary has sustained literacy tests by a consistent line of decisions, the most recent being *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45 (1959). And the Congress, in enacting the 12th, 15th, 17th, 19th, 23d, and 24th amendments, acted in a manner contrary to any such presupposition.

Also, Mr. Chairman, while the 15th amendment states that no person shall be denied the right to vote on account of race, color, or previous condition of servitude, nowhere does it say or even suggest that a certain percentage of citizens in any State must vote. It is in Russia and other Communist countries that citizens are required to vote.

Mr. Chairman, this measure is not right-to-vote legislation as it has been labeled. Rather, it is an unwise antiliteracy bill, which in itself is discriminatory. In the words of a March 17 Wall Street Journal editorial and I quote:

> This is a wholly different thing. At some time, and in some places every rule—restriction, if you prefer—has been abused to discriminate against a Negro voter. But it does not at all follow that every such rule, or restriction, is unwise or improper in itself.
>
> Age limitations, residence requirements, the ability to read and write the language in which society's affairs are carried on, all these things have much to commend them. In any event, a Federal law to sweep them away would violate that selfsame Constitution which the President asks us not to flout with prejudice. In two separate places, in identical language, the Constitution gives to the States the right to set such standards.

Mr. Chairman, I respectfully urge the members of this committee to examine carefully the far-reaching provisions and implications of H.R. 6400 and not to be governed by the emotions of the moment.

Thank you very much.

The CHAIRMAN. Mr. Selden, I would like to read to you a portion of the decision rendered by United States District Judge Johnson in the case of Hosea Williams, et al., (U.S. of America, Intervenor), against Gov. George Wallace. The decision in part reads as follows:

> As reflected by appendix A

and I am going to place the appendix A to this opinion in the record—

> the efforts of these Negro citizens to secure this right to register to vote in some of these counties, have accomplished very little. For instance, in Dallas County, as of November 1964, where Negro citizens of voting age outnumber white citizens of voting age, only 2.2 percent of the Negroes were registered to vote.
>
> In Perry County as of August 1964, where the Negro citizens of voting age outnumber white citizens, only 7 percent of the Negroes were registered to vote.
>
> In Wilcox County as of December 1963, where the Negro citizens of voting age outnumber white citizens over 2 to 1, zero percent of the Negro citizens were registered to vote as contrasted with the registration of 100 percent of the white citizens of voting age in this county.
>
> In Hale County, where Negro citizens of voting age outnumber white citizens, only 3.6 percent of these Negro citizens have been registered to vote.
>
> The evidence in this case reflects that, particularly as to Selma, Dallas County, Ala., an almost continuous pattern of conduct has existed on the part of Defendant Sheriff Clark, his deputies, and his auxiliary deputies known as "posse men" of harassment, intimidation, coercion, threatening conduct, and, sometimes, brutal mistreatment toward these Plaintiffs and other members of their class who were engaged in their demonstrations for the purpose of encouraging Negroes to attempt to register to vote and to protest discriminatory voter registration practices in Alabama.

(Document referred to follows:)

APPENDIX A

Dallas County, Ala., registration statistics (November 1964)

	Persons of voting age	Persons registered	Percent registered
White	14,400	9,542	66.3
Negro	15,115	335	2.2

Dallas County statistics

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
1961								
June	12	13	10	2	2	11	16	84
July	13	4	12	4	1	0	7.7	0
August	9	12	8	7	1	5	11	41
September	10	19	9	11	1	8	10	42
October	30	19	28	14	2	5	7	27
November	45	29	43	18	2	11	4	38
December	15	4	13	3	2	1	13	25
1962								
January	168	5	144	4	14	1	9	20
February	128	3	115	2	13	1	10	33
March	33	3	30	2	3	1	9	33
April	15	4	13	3	2	1	13	25
May	6	2	6	1	0	1	0	50
June	3	2	3	1	0	1	0	50
July	9	10	9	5	0	5	0	50
August	11	2	11	0	0	2	0	100
September	9	0	8	0	1	0	11.1	0
October	16	0	16	0	0	0	0	0
November	14	3	13	2	1	1	7.1	33.3
December	5	2	3	0	2	2	40	100
1963								
January	73	3	59	1	14	2	19.2	66.7
February	21	14	12	7	9	7	42.8	50
March	9	17	7	0	2	17	22.2	100
April	5	17	2	0	3	17	60.0	100
May	29	31	16	1	13	30	44.8	96.8
June	45	41	31	6	14	35	31.1	85.4
July	69	38	52	7	17	31	24.6	81.6
August	33	64	21	7	12	57	36.7	89
September	42	7	34	1	8	6	19	85.7
October	296	215	219	11	77	204	26	94.9
November	115	55	78	4	37	51	32.2	92.7
December	46	20	42	3	4	17	8.7	85
1964								
January	246	54	197	15	49	39	19.9	72.2
February	22	27	16	1	6	26	27.3	96.3
March	31	12	26	2	5	10	16.1	83.3
April	13	23	11	3	2	20	15.4	86.9
May	10	12	8	4	2	8	20	66.7
June	7	14	7	2	0	12	0	85.7
July	22	98	15	6	7	92	31.8	93.9
August	25	12	23	3	2	9	8	75
September	13	10	12	2	1	8	7.7	80.0
October	23	(1)	20	(1)	3	5	13.0	.....
November	7	7	7	1	0	6	0	85.7
December	0	14	0	0	0	14	0	100
1965								
January	52	112	24	12	28	100	53.8	89.3
February	33	95	32	36	1	59	3.0	62.1
Total	1,828	1,148	1,465	214	363	939	.....	.....

[1] Figures not obtained; the Board accepted applications on 1 day in October 1964.

Perry County, Ala., registration statistics (Aug. 17, 1964)

	Persons of voting age	Persons registered	Percent registered
White	3,441	3,260	94.7
Negro	5,202	365	7.0

Applications for registration

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
1962								
November	1	5	1	1	0	4	0	80
December	0	6	0	1	0	5	0	83.3
1963								
January	3	8	3	0	0	8	0	100
February	14	2	13	0	1	2	7.1	100
March	7	1	6	0	1	1	14.2	100
April	0	0	0	0	0	0	0	0
May	5	1	5	0	0	1	0	
June	4	189	4	42	0	147	0	77.8
July	4	37	3	0	1	37	25	100
August	9	6	8	0	1	6	11.1	100
September	6	0	6	0	0	0	0	0
October	21	73	15	15	6	58	28.5	79.5
November	51	65	45	4	6	61	11.7	93.8
December	28	20	24	6	4	14	14.2	70
1964								
January	48	62	34	8	14	54	29.2	88.9
February	10	15	6	2	4	13	40	86.6
March	16	17	12	3	4	14	25	82.3
April	(1)							
May	16	25	13	10	3	15	18.7	60
June	3	16	2	3	1	13	33.3	81.2
To July 20	6	24	6	8	0	16	0	66.6
To August 17	8	21	2	5	0	16	75	76.1

[1] No report.

Wilcox County, Ala., registration statistics (December 1963)

	Persons of voting age	Persons registered	Percent registered
White	2,647	2,959	[1] 100
Negro	6,085	0	0

Applications for registration

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
1959	47	0	47	0	0	0	0	
1960	118	0	116		2	0	1.6	
1961	62	0	62	0	0	0	0	
1962	97	0	89	0	8	0	8.2	
To Oct. 17, 1963	62	29	61	0	1	29	1.6	100
Total	386	29	315	0	[1] 11	29	2.9	100

[1] A total of 11 rejected applications filed with the Board are by persons believed to be white, 9 of them were rejected because the applicant did not possess the residency requirements to register to vote or they were not of proper age to register. 1 applicant was rejected for inability to complete the application, and 1 form was marked "disqualified due to inability to complete application," but the applicant was registered to vote on the basis of this application.

Hale County, Ala., registration statistics (December 1964)

	Persons of voting age	Persons registered	Percent registered
White	3,594	3,395	94.4
Negro	5,999	218	3.6

Applications for registration

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
1962								
January			7	0	Between 1954 and August 1963, 134 undated applications were rejected by the board of registrars; of these, 120 were filed by Negroes and 14 were filed by white applicants.			
February			69	3				
March			20	2				
April			19	1				
May			23	0				
June			22	5				
July			6	1				
August			2	3				
September			10	1				
October			6	0				
November			3	1				
December			2	0				
1963								
January			1	1				
February			7	4				
March			8	3				
April			2	3				
May			1	2				
June			5	3				
July			3	1				
August			6	14				
September			2	2	Between September 1963 and Feb. 11, 1964, 143 applications for which the race of the applicant has not been determined have been filed with the board of registrars.			
October			44	3				
November			12	8				
December			5	4				
1964								
January			13	3				
February			60	11	[1] 3	[1] 13		

[1] Rejected figures are for applications filed after Feb. 11, 1964.

Marengo County, Ala., registration statistics (January 1962–December 1964)

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
1964								
March	16	18	14	2	2	16	12.5	88.8
April	44	8	43	4	1	4	2.3	50
May	11	7	11	2	0	5	0	71.4
June	2	3	2	0	0	3	0	100
July	11	29	11	8	0	21	0	72.4
August	6	14	6	8	0	6	0	42.8
September	6	10	5	3	1	7	16.7	70
October	10	12	9	3	1	9	10	75
November	0	2	0	0	0	2	.....	100
December	0	3	0	1	0	[1] 2	.....	66.7
Total (March–December, 1964)	106	106	101	31	5	75	4.7	70.7

[1] In addition 2 forms filed by white persons and rejected by the board are undated; and 1 form filed in February 1964 and 1 in March 1964 do not indicate race.

Choctaw County, Ala., registration statistics (Feb. 1, 1965)

	Persons of voting age	Persons registered	Percent registered
White	5,192	4,886	94.1
Negro	3,982	284	7.1

Applications for registration

Year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
Nov. 9, 1959–Dec. 31, 1959	11	8	11	1	0	2	0	66.6
1960	232	20	232	1	0	19	0	95.0
1961	196	115	195	17	1	98	.5	85.2
1962	212	118	212	23	0	95	0	80.5
1963 to Feb. 5	32	0	32	0	0	0	0	
1959–63, dates unknown	1	46	0	0	1	46	100	100
Feb. 5, 1963–Apr. 6, 1964	393	98	385	35	8	63	2.0	64.2
Apr. 20, 1964–Feb. 1, 1965	111	100	108	29	3	71	2.7	71.0
Total	1,188	500	1,175	106	13	394	1.2	78.8

Marengo County, Ala., persons registered to vote

Year	White	Negro	Year	White	Negro
February 1954–55	392	98	1960	457	5
1956	328	2	1961	57	10
1957	118	0	January and February 1962	103	1
1958	252	0			
1959	214	1	Total	1,921	117

Applications for registration

Month and year	Total applied		Accepted		Rejected		Percent rejected	
	White	Negro	White	Negro	White	Negro	White	Negro
March 1962–December 1962	145	66	145	14	0	52	0	78.8
January 1963	20	70	20	32	0	38	0	54.3
February 1963–April 1963	43	27	43	13	0	14	0	51.8
May 1963	3	13	3	12	0	1	0	77.7
June 1963	5	32	5	24	0	8	0	25.0
July 1963	23	99	23	19	0	70	0	70.1
August 1963	4	48	4	43	0	5	0	10.4
September 1963	21	16	21	13	0	3	0	18.7
October 1963	118	31	118	13	0	18	0	58.1
November 1963	64	20	63	6	1	14	1.6	70.0
December 1963	10	3	10	3	0	0	0	0
January 1964	96	20	95	19	1	1	1.0	5.0
February 1964	64	9	64	2	0	7	0	77.7
March 1964	22	1	21	1	1	0	4.5	0
April 1964	37	8	36	2	1	6	2.6	75.0
May 1964	0	0	0	0	0	0		
June 1964	10	7	10	3	0	4	0	59.1
July 1964	12	111	12	65	0	46	0	45.5
August 1964	14	28	14	19	0	9	0	32.1
September 1964	36	10	29	0	7	10	19.5	100
October 1964	64	5	49	0	15	5	23.4	100
November 1964	0	0	0	0	0	0		
December 1964	2	1	2	1	0	0	0	0
January 1965	1	4	1	0	0	4	0	100
February 1965	16	3	11	0	5	3	31.3	100
Total	830	622	799	304	31	318	3.7	51.1

The CHAIRMAN. Do you care to comment on that?

Mr. SELDEN. Yes. Mr. Chairman, there has been a conflict, as you know, between the State and the Federal laws as far as Alabama is concerned. It is my understanding that the questions in issue were in the courts in January and that there has been no issue raised by the demonstrations that was not already being adjudicated in the Federal courts.

Those of us who were aware of the dangers prevalent in Alabama as a result of demonstrations and the large influx of outsiders urged that any controversy be left in the courts and not taken back into the streets. I believe if that had been the case and everyone had been a little more patient—after all, there are no elections in Alabama for another 15 months—that the courts would have decided the conflict between Alabama and Federal law. The Federal Government then could have proceeded under the act which this committee approved last year and the Congress enacted into law.

The CHAIRMAN. You speak of patience. People in Alabama who have sought to register have been patient also. I had hoped that we would not have to go beyond the 1964 statute, but apparently conditions have so shaped themselves that it leaves us very little choice in this matter.

Mr. SELDEN. Mr. Chairman, I don't really think that the Federal Government has had an opportunity to put this law into operation. It has been on the statute books less than a year.

I would hope that you would give the executive branch an opportunity to put into effect the 1964 statute because that legislation was carefully considered by this committee and it was debated for weeks and months on the floor of the House and Senate. I do not think it has had a chance as yet to operate effectively.

I think the necessary instruments are in the 1964 statute to eliminate any voting discrimination that may remain in the South if properly administered by the Department of Justice.

The CHAIRMAN. We had hoped in the passage of these series of bills, the 1957, 1960, and 1964 Civil Rights Acts, that the condition would have bettered to such a degree that we would not have needed further legislation. Apparently, however, conditions are such that Alabama has not appreciably improved in any respect with respect to the registration of Negroes.

Mr. SELDEN. I think, sir, you will find if you check the figures in connection with the State of Alabama that there has been a large increase in the number of registered Negro voters since 1957. I do not have those figures but I am sure you do.

I made the point in my statement that I do not really think this is a right-to-vote bill because the laws presently on the statute books give all people the right to vote. We have at this time 115,000 registered Negro voters in the State of Alabama, and additional Negro voters are registering bimonthly.

This legislation actually is an antiliteracy bill which attempts to abolish the literacy test in only 6 of the 20 States that have those tests. This, in itself, is discriminatory.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. No questions.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. No questions.
The CHAIRMAN. Mr. Cramer?
Mr. CRAMER. No questions.
The CHAIRMAN. Mr. King?
Mr. KING. No questions.
The CHAIRMAN. Mr. McClory?
Mr. MCCLORY. No questions, Mr. Chairman.
The CHAIRMAN. Mr. Conyers?
Mr. CONYERS. Thank you, Mr. Chairman. May I inquire briefly?

I am very interested in your statement, sir, because it does not make any reference to the situation that I think created the demonstrations to which you have referred in your remarks.

Is it your feeling that the Negro voters and would-be voters in Alabama do not face some rather unusual obstacles in trying to achieve the right to vote?

Mr. SELDEN. I think what you are interested in, Mr. Conyers, is that there be no discrimination as far as the registration of voters are concerned; that whatever tests there may be should be applied without discrimination to the white and the colored voters in my State, and I think you are right in that respect.

I am confident that under the present law this can be accomplished. I do not believe that it is necessary to pass additional legislation. Perhaps this is taking a longer time than you would want but I am convinced that under the legislation that is now on the statute books that the Federal Government has the authority to see that there is no discrimination in the registration of voters. Perhaps I am wrong, but I believe that to be the case.

Mr. CONYERS. Do you foresee any way that we can avert the violence and the numerous reports of police brutality that have been visited upon many citizens of Alabama as well as Americans who have come to that area, between now and the time this bill goes into operation, if it passes the necessary bodies here?

Do you see any way that we can eliminate any violence prior to the next elections in the State of Alabama?

Mr. SELDEN. I do not think there would have been any violence had there not been demonstrations in Alabama. As we both know, anyone has a perfect right to travel in Alabama. However, I felt when these demonstrations had made the point to the general public that the demonstrators believed there was discrimination in the registration of voters, that those demonstrations should have been discontinued because constant harassment in any area of this country can cause violence.

As I pointed out in the early part of my statement, there has been restraint shown by millions of Alabamians but unfortunately this restraint has been submerged by three or four isolated instances of violence. We in Alabama regret that any violence has occurred. No one knew better than the people of Alabama that violence in any form would inflame public opinion against the people of our State and in our section of the country.

The fact remains, however, if you continue to harass and harass and harass, sooner or later someone will accommodate with some type of violence. I again express the hope that demonstrations will now discontinue in Alabama and the courts and the Congress will be given

the time to reflect seriously on the implications of this legislation and whether or not it will be in the best interests of the Nation to pass it.

I feel that the laws presently on the books give the Federal Government ample authority to see that there is no discrimination as far as voting in any State is concerned.

Mr. CONYERS. Has it come to your attention that the violence that you have referred to that has arisen out of the demonstrations have all come from the side of citizens of Alabama, policemen in Alabama, State troopers in Alabama, posse men in Alabama, organizations in Alabama of private character and that the marchers and demonstrators have been totally nonviolent and as a mater of fact, they have developed a theory that has gained considerable attention throughout the world in their nonviolent attempt to assert what is believed to be constitutional rights?

Mr. SELDON. Sometimes these so-called nonviolent demonstrations are not completely nonviolent. There has been some violence by both sides such as "nonviolent" bricks and bottles and things of that nature. When you have mob action involving great crowds, things sometimes get out of hand. I am sure that has happened in your State and in your city; it also has happened in New York and other sections of the United States.

When you bring large crowds together with views that differ from the people in the local areas, you are going to find some few people who will cause a commotion. However, I do think that the people of Alabama throughout those demonstrations, and this has been going on for nearly 3 months now, have shown a great deal of restraint and that the incidents of violence have been isolated.

I again say we regret that there has been any violence because not only do we abhor violence and do not want anyone to be hurt, outsiders or insiders, white or colored, but we recognize that any violence arouses the emotions of the people of this country against a State of this Union and a section of our Nation.

Mr. CONYERS. Did I assume that if Americans continue to go to Alabama they will be afforded the rights of equal protection of laws that are afforded elsewhere in other States throughout the land?

Mr. SELDEN. I would certainly hope so, and I am sure the law enforcement officials will make an effort to do so. I would hope, though, that until emotions have died down and the courts and the Congress have had an opportunity to go into this matter further, that these demonstrations would cease. In that way we would be certain that no one, white or colored, insiders or outsiders, would be in any way molested.

Mr. CONYERS. Have you talked with Rev. Martin Luther King about the subject of cessation of demonstrations?

Mr. SELDEN. No; I have not.

Mr. CONYERS. Thank you very much.

Mr. SELDEN. I would hope, though, that you would talk with him about it.

Mr. CONYERS. My concern might not reach the same point of view as yours does. I suggest we both contact him.

Mr. SELDEN. Well, I think probably both sides should be presented.

The CHAIRMAN. Mr. Selden, in examining the appendix to this decision by Judge Johnson in the case of *Hosea Williams* v. *Governor*

Wallace, I find Marengo County in Alabama has a number of rejections for registration. From January 1962 to December 1964, the percentage rejected of whites, only 4.7 percent, the percentage of rejections of Negroes, 70.7 percent.

In Choctaw County in Alabama from November 1959 until February 1, 1965, the percentage of whites that were rejected that had applied for registration was 1.2 percent, the rejection for Negroes was 78.8 percent.

In Dallas County, for the period, June 1961 to February 6, 1965, it appeared that 1,828 whites applied and that of the 1,828, 1,465 were accepted. In that same period, 1,148 Negroes applied and only 214 were accepted.

Those figures are very emphatic and we can draw certain conclusions from them. I must draw a conclusion that there has been rather massive discrimination here, particularly in those counties that I have read.

Mr. SELDEN. Mr. Chairman, I do not think that would be necessarily so. Alabama has a test, as you know. The 15th amendment, as I understand it, says in effect that no person shall be denied the right to vote on account of race, color, or previous condition of servitude.

In other words, if the same test is given fairly and wtihout discrimination to all and then graded properly, then the cards will have to fall where they may.

Now, it is my understanding that in the 1964 Civil Rights Act and those preceding it there is authority for the Justice Department to see that there is no discrimination in the giving of literacy tests. Am I right or wrong on that?

The CHAIRMAN. I can't do anything but come to the conclusion that those figures are so impressive that there must be discrimination there and it must be to a considerable degree. For example, according to the New York Times of March 21, State Senator George Hawkins of Gadsden, Ala., said:

> We don't know that voting registration has been very restrictive in Alabama, it has been designed to keep people from voting.

Mr. SELDEN. The tests that have been applied in Alabama perhaps have kept people from voting, but I think it has kept both white and Negro alike from voting.

The CHAIRMAN. Not according to these figures.

Mr. SELDEN. Well, it depends on who passed the test.

The CHAIRMAN. It depends on who gives the test.

Mr. SELDEN. The Justice Department has the authority under present law to see that there is no discrimination. That is my understanding of the law and I understand that the law has been applied for some time in Alabama.

I am informed that all court action in Alabama has been based on happenings prior to 1963 when new boards of registrars were appointed. I also understand that only 11 of the 67 counties in Alabama have been accused by the Justice Department of any type of discrimination.

The CHAIRMAN. Mr. Selden, I want you to know this is not an easy task we have. It is very, very difficult. I can assure you that we are going to try our level best to be as fair as we possibly can.

Mr. SELDEN. Mr. Chairman, thank you very much. The two points that I have tried to make today are that this bill as presently written is unconstitutional and also that it is discriminatory.

Mr. MCCULLOCH. I have a few questions.

Did I understand you to say that you thought the bill before us, H.R. 6400, was unconstitutional?

Mr. SELDEN. Yes, sir.

Mr. MCCULLOCH. Have you had time in your busy days to thoroughly study the statement of the Attorney General before this committee on March 18?

Mr. SELDEN. No, sir; I have not. That testimony has not been available to me.

Mr. MCCULLOCH. There are some five pages of his statement, as I recall it, single-spaced in large part, devoted to a discussion of the constitutionality of this legislation. I might say that the Attorney General came to the firm conclusion that it was constitutional in view of both amendments that our able colleague has mentioned.

I would like, Mr. Chairman, also to ask this question. Does Alabama have compulsory general school attendance legislation at this time?

Mr. SELDEN. Yes, sir; we do.

Mr. MCCULLOCH. Is that legislation enforced?

Mr. SELDEN. Yes, sir; it is.

Mr. MCCULLOCH. Do all children within the age requirement go to school for a certain number of days each year?

Mr. SELDEN. While I am sure there are exceptions——

Mr. MCCULLOCH. Oh, yes; certainly.

Mr. SELDEN. The vast majority do, both white and colored.

Mr. MCCULLOCH. By any chance do you know the census figures showing the literacy of white and colored people in Alabama as of 1960?

Mr. SELDEN. No, sir; but I could certainly get that for the record if you would like for me to.

Mr. MCCULLOCH. What is the minimum grade level to which students are required to attend in Alabama under present law?

Mr. SELDEN. Students are required to attend school in Alabama until their 16th birthday.

Mr. MCCULLOCH. One further question.

I take it that you are, of course, one of those who would urge the right of people to peacefully assemble at reasonable times?

Mr. SELDEN. Yes, sir. Of course, I understand that and realize that they have that right. I think sometimes the fact is overlooked that in some of these assemblies the local laws are being violated, and I think that they should be asked to respect the local laws in the areas in which they are assembled.

Mr. MCCULLOCH. Do you support the right of the people to petition their Government for a redress of grievances?

Mr. SELDEN. I do, sir.

Mr. MCCULLOCH. I noticed in your statement that at times it might serve a better public purpose and service if demonstrations, assemblies, and petitions would be halted. Is that correct?

Mr. SELDEN. Would be halted?

Mr. MCCULLOCH. Yes.

Mr. SELDEN. Yes, I do. I think that in Alabama the demonstrations have gone beyond the point of being useful to those who are bringing about the demonstrations, and I believe there could be some danger to the people taking part in them as has happened in recent weeks.

I would hope that while the courts and the Congress are considering this matter that the demonstrations would cease and that the people who have visited in Alabama would return to their homes.

Mr. MCCULLOCH. Might I finally conclude that you believe that neither a State legislature nor a National Legislature can do its best under pressure of demonstration and assembly if they go on too long?

Mr. SELDEN. I think, sir, that under pressure of demonstrations is a very dangerous way in which to enact legislation.

The CHAIRMAN. Thank you very much, Mr. Selden. We always appreciate your coming and telling us your views.

Mr. SELDEN. Thank you, Mr. Chairman.

The CHAIRMAN. We have with us a distinguished Member from South Carolina, Robert Ashmore, and I am very happy to say that he is a most able Member; a devoted Member in every respect.

I understand that he wishes to introduce Mr. Daniel R. McLeod who is the attorney general of the State of South Carolina.

STATEMENT OF HON. ROBERT T. ASHMORE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. ASHMORE. Thank you very much, Mr. Chairman, and gentlemen of the Judiciary Committee. It is certainly a great pleasure Mr. Chairman, to appear here on behalf of South Carolina and in opposition to this bill in the manner that it is now drawn. I am not here to make a speech, I probably took too much time last week, I think it was, in questioning and discussing this matter with the Attorney General when he was here in his first appearance.

I do want to introduce a man who represents South Carolina, you might say, from the grass roots. He knows what we do and do not do in South Carolina regarding the voting of white people and colored people.

I might say that since the Attorney General was here in his first appearance before this committee after this bill was introduced, I have been impressed with what I think is a change of attitude, a different opinion, and different philosophy among the people in general in this country; the attitude and philosophy that existed when the bill was first presented and even when Mr. Katzenbach was here talking and testifying before the committee.

People throughout the country, it seems to me, are becoming more concerned about this legislation, and the reason for that is manyfold, but it is primarily, I think, because they have come to realize that there are serious questions about H.R. 6400, particularly its constitutionality.

I have read many articles since the Attorney General appeared here at our first meeting; and many newspaper editors, columnists, and others have written articles that show that there is a great deal of dissatisfaction. There is a great deal of variance in opinion and the

ideas of prominent lawyers and people well versed in constitutional law in this country.

I noticed particularly last week a couple of editorials and columns by outstanding writers in the Washington papers—not papers from Alabama or South Carolina. On the 25th day of March 1965, Mr. James J. Kilpatrick, columnist in the Washington Star, had a fine article on this bill, entitled "Voting Bill Piles Wrong on Wrong." In my opinion, that is a good analysis of the bill.

Then the very next day, March 26, the Star carried an editorial the topic of which is "Illogical Is the Word." Yes, indeed, it certainly is illogical in many respects.

I am sure that most members of this committee read or heard discussed the very fine editorial of the Wall Street Journal which is certainly not a southern paper, and not an extremist and not a racist publication. The title of that front page editorial was "Immorality of the Law." I hope each Member of Congress reads this most enlightening article.

Gentlemen, this points up to me the fact that we have a great deal of work to do on this committee before this bill is brought to its proper form. If we are going to pass legislation, I hope and pray that we will get a bill that is not unconstitutional, a bill that does not set up double standards and have special provisions for certain areas of the country.

I, and I think, every member of the South Carolina delegation, and I know, the attorney general who sits with me here today, are unalterably opposed to discrimination for any reason.

I am not here today and the attorney general is not here today to try and justify discrimination in South Carolina or anywhere else. We do not believe in it; we know it is immoral, it is illegal, it is unchristian and it is everything that is wrong, and we do not take a stand on that side at all.

We are here to show primarily I think—and the attorney general will emphasize these two things—that the bill as written is unconstitutional and; second, that even if it is constitutional, we in South Carolina do not like it because we are stigmatized and criticized wrongfully under the terms of this bill. We are accused of being a State that discriminates.

We do not discriminate and I think that the attorney general will prove to you gentlemen today, my colleagues, that we do not and that we should not be included in that group who do, if anyone does, and of course some people do.

But my primary purpose here today is to introduce a man who comes from South Carolina as a member of a prominent family, one who has been in the political life of the State for many years, one whose forebears were always honorable and moderate in their political philosophy and in their treatment of their fellow man.

Mr. McLeod has been in the attorney general's office in my State since 1950, I believe, and he is now serving his second term as the attorney general of South Carolina.

Some members of this committee will recall that he appeared before the committee in 1957, in 1960, and again last year in 1964. Those of you who heard him then know that he is a man of great capability,

a man of great knowledge, and a man who is moderate and fair-minded in every sense of the word.

We are glad to have you back with us today, General.

The CHAIRMAN. Mr. McLeod.

STATEMENT OF DANIEL R. McLEOD, ESQ., ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA

Mr. McLEOD. Thank you, Mr. Chairman, and members of the committee. I am deeply appreciative of the opportunity to appear before the committee.

The CHAIRMAN. Have you a prepared statement?

Mr. McLEOD. I do, and if I may, I will submit it to the stenographer and I will have copies furnished for the committee. I have a limited number.

The CHAIRMAN. Will you distribute those?

Mr. McLEOD. The recent introduction of the bill and being under some pressure of time, there has been difficulty in procuring the necessary preparation.

Mr. Chairman and gentlemen: I concur wholeheartedly in what Congressman Ashmore said with respect to the feeling I have, and I am sure the people in my State as a whole have, that they do not condone discrimination in any sense of the word, and I think that it can be shown in South Carolina, particularly, that there has been no basis for a charge of discrimination.

As Mr. Ashmore said, I have been affiliated with the attorney general's office for about 15 years. In that capacity as assistant attorney general and as attorney general, I think that if any allegations have been made anywhere within the State, I would have had some knowledge of it, directly or indirectly. In latter years, most certainly I would have had knowledge of it.

There is on the statute books of my State a simple procedure whereby one who is denied registration on any particular ground can appeal immediately to the board of registration which takes the process. If the denial to register is made by that board and appealed it is forwarded to the circuit courts and it must be heard immediately.

If a dissatisfaction exists with respect to the decision of the circuit court, an appeal can be made and provision is made for a special calling of a session of the supreme court of the State to pass immediately upon the matter. That provision of law has never been invoked since it has been up on the statute books for a period of almost 20 years.

In other words, Mr. Chairman and gentlemen, there is no complaint that has ever been made with respect to deprivation of the right to vote under the procedure that is provided by State law which is a simple procedure, and which has never been invoked, which has never been tried.

There is no complaint whatsoever that has been formalized in that manner.

The CHAIRMAN. Do I understand that the South Carolina Constitution requires that an applicant must be able to read and write any sections of the constitution supplied by a registration officer or show that he has paid taxes on property assessed at $300 or more in the previous year? Am I correct in that?

Mr. McLEOD. That is correct.

The CHAIRMAN. What is meant by "paid taxes on property assessed at $300 or more in the previous year" Is that real estate?

Mr. McLEOD. It includes real estate and personalty, both or either.

The CHAIRMAN. And produce a receipt showing the payment of such taxes or they cannot register to vote?

Mr. McLEOD. That is right. That is a condition of registration, Mr. Chairman. Either be able to read and write a provision of the constitution, and I can personally state that has been administered to me——

The CHAIRMAN. I am not concerned so much with that. I did not quite understand the requirement that they have paid previously an assessment on property, you say that property could be personal as well as real estate.

Mr. McLEOD. That is right.

The CHAIRMAN. Does it have any effect on the numbers that can be registered in this receipt showing the payment of $300 assessment?

Mr. McLEOD. That is an alternative provision.

Mr. McCULLOCH. May I interrupt? Does that provision which the Chairman has read mean that the applicant who registered must have paid $300 in taxes or paid taxes on property assessed at $300?

Mr. McLEOD. Must have made the taxes on property assessed at $300 which under the millage would be $10 or $15.

Mr. McCULLOCH. This is in the alternative?

Mr. McLEOD. That is the point I was just getting ready to make. You can either demonstrate your ability to read or write a provision of the constitution or, if you are unable to do that, show that you have paid taxes on property assessed at $300.

The CHAIRMAN. I did not quite understand that.

Mr. ASHMORE. Mr. Chairman, if I may inject this at that point, I believe that is a less harsh law than your literacy test in the State of New York because there if I understand correctly, you must have what is equal to an eighth grade education, do you not? But the idea is that we have a literacy test in South Carolina that is less harsh than your great State of New York whereas we would come under the gun, as the saying is, in this bill because 50 percent of our people are not registered and don't vote. Your people in New York would not be covered by law but your literacy test is more harsh than ours. That is an injustice, an inequity. That is one reason why it is unconstitutional.

Mr. McCLORY. Would the gentleman yield?

Do I understand from your response to the question that there is no compulsory literacy test in the State of South Carolina; that there is an alternative to the literacy test in that the literacy test can be avoided by exhibiting a receipt or other evidence of having paid tax?

Mr. McLEOD. That is right. A person who can actually read and write may prefer not to demonstrate that and would merely show payment on taxes of property assessed at $300.

Mr. McCLORY. You are not making the point that under the proposed bill, that you are exempt from its provisions?

Mr. McLEOD. The State comes clearly within the scope of the bill as drawn.

Mr. McCLORY. Even though you can escape from the literacy test provision by showing the payment of tax?

Mr. ASHMORE. No, that is part of the literacy test. It is all one and the same, Mr. McClory.

Is that not right?

Mr. McLEOD. That is right.

Mr. ASHMORE. If you cannot read and write but you can show that you paid taxes on property assessed at $800, you can still get your registration certificate.

Mr. McLEOD. I think I understand your point.

Mr. CRAMER. Would the gentleman from Illinois yield?

Let me make sure the record is clear. South Carolina comes under the provisions of the bill before us because, No. 1, South Carolina has a literacy test.

Mr. McLEOD. That is right.

Mr. CRAMER. So it meets the first criteria.

The second criteria is whether 50 percent are registered or 50 percent voted. Now in South Carolina in excess of 50 percent are registered; is that correct?

Mr. McLEOD. No; that is not correct. Of 2,300,000 people in the State, say 172,000 are registered. Now you have an inequality there because you don't know what the population count is now. I am giving you the 1960 count and it is probably up 10 percent. The figures I gave you with respect to registration are permanent as of September 1964 but the count that I gave you with respect to the population is the 1960 census, 4 years before.

Mr. CRAMER. According to the census figures we have, 59 percent are registered, but only 38 percent of the people voted. Whichever the case may be, you come in under one or two of those categories.

Mr. McLEOD. Apparently so. I am not prepared because I don't know what census figure they used. I do know the number of votes that were cast.

Mr. CRAMER. They use the 1960 census figure so that is probably the difference.

Mr. McLEOD. It may be.

Mr. CRAMER. But in any event, 50 percent did not cast votes, so you are covered.

Mr. McLEOD. I would think so. That is the number that voted in the last presidential election; 772,000 registered. I assume that the construction that will be given to this bill is the number of persons voted. They mean the number of persons voted as to the percentage of the population rather than the number of persons who voted as contrasted to the registered number of voters.

Mr. CRAMER. Correct. That is what it says. In any event, that is another subject. But you are covered.

Mr. McLEOD. I assume that we will come within the scope of this bill.

Mr. CRAMER. Right.

Mr. ASHMORE. Not because we discriminate but because they assume discrimination of 50 percent of the people.

Mr. CRAMER. That is the second point I am getting to. In South Carolina, the Civil Rights Commission has not found cases of discrimination.

Mr. ASHMORE. That is exactly correct.

Mr. MCLEOD. Yes.

Mr. CRAMER. Now the third point I wanted to make, so far as clarifying the record is concerned, is that in South Carolina you have a literacy test that requires lower standards of qualification than in the State of New York. New York under this formula, however, is not covered. So, in effect, New York can continue its literacy test, but you are penalized for having one that is less onerous than the State of New York, even though you have not discriminated. Is that right?

Mr. MCLEOD. I understand that New York requires it to be given in the English language, in my State we do not.

Mr. CRAMER. That is the point I wanted to make.

Mr. ROGERS. Would the gentleman yield at that point?

Mr. CRAMER. Yes, I will yield.

Mr. ROGERS. There is a provision in section 3(c) that if the State has not discriminated, it can file an action here in the District of Columbia and can get out from under the determination made by the Attorney General. Hence, if you have not discriminated for the period of time you file the action, then South Carolina is completely out of it. Would that not be true, Mr. Attorney General?

Mr. MCLEOD. Let me comment on that this way: In the first place, citations of authority with respect to constitutionality have been given to the committee. I adhere to the statement in ex parte Siebold that you are infringing upon and usurping the State rights when you impose Federal determination of voting qualifications under the 15th amendment.

I do not think you can constitutionally do that.

Mr. ROGERS. But constitutionally or not, you could relieve the State of South Carolina from imposition of this bill by simply filing an action saying that you have not discriminated for 10 years, and South Carolina goes on its way, could you not?

Mr. MCLEOD. Let me answer that this way.

Mr. CRAMER. I yield for the question.

Mr. MCLEOD. May I comment on that, Mr. Rogers?

Mr. ROGERS. Go ahead.

Mr. MCLEOD. Number one, the presumption which you raise from the mere fact that a certain designated arbitrary peak percentage of persons have not registered or have not voted, is an unreasonable presumption. I can expand on that a little bit, if I may, subsequently, in my remarks.

Number two, your 10-year period is an arbitrary period fixed for that.

Thirdly, it is an imposition, and an unwarranted imposition, to thrust the burden of proof upon the State from an unwarranted presumption such as you referred to a moment ago, the 50-percent figure, to thrust the burden of proof upon a State to assume that obligation of going to a court to disprove an allegation of discrimination drawn from the presumption I referred to.

Fourthly, you are doing what all of the judicial considerations prompted this Congress last year to do, and that is, to adhere to the traditional concept of American justice being best served by the convenience of the courts.

Why should one State be required to trek up to the District of Columbia to litigate a matter of that importance, that pertains to a right that has traditionally been decided by State courts and not Federal courts?

Why should not the Federal courts of the local district be made available?

The statute that I am referring to is one that was passed as a result of considerable demand for it last year, providing for suits against the United States, its agents, and so forth. This specifically provided that the United States may be sued where the plaintiff resides. That is a good law, that is a law consonant with the traditional American sense of justice.

Mr. ROGERS. It took us 175 years to get around to pass that statute.

Mr. MCLEOD. That is right. Now you are going back 175 years by requiring us to come back up to Washington.

Mr. ROGERS. That only applies to the States, the local communities. Let the governing officials do that. That relates to the government officials.

Mr. MCLEOD. They are the only ones who can question the listing by the Attorney General, as I understand it.

Mr. ROGERS. Yes; but the fact remains, what you are saying is that the requirement that you do this is unconstitutional and you cite about five different reasons why you believe it is unconstitutional.

Mr. MCLEOD. Those reasons were based——

Mr. ROGERS. But assumming that you were in error, would it be a great burden upon South Carolina to file this action in the District of Columbia and clear its skirts of any charge of discrimination whatsoever?

Mr. MCLEOD. It certainly would.

Mr. ROGERS. Would not the people of the State of South Carolina be willing to have the judiciary determine that they are not discriminating?

Mr. CRAMER. That they did not discriminate 10 years ago. Any single individual can come in and prove they were discriminated against 9 years ago.

Mr. MCLEOD. Right.

Mr. CRAMER. I do not think South Carolina would deny the fact that it did discriminate 10 years ago, even though discrimination does not exist today.

Mr. MCLEOD. That ante-dated my term, but nevertheless, what you are talking about is not arbitrarily fixed beyond review.

The five items that I have mentioned a moment ago were based on the assumption of the constitutionality of the bill and not directed toward the unconstitutionality of it, setting aside, arguendo, and assuming the constitutionality of this bill.

Nevertheless, those objections are valid objections.

Mr. ROGERS. One you cite is the instance of where, just a year ago, this Congress authorized the suing of the Federal Government in any State throughout the Nation. But for 175 years we did not authorize that. Well, if that was unconstitutional, why was it not raised throughout that period of time?

Mr. MCLEOD. Well, as I say, I was not questioning the constitutionality of your bill upon that point.

Mr. ROGERS. I see.

Mr. MCLEOD. I was assuming the constitutionality in the five items I mentioned, including that one relating to my objection to it. I just appeal to a sense of fairness. If it was good after 175 years, why reverse the trend a year after you reversed the previous 175 years?

The CHAIRMAN. Mr. Attorney General, just to catch up on the record here, a statement was made that no complaints were received by the Civil Rights Commission concerning any discrimination in South Carolina. The Commission has this to say in 1961:

> The Commission has never received any sworn complaints from South Carolina. Unfortunately, this lack of complaints cannot, any more than in the case of Georgia, be taken as conclusive proof that there is no discrimination in the voting process there.

Now, in the data submitted to us by the Civil Rights Commission on the question of registration, I should like to take three or four counties and ask you to comment. Take the County of Allendale: Whites, 100 percent registered; nonwhites, only 15.7 percent registered.

The County of Calhoun, 92.1 percent whites registered; nonwhites, 14.7 percent.

County of Fairfield, 100 percent whites registered—and this is in 1964 election—nonwhites, 29.8.

In Florence County, 88.3 percent whites registered, 28 percent nonwhites registered.

In Saluda County, 100 percent whites registered, 18.9 percent nonwhites registered.

In Williamsburg County, 100 percent whites registered, 18.3 percent nonwhites registered.

In Marion County, 79.8 percent whites registered; and nonwhites, 15.6.

Mr. MCLEOD. That was Marion County, Mr. Chairman?

The CHAIRMAN. Marion.

How do you account for that rather sharp disparity?

Mr. MCLEOD. I account for it in one word: indifference, voter indifference.

Now, you cannot, to my way of thinking, draw an assumption from the disparity between the Negro registration ratio as opposed to the white registration ratio, in the face of the lack of interest in voting not only among the Negro population but among the white population.

I made the statement last year before the distinguished Chairman that I attributed it to one word, I used the word "apathy." In the transcript of the hearings subsequently published, I notice that the Chairman questioned the succeeding witness on the next day and referred to the fact that a witness on the prior day—I assume referring to my use of that word "apathy"—had used the word "apathy." You asked him what his comments were with respect to that. That is my answer to that and I base it upon the fact that discrimination has not shown even to bodies like the Advisory Commission on Civil Rights, composed of five citizens of South Carolina, where the citizen has the absolute freedom and right to walk in off the street and make an unsworn statement. I understand—I must admit I never attended one of their meetings, but as I understand it, they are privileged to make a private statement. They had every golden opportunity and were free to come in and make a statement.

They received no single statement, and the Commission so found, and said that in their hometowns they had observed no denial of the right to vote.

Those are reports by people charged with the duty of surveying and keeping under surveillance these registration processes. They found nothing wrong and they made a gratuitous statement similar to the one the Chairman referred to in the Civil Rights Commission. They made a gratuitous statement and said "nevertheless there probably must be some discrimination somewhere."

My answer to the Chairman's question is, apathy, indifference, neglect, not only to register but to vote.

Let me illustrate that, if I may, by one reference to a work that was published by Dr. McConnaughey of the University of South Carolina, that I just had an opportunity to refer to yesterday. He made a survey of approximately 500 Negroes in the urban communities.

His report, and I have it if the committee would like it, was restricted to those various areas. He cites the work of Campbell, Gurion, and Miller, of the University of Michigan, called, "The Voter Decides", as expressing the conclusion that in the 1956 presidential election year and in 1960 and in 1964, 36 percent of the Negro population participated in that election, nationwide.

Now his survey, and, admittedly, is not considerably in depth, but enough that Dr. McConnaughey in conversation with me yesterday stated his belief—and he is a recognized authority in his field—that it was a fair sampling.

In Spartanburg County, among the Negro population, there was 58 percent participation in the presidential election of 1964.

In Darlington County, next to one of the counties you mentioned a moment ago, 81 percent of these urban Negroes participated. He attributed that to one thing, and that was borne out by a statement that is made in a survey made in North Carolina at a cost of about $500,000, 2 or 3 years ago I believe, where the conclusion was expressed that: "The rural Negroes won't register until they become convinced that their leaders are going to guide their voting power wisely."

Now, Dr. McConnaughey concluded that the reason for the high participation, 81 percent in Darlington County, and there is a high registration there by the way, was that a Negro project known as the South Carolina Voter Education Project was very active there.

His statistics and his paper show that there is a distinct correlation between membership in an association such as the South Carolina Voting Education Project and similar matters of that nature and a rise consequently in voter participation.

I say these are participation facts in voting. I say I think the conclusion should be very obvious that there is a distinct correlation between participation in the voting process and the participation in the registration process.

In other words, I think it would be eminently clear that if you have a high participation in one, you naturally are going to have a high participation in the other.

Mr. CORMAN. Mr. Chairman, I wonder if I might ask the attorney general a question back on the matter of the literacy test being waived for property owners?

What year did the State adopt that?

Mr. McLEOD. The literacy test about reading the constitution?

Mr. CORMAN. Yes.

Mr. McLEOD. That is part of the constitution of 1895.

Mr. CORMAN. And at that time did it include the provision that if you owned property of an assessed value of $300 or more that the literacy test was waived?

Mr. McLEOD. I am confident that it did. I am confident that it did. It has been there since—I am confident that it did.

Mr. CORMAN. It seemed such a novel approach to me because you have to rationalize that an illiterate who owned property was better able to vote than one who did not own property. If one were of a suspicious mind he might think the legislators considered the fact that there might be a lot more Negroes who did not own property in 1895 than there were whites who did not own property in 1895.

Now, if that was not the purpose of this exemption, what was the purpose?

Mr. McLEOD. Well, I have been through the Constitutional Journal of 1895 on numerous occasions. That is why I think it was most probably in there at that time. I do not think it was inserted subsequently. I think it was a matter of some man demonstrting his ability if he could read and write, why he could understand some provision of the voting process, he would be a better voter.

My very good friend, the attorney general of Massachusetts sent me a copy of a letter he sent to his Governor. He recommended the abolition of the literacy test in Massachusetts because, his letter said, "You cannot equate intelligence with literacy." I do not agree with that. I presume the legislators came to the conclusion that a person would be of some substance or some ability if he could accumulate property valued at that much.

Mr. CORMAN. Sort of a theory that you could equate intelligence with pr erty ownership.

Mr. McLEOD. To that extent.

The CHAIRMAN. Would you start reading your statement.

Mr. McLEOD. Very well. I would like to call the committee's attention to the fact that I have here a clipping from a local newspaper reciting that the registration books in Richmond County, my county, would be opened an additional 21 days prior to the special June congressional election to fill a vacancy there. That is fairly common throughout the entire State.

Mr. McCULLOCH. Mr. Chairman, I would like to ask this question. If there were no discrimination against Negroes by reason of the literacy test, do you believe that there might be discrimination by threats or intimidation, or by subtle pressures that are very effective in this regard in other States and in other human activities?

Mr. McLEOD. I would be perfectly candid with the gentleman. I know of none. I can state in all sincerity if they do occur, they may occur, I think they occur to a minimal extent. I have had no complaints. Since I have been in office one or possibly two persons have come in with casual—and I use that word advisedly—complaints with respect to charges of a general nature but I do not know of any recrimination or reprisals being taken in my discussions with lawyers and with members of the Negro race.

Mr. McCULLOCH. Either in job security, or credit availability, or anything of that nature?

Mr. McLEOD. No. Let me use this for an illustration: Mrs. Gloria Ranklin was a schoolteacher in Orangeburg. A number of demonstrations have occurred in Orangeburg County in recent years. It is the seat of the Negro college, traditionally attended by Negroes. Mrs. Ranklin occupied the position of schoolteacher. She brought an action alleging discrimination in the county-owned hospital and she was successful. I know that she was advised that she would likely lose her job because she brought that suit. She is very active, has been before then and since then, in matters of that nature. That action was brought and she was successful in the action.

After that action was brought, she retained her job and was rehired to teaching in the public schools, and as far as I know, she is still teaching in the public schools. She was brought up for some disciplinary action in advising her children, I believe, to stay out of school in order to participate in a demonstration, but I am not certain of that, but she was rehired.

I submit that is a typical situation existing in my State.

Mr. McCULLOCH. Mr. Chairman, I would like to go back to the availability of section 3(c) to the State or the political subdivision to bring a suit in the District Court for the District of Columbia to prove itself innocent. I noted the chairman read the names of a number of counties in your State.

Were there any counties in that list that have a population of 25,000 or under it?

Mr. McLEOD. Or under?

Mr. McCULLOCH. Yes.

Mr. McLEOD. I can tell you very quickly. Allendale is, I would think.

Mr. McCULLOCH. Our staff man points out a county with a voting age population of 6,000 people. I would judge from that figure that it certainly would have a total population of less than 25,000.

Mr. McLEOD. I think you are probably correct. Allendale has 24,000.

Mr. McCULLOCH. Suppose we just take a hypothetical question.

Mr. McLEOD. All right.

Mr. McCULLOCH. If the authorities of such a small county felt that there had been no discrimination for the 10-year period, and wanted to bring suit in the U.S. District Court for a declaratory judgment that they were no longer under such legislation, would that county, under your State law, of necessity bear the expense of that determination?

Mr. McLEOD. Oh, yes.

Mr. McCULLOCH. Or could the county call upon the State and you as its able attorney general to represent them in the District Court of Washington?

Mr. McLEOD. If they call upon me, I would say this: I would be available, I think. There is no provision of law, there is no State appropriation to cover it, so my answer would be that it must be borne by the county.

Mr. McCULLOCH. One final question in this regard. Do you know of any precedent in Federal statutes requiring any political subdivision to go to a Federal court and prove itself without fault?

Mr. McLeod. There are none to my knowledge, and I am perfectly confident no such similar situation has ever arisen before.

Mr. McCulloch. I would like to move to section 8. It would require a State to go into the Federal court and submit any legislation that it has passed affecting voting qualifications or procedures to court test. Do you know of any precedent requiring a political subdivision to go into a Federal court to set a determination that their legislation was proper and in accordance with law or the Constitution?

Mr. McLeod. I am sure no such legislation has been proposed, I am sure that it has never been passed upon.

Mr. McCulloch. Are you willing to discuss anything about section 8 when you get to that place in your statement?

Mr. McLeod. Tangentially I think I will get on that. If I may, Mr. Chairman——

Mr. McCulloch. I will not interrupt you.

Mr. McLeod. I made this point before in the last appearance before this committee and the bill now is different from the one that was enacted in 1964. The point I think I made then is perfectly valid now and it deals with what the gentleman was talking about a moment ago, it relates primarily to that. Under this if a State—I am not certain what constitutes a State—if the five counties or the six counties that the chairman enumerated a moment ago are sufficient for the Attorney General to say in those five counties with possibly a 125,000 population, to say that the State of South Carolina discriminates and force the entire State to come up here, or does he do as he does with the selection of registrars or examiners, take it on a local subdivision basis?

It appears to me that it is entirely within the discretion of the Attorney General to say five counties have discriminated in South Carolina, in my satisfaction the requisite voters are there, therefore the entire State is held to have discriminated.

Prima facie they have discriminated in those procedures and are brought to Washington in order to remove the stigma.

Mr. Rogers. Will the gentleman yield at that point?

Let me address your attention to H.R. 6400. On the first page at line 10, it says: "In any State or in any political subdivision of a State."

Would you agree that if a State itself met that requirement or any political subdivision the Attorney General could step in.

Mr. McLeod. It is not clear to me to be perfectly frank with you. I think that under the wording of this law the Attorney General can, on the basis of 1 county discriminating or 5 counties or entire 46 counties, say that the State discriminates.

Mr. Rogers. Now, if this test or device was applied in the whole State, he may step in if it meets all these other requirements. If on the other hand it is a political subdivision, such as a county, if the census determines that less than 50 percent voted or were registered in November 1964, the Attorney General would then be able to step in on that area as I interpret it.

I think that your interpretation is correct. I believe we have testimony from the census that they have nothing less than a county that they can make the determination upon, and hence probably it would not be practical to go to anything less than the county.

The Chairman. Will the gentleman yield?

Mr. Rogers. Yes.

The CHAIRMAN. Won't you agree that if in one county, a literacy test was applied, and less than 50 percent of the voting age population was registered or voted in November 1964, that does not mean that the whole State can be brought under this bill, but only that that specific political subdivision can be brought under it?

Mr. MCLEOD. If I were sure that was the correct interpretation of the law, and I have all deference to the chairman's——

The CHAIRMAN. If you read on page 2, line 10, which is the way by which a State or political subdivision can get out from under the law, it states: "Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such examination has been made as a separate unit,"—as a separate unit—"may file in a three-judge court."

Mr. MCLEOD. That is correct. I understand that. What is there to prevent the Attorney General of the United States from classifying the entire State on the same condition in the county?

The CHAIRMAN. We would like to be sure under the legislative history that he could not do anything like that.

Mr. MCLEOD. I hope the court gives due consideration.

The CHAIRMAN. The whole State would not be brought in because of the difficulties of one particular unit or county.

Mr. MCLEOD. May I proceed, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Mr. MCLEOD. I do not want to impose upon the committee's time.

With respect to the voting list, or irrespective of how that may be construed and applied, the list will be forwarded to me as attorney general, 45 days before the election. I have 10 days in which to make a challenge to that as I understand, and I have to make it up here before the Commissioners who are appointed by the Civil Service Commission and enter my challenge or give the political subdivision authority to enter their challenges to some person on that list.

That list may consist of 100 names, 10 names, or may consist of 10,000 names, and I have 10 days in which to enter a challenge to it.

Now, here is the point that I am making and the point that I made before the Chair last year and still I say is more obviously valid.

Aside from entering into the field of State sovereignty, you are placing in the hands of Federal registrars the authority to determine technical questions, legal questions, legal concepts that have never heretofore been decided by the Federal courts because they relate to the States, they relate to the State laws, they relate to traditional fields of State authority, and they relate to matters that have always been subject to construction and application by the courts of the States.

Now, what I have reference to is, suppose it is up to the examiners to determine the qualifications, if they determine that discrimination exists?

The CHAIRMAN. Do you agree with the provision of the bill on page 7 which provides: "A petition for review of the decision of the hearing officer may be filed in the U.S. court of appeals for the circuit in which the person challenged resides within 15 days after service of such decision by mail," and so forth?

Do you have a right or court of review here?

Mr. MCLEOD. In what court? In the Federal courts?

The CHAIRMAN. Yes; in the Federal courts.

Mr. MCLEOD. Now the determination is being made by these registrars, they are determining not only the fact of the age of the person, they are determining the residence of the person, they are determining whether that man is qualified under State law, under directions that are to be issued by the Attorney General of the United States, construing and applying provisions of State law and State constitution.

Now, this is where that will enter into the picture, particularly in close elections. All of the members of the committee are familiar with the fact that close elections do occur. In Wisconsin, less than 50 votes, I believe, was decisive in a total vote of a million and a half. It has happened in my State repeatedly in major elections and minor elections.

Now the voting registrars will determine whether this man is in fact a resident of the State of South Carolina. I presume this law applies also to relations involving bond issues, annexations, and things of that nature. That will involve construction of what is meant by the term "freeholder."

My own State has recently decided and refrained from deciding in one crucial point. If Federal registrars are going to have to determine whether in the State of South Carolina this man is a resident, the Federal registrars are going to have to determine whether a mortgagee or the owner of a reversionary interest is a freeholder within the meaning of the South Carolina law.

The Federal registrars determine whether a man who has been convicted under the Federal jurisdiction is barred in South Carolina from being registered to vote.

That is a very important point.

Mr. ROGERS. May I interrupt at that point?

I think that your reference to this section 5(b) is very important because, as you point out, if the examiners find any person to have the qualifications prescribed by a State law in accordance with instruction received under section 6(b), he shall promptly be placed on the list of eligible voters.

Mr. MCLEOD. That is right.

Mr. ROGERS. Now let's turn to what section 6(b) provides. Section 6(b) states:

> The times, places, and procedures for application and listing pursuant to this act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for a listing.

Now, won't you agree that the Attorney General prior to the time would instruct these examiners what the law of the State of South Carolina would be?

Mr. MCLEOD. He is required to under the terms of the law.

Mr. ROGERS. Yes; he would be required to do it. Do you not feel that the Attorney General of the United States has the capability of making that determination?

Mr. MCLEOD. That is not the point. The point is that——

Mr. ROGERS. Now——

The CHAIRMAN. Let the gentleman answer.

Mr. McLeod. I have certainly never met Mr. Katzenbach; I know both he and his predecessor were eminently qualified.

The point is that what you are doing is determining voter qualifications in a Federal jurisdiction.

Mr. Rogers. But you are doing it under the State law. The point I am trying to make is that there is this requirement under section 5(b): "Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instruction received under section 6(b). * * *," and so forth.

Well, now, isn't it reasonable to assume that the Attorney General of the United States would instruct the examiners according to the South Carolina law?

Mr. McLeod. I agree with you completely. Now let me show you what that will lead to.

Mr. Rogers. All right.

Mr. McLeod. In the *Langer* case, Idaho, one of the Midwestern States, Governor Langer was convicted of a Federal offense.

Mr. Rogers. North Dakota.

Mr. McLeod. Well, almost midwestern.

Mr. Rogers Yes.

Mr. McLeod. The Governor was convicted and the question came up as to his conviction whether he was disqualified from holding office within the State of North Dakota. It was determined by both courts that he was disqualified. That is not necessarily the law in my State.

The point is that the same decision may be made by your Federal registrars. I do not know what the law is myself. Their decision will be one thing and they will be required to decide whether this man is a resident of South Carolina or not, if he has been convicted, whether that is a disqualifying crime or if it is a crime in a certain jurisdiction, whether that disqualifies him.

If you get a number of voters that will be permitted to vote because the name is on the list, I presume that a challenge can be made, although the wording in the statute here indicates that any subsequent challenge may be a violation of somebody's civil rights. But if a challenge is made in that election and the matter is taken to a State court, and there is a contrary adjudication by the State court of South Carolina that this man in fact is disqualified to vote or was not a resident or for some reason not related to discrimination is disqualified, then you have a statement by a State court that a man under their law is not qualified to vote and a finding by Federal authority that he is qualified to vote, and those votes may be the deciding factors in an important election.

Mr. Rogers. Now let's put it the other way around. You admit that under the bill, the list is made public and any listing could be challenged, but you say the time is so short that there is a possibility that that would be ineffective. But let's assume that the Attorney General has made certain regulations in connection with the law of the State of South Carolina. Suppose he decides some particular qualification is not the law of the State of South Carolina and they register people under it and they are listed and you challenge it.

Now you go into Federal court, do you not, as a result of that challenge?

Mr. McLeod. That is right.

Mr. ROGERS. Once you get into the Federal court, then the question would arise as to the interpretation of the South Carolina statute. Now, isn't there a procedure whereby you could make application to the court that this matter be decided by the South Carolina court as being an interpretation of that statute?

Mr. MCLEOD. You are reading that into the law; it is not there.

Mr. ROGERS. But the present law is. Let's back up. As I think the law to be since the cases in 1938, 1939, the Supreme Court here said that when there is an interpretation of the State law, the State supreme court or the State should make the interpretation.

Mr. MCLEOD. You are reading a doctrine of abstention into the act by the Attorney General that is not there.

Mr. ROGERS. What I am trying to point out is that people of South Carolina would not be deprived of their own State laws. The interpretation by the Attorney General of the United States would not supersede any laws of the State of South Carolina except those which were discriminating against voters because of color.

Now, that is what I am trying to point out.

The CHAIRMAN. Gentlemen, we only have 13 more minutes; we cannot sit beyond 12 o'clock. We have a full schedule tomorrow and unless we are through with this gentleman at 12 o'clock, he will have to come back tomorrow night. Now, I do not want to have this gentleman inconvenienced, so I am going to ask the members to be very brief in their questions.

I am going to yield to the gavel if they are not brief. Forgive me for saying that, but those are the exigencies under which we have to operate.

Mr. ROGERS. I yield.

Mr. CRAMER. Mr. Chairman, may I ask one brief question?

Mr. ASHMORE. I do not know whether the Attorney General made it clear to the chairman or not, but he did not intend to read his statement; he wanted to submit it for the record and then make the summarizing statements.

The CHAIRMAN. You have that permission and for any other additional statements you want to put in the record, sir.

Mr. MCLEOD. Thank you.

Mr. CRAMER. I have one brief question. Aren't you trying to make the point that, for the first time, a Federal official is making a determination, not necessarily with regard to literacy but with regard to other matters relating to the interpretation of State laws and State procedures, and therefore it is not pursuant to what you as attorney general of the State instruct those examiners that the State law is, or what the State supreme court cases determine to be, but what the Attorney General interprets the State law to be without consultation with you or anybody else in the State? That is the information and the regulations upon which the examiner makes his determination?

Your only remedy is to later challenge in Federal court each and every voter registered upon the determination of the examiner. What you are asking is why should not the State attorney general be consulted with regard to the regulations in the first instance?

Mr. MCLEOD. That would be the fairest thing that could be done, the least that could be done. I agree with you completely; that is exactly the point I was trying to make. You are taking the matter out of the hands of the States where it belongs.

The CHAIRMAN. This is not the first time this was attempted. For example, shortly after the adoption of the 15th amendment, the Congress enacted a Federal Register Act providing for Federal registration in the various States in Federal elections and that law was held constitutional *Ex Parte Siebold*, 100 U.S. 3715 and *United States* v. *Gale*, 109 U.S. 65.

Mr. MCLEOD. Insofar as the State elections were concerned I believe it was election for Members of Congress and presidential electors.

The CHAIRMAN. That is right.

Mr. MCLEOD. As a corollary to that I believe it is *Ex Parte Perkins*, I am not sure that that is it. It is a Georgia case arising under the 1878 act where the exact inconsistent position arose that I referred to a moment ago under that statute before it was declared unconstitutional. There you had a coroner of a county, a matter that ultimately went to the U.S. Supreme Court because of inconsistent findings by Federal registrars and determination of States.

The CHAIRMAN. Have you go that citation?

Mr. MCLEOD. I will have to submit it.

The CHAIRMAN. I would like to see that.

Mr. MCLEOD. Yes, sir. I will be happy to do it.

Mr. Chairman, gentlemen of the committee: I summarize my views upon this.

No. 1, this bill clearly usurps State functions.

2. It seeks to amend the Constitution without following constitutional procedures.

3. Discriminates between States using and not using literacy tests.

4. Imposes unfair and unwarranted presumption of discrimination because of voter indifference.

5. Places an abitrary and harsh 10-year period of subjection to Federal election negotiation.

6. Changes American concept of convenience of courts.

7. Arbitrarily fixes one date as controlling time for application of the law.

8. Places a premium on illiteracy.

9. It operates on the theory that one perversion of the Constitution deserves another.

10. It does not seek to have literacy tests fairly and impartially administered—it seeks to abolish them in some States while permitting them in others.

11. It is a product of political panic.

Thank you, Mr. Chairman, and gentlemen.

The CHAIRMAN. Thank you, sir. I want you to know that we appreciate your coming this long distance to give us the benefit of your counsel and advice.

I want to say to you that we have Mr. Ashmore on this committee and he is a very strong and able advocate. We always welcome his views and give them every possible reasonable consideration.

Mr. MCLEOD. Thank you very much.

The CHAIRMAN. Thank you, sir.

Mr. ASHMORE. Thank you.

Mr. CRAMER. Keeping my question brief, you have suggested in No. 7 that it arbitrarily fixes one date as controlling the application of the law. I note on the top of page 2 that the Attorney General said

one of the requirements for bringing an area under the bill was that it maintained on November 1, 1964, any test or device as a qualification for voting.

Do you interpret that to mean, as I do, that any State after the enactment of this bill could put into effect any test or device it wishes, so long as it is not discriminatory on the face of it, without being subject to this bill?

Mr. McLEOD. You are correct; yes, sir.

Another factor to be borne in mind on that is with respect to the fact that if this law is made applicable after these determinations are made to a State, no subsequent change in the voting law can be made unless an action is brought to establish that that change is nondiscriminatory on its face.

Mr. CRAMER. We have had on the record a discussion with a number of witnesses that even a change from paper ballots to voting machines in an area that has never discriminated would require approval of the three-judge court in the District of Columbia.

Do you concur with that?

Mr. McLEOD. Yes, sir; I do.

The CHAIRMAN. Thank you very much, sir.

Mr. McLEOD. Thank you.

(Statement referred to follows:)

STATEMENT OF DANIEL R. McLEOD, ATTORNEY GENERAL OF SOUTH CAROLINA, BEFORE HOUSE COMMITTEE ON THE JUDICIARY, WASHINGTON, D.C., MARCH 30, 1965

I am Daniel R. McLeod, attorney general of South Carolina. I have served in that capacity since January 1959, and prior thereto I served as assistant attorney general for a period of 10 years.

The bill before you (H.R. 6400) imposes further restrictions upon the rights of the States by amending the civil rights provisions of the statutes of the United States so as to further extend the authority of the Federal Government into areas which should be matters of State concern alone.

During the period that I have been associated with the office of the attorney general of South Carolina, I have worked in close cooperation with the election officials of South Carolina. A great amount of my time is expended in consideration of problems which arise in connection with the application of the election laws. Necessarily, I have frequent communication with local and State officials charged with the conduct of elections and I, therefore, believe that I am familiar with the problems encountered by election officials in my State and particularly with any disputes that may arise in the conduct of elections or procedures connected therewith.

Although the statutes of South Carolina provide a simple, prompt and adequate remedy to anyone who claims the denial to be registered to vote, no complaint has reached my office during the last 14 years, alleging that any individual has been denied the right to register in order to vote. Nor am I aware of any proceeding that has ever been taken by way of appeal from a denial of registration. Had such an appeal been made, I am confident that I would know of it.

In May 1958, 538,915 persons were registered to vote in South Carolina. Of this number white registrants comprised 80.2 percent (480,793) and colored registrants comprised 10.8 percent (58,122).

On September 21, 1964, the total registration in South Carolina was 772,572. No comparative figures of white and colored registrants is available as of that date, but the number of colored registrants has, to my knowledge, sharply decreased.

It is, therefore, clear that there is an absence of discrimination in the registration of voters in South Carolina, as indicated by the total lack of complaints from denial of registration and as evidenced by the increased percentage of colored persons who have registered to vote.

This is evidenced also by the statement contained in the 1961 Report of the Commission on Civil Rights with respect to South Carolina, in which it is stated:

"The Commission has never received any sworn complaints from South Carolina."

The South Carolina Advisory Commission to the Commission on Civil Rights reported in 1961:

"* * * In the hometown of the committee members, no denials of the right to vote were observed.

"No case alleging the denial of the right to vote was brought before the committee."

The determination of a prospective voter's qualifications should be vested in the States where it has historically rested, and the attempt to impose upon the States the authority of a Federal board of registration can only lead to hostility and chaos in the elective processes.

The power given the Federal Government under this legislation is a dangerous power which can be used to subvert our democratic processes. It should not be granted to the Federal Government, but should remain in the States, where it was constitutionally intended to reside.

This bill should be rejected for the following reasons:

1. Usurps State functions.
2. It seeks to amend the Constitution without following constitutional procedures.
3. Discriminates between States using and not using literacy tests.
4. Imposes unfair and unwarranted presumption of discrimination because of voter indifference.
5. Places an arbitrary and harsh 10-year period of subjection to Federal election negotiation.
6. Changes American concept of convenience of courts.
7. Arbitrarily fixes one date as controlling time for application of the law.
8. Places a premium on illiteracy.
9. It operates on the theory that one perversion of the Constitution deserves another.
10. It does not seek to have literacy tests fairly and impartially administered—it seeks to abolish them in some States while permitting them in others.
11. It is a product of political panic.

The CHAIRMAN. We will now hear our distinguished Representative from California, the Honorable Phillip Burton. I am sorry we have to call you at 5 minutes to 12, that makes it rather tight for you.

STATEMENT OF HON. PHILLIP BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BURTON. Thank you, Mr. Chairman, and members of the committee. I would first like to offer my own highest commendation to you, Chairman Celler, for your most effective and adequate leadership in the effort to make real our democratic processes. I would also like to take note of my high esteem for the ranking Republican on this committee, Mr. McCulloch, who was so helpful in your joint venture in the last session on the 1964 civil rights bill.

I am sure we all lament the fact that the 1964 legislation did not contain comprehensive voting rights provisions and hence the problem pending before the Congress at this time.

I have a number of observations and suggestions I would like to make with reference to the President's voting rights bill.

First on page 7, section 7, it appears that this might be the proper portion of the bill to include some language that makes it clear that those helping assist voters register or go to the polls be given the

same protections envisaged and to be extended to those voting themselves.

Second, this same section could be used to include protecting candidates for State and local office. It is one thing to have the right to vote, it is quite another thing to have someone to vote for.

Third, I wonder if the bill does adequately protect those who seek the votes of others in the State of local contest? The bill appears to be clear that volunteer registrars, nonpaid registrars, can be appointed by the Civil Service Commission. This is most important.

It has been my experience that a registrar can personally obtain no more than 50 to 80 registrations in a given day no matter how diligent, no matter how favorable the circumstances. It is clear to me that some nonpaid volunteers must be permitted or the costs of registering the unregistered in the affected areas of our country is likely to be a matter of some fiscal import.

Fourth, I would hope that using the 14th amendment in addition to the 15th amendment that we give favorable consideration to eliminating all poll taxes everywhere.

Fifth, I would also prefer to see that the Federal examiners, even in those areas where there is no literacy tests, be permitted to be invoked whatever mathematical test may be developed, the 50-percent test if need be. Whatever the test developed, it should be equally applicable to all areas of the country, even though there is no literacy test in that jurisdiction.

Sixth, I would urge that the legislation would permit the going directly to Federal registrars, rather than requiring as a condition precedent the contact with local or State registrars be made first.

I choose not to comment on the testimony of the witness before me. (The attorney general of South Carolina.) I think that it can be stipulated that each of us have a different view of the problems at hand. Needless to say, we would not be here today if a number of the areas of our country had not discriminated in the past, if the need did not arise, if the national cry had not reached all of our ears—none of us would be here this morning.

The need is grave, the matter of time is one of urgency. I do not intend to take any more of your time in developing the points that I have made. I do urge that you will give them your favorable consideration.

Mr. CONYERS. Might I ask one question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. CONYERS. Congressman Burton, the suggested improvement that you have made that people who are assisting persons in voting be protected, would that have obtained to the late Mrs. Liuzzo who was slain in the course of voter demonstration activity or would it require a closer connection with the electorate process?

Mr. BURTON. I think the Federal statutes must be strengthened to clearly include instances like Mrs. Liuzzo. I had that situation in mind and I had also in mind those who physically go with the person seeking to register or vote to the place of voting. I am not passing judgment on going into the booth with helping blind or disabled persons to vote. I have intentionally not made reference to those situations, so we could not be subject to some criticism that we are inviting one person casting another person's vote.

I do not think it imperative that those assisting those seeking the implementation of their constitutional rights have protection, and they do not have it today under existing Federal statutes.

Mr. CONYERS. Thank you for your statement.

The CHAIRMAN. Thank you very much, Mr. Burton. The Chair is pleased to announce that tomorrow we will meet at 10 o'clock when we will hear several Members of Congress, Mr. Farmer of CORE and Mr. Zagri of the Teamsters Union. It is a full day tomorrow, I can assure you.

We will place in the record the statement and the letter addressed to me by Governor Hughes of New Jersey; the statement of Representative Joseph P. Addabbo of New York; the statement of Representative John S. Monagan of Connecticut; the statement of Representative James Harvey of Michigan; the statement of Representative Albert H. Quie of Minnesota; the statement of Representative Joseph Y. Resnick of New York; a communication from David L. Meine of The Society for Conservative Political Action; and a statement of former Representative Albert Watson of South Carolina.

(Statements referred to follow:)

STATE OF NEW JERSEY, OFFICE OF THE GOVERNOR,
TRENTON, *March 26, 1965.*

Hon. EMANUEL CELLER,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CELLER: Because of the intense interest of the people of New Jersey in the Voting Rights Act of 1965 now before the House Judiciary Committee, I respectfully submit the attached statement which expresses my views on the subject as Chief Executive of this State.

Thank you for your consideration.

Sincerely yours,

RICHARD J. HUGHES,
Governor.

STATE OF NEW JERSEY, OFFICE OF THE GOVERNOR,
TRENTON, *March 26, 1965.*

This Nation was born in a Revolution which sought to achieve human rights. It engaged in a bloody Civil War to guarantee that no American would ever again be treated as a piece of property, but as the human repository of a Divine spark. Two great wars around the globe were fought to make the world safe for democracy, yet the right to vote—the essence of democracy—is challenged in Alabama and other areas today.

The history of the franchise in this Republic is a history of the progressive removal of one artificial limitation after another on the right to vote. In post-revolutionary America the property-holding limitation was removed. In the mid-19th century the right to vote was granted to former slaves. In our own time, women's suffrage was formally ratified and restrictions such as literacy tests or poll taxes are gradually falling by the wayside.

In making strenuous efforts to implement fully the 15th amendment to the Constitution in the civil rights crisis before us, the Congress, by considering the Voting Rights Bill of 1965, takes a logical step forward in keeping with the stated ideals of this country, and comes closer to a fuller measure of freedom for all its citizens. The right to vote in a democracy is not divisible on the basis of class or color or race if universal suffrage is to have any meaning. The Negro American citizen cannot and will not be excluded from our birthright of freedom and equality of opportunity.

New Jersey proudly places itself in that tradition of freedom and the expanded franchise. In this century there has not been one case on record of the denial of voting rights to any citizen of this State because of color or race. And New Jersey today probably has the most liberal voting laws of any State in the Nation.

Any person, resident in the State for 6 months and in the county for 40 days before an election, may register to vote if he is not mentally incompetent or has not been convicted of a crime specified in the voting statute.

Most important, voting registration in New Jersey is permanent as long as the voter casts his ballot in at least one election during a consecutive 4-year period. If he does not, his permanent registration lapses and he must then reregister.

Blind or otherwise physically incapacitated persons may register in their homes. Those who cannot read or write may register by making a mark in the presence of witnesses. Residents who are registered to vote traveling or living temporarily outside the State or the country may vote by absentee ballot. In addition, qualified members of the Armed Forces from New Jersey, wherever they be stationed, are considered registered upon making application for an absentee ballot.

The appeal to local initiative has been stressed in many counties by the establishment of mobile registration centers which offer evening opportunities to register in one's own residential area.

Central election offices in New Jersey are also open for registration on an average of 150 working days every year. We encourage not only the acts of registration and voting but an understanding of the candidates and the issues at stake. Before every primary and regular election, each New Jersey county board of elections must send a sample election ballot to every registered voter in that county. In this manner the electorate becomes familiar with candidates and public questions in advance of the election, and, in addition, the sample ballot serves to keep voter lists up to date and aids in the prevention of election fraud.

Notwithstanding this record, I am not unmindful that there are aspects of the New Jersey election laws which could and should be further liberalized to assure the greatest possible participation in our election process. I intend to press for such further reforms in New Jersey, especially in the area of registration. These reforms would go far beyond what is required in the act under your consideration.

This, in urging that your committe adopt the Voting Rights Act of 1965, New Jersey does not ask you to go beyond the bounds of reason or to exercise partisan political power. New Jersey is a State which under its liberal voting laws has elected Democratic and Republican Governors, legislatures, Congressmen and Senators. We believe in letting the people choose for themselves. And we also believe that everyone must be given that opportunity to choose whatever his color or his race or his ethnic background.

Speaking for the overwhelming majority of the people of this State, I respectfully urge you to adopt and implement the Voting Rights Act of 1965.

RICHARD J. HUGHES,
Governor.

STATEMENT OF HON. JOSEPH P. ADDABBO, U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK, BEFORE COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, ON H.R. 4425

Mr. Chairman and members of the committee, I appreciate this opportunity to testify in support of my bill H.R. 4425, introduced on February 4, 1965, "to further secure the right to vote, free from discrimination on account of race or color, through the establishment of a Federal Voting, Registration, and Elections Commission." Also, Mr. Chairman, I wish to commend you and the other members of the committee for the speed and long hours of work you are putting in to meet the grave problem before us.

I believe that my bill is a good bill and it is similar to H.R. 6400. Of course, I would be pleased to see H.R. 4425 enacted, but I have no hesitancy in wholeheartedly endorsing H.R. 6400 which contains many of the same provisions contained in my bill which you are also considering.

Before coming to Congress and since, I have worked long and hard to insure that every American citizen regardless of creed, color, race, or national origin receives every right to which he is entitled under our Constitution. In my opinion, no one can argue that all American citizens are receiving all these rights and no place is the discrimination and abuse more flagrant than in the area of voting rights. Recent events in Selma, Ala., have served to pinpoint

the need for Federal legislation to secure for all citizens eligible to vote that right to register and vote without fear.

We sought, in the Civil Rights Act of 1964, to improve the machinery in voting rights cases, but in the short time since this act was enacted we know that its provisions are not adequate in this area. Every discriminatory and delaying tactic imaginable has been and continues to be employed in some areas to keep Negro citizens from registering and voting—there is no need for me to enumerate these practices here as they are well known to all of us. The Congress must take immediate and effective steps to enforce article 15 of the Constitution—it is a duty we must not abrogate.

I know that all of us look toward that day when all American citizens can live together in peace and harmony, but that day will not come until all citizens enjoy their constitutional rights. We cannot have peace and harmony until every eligible citizen can exercise the privilege of the free ballot box at every level of government—this is the basic fundamental right of the American citizen.

Mr. Chairman, I cannot stress too strongly my approval of this legislation, and I urge the committee to bring this legislation before the full House at the earliest possible date.

STATEMENT BY HON. JOHN S. MONAGAN BEFORE THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, ON H.R. 6254, VOTING RIGHTS, MARCH 23, 1965

Mr. Chairman, I appear before the committee in support of my bill, H.R. 6254.

The objective of this bill is to implement the voting rights of all individuals within the United States of America. These rights have been declared in our Constitution and they have been more specifically delineated by the Congress of the United States and our Supreme Court. In spite of the policy set forth in our basic documents and in statute and case law, it is unfortunately true that today in some areas of our country the right to vote is denied to qualified citizens because of the color of their skin.

The right to vote is clearly one of the basic rights of citizenship in a democracy and it cannot be denied that many subsidiary and supporting rights flow from this major one. That is why the guarantee is so important and why the denial is so unfortunate.

The purpose of my bill is to provide sanctions at the most important point, the point of registration. It is precisely here that the human element of exercise of discretion by registration officials has permitted deprivation on frivolous and illegal grounds. This bill provides for the appointment of Federal registrars by a court after a pattern of discrimination has been found to exist.

I filed this bill in order to express my belief that legislation of this type was urgent.

Since that time the President has made a stirring statement to the country and has on behalf of the administration filed legislation with the same objectives and similar provisions to those contained in my bill. Needless to say, I support the President and the objectives of the legislation filed by the administration.

Any legislation which tends to upset traditional relationships between the Federal Government and the States must be approached with caution and with regret. On the other hand, where the offense is substantial, the right of intervention is also substantial and this is the present case.

I hope that the committee will act promptly so that the House soon may have the opportunity to vote upon an adequate voting rights bill.

STATEMENT OF HON. JAMES HARVEY, OF MICHIGAN, TO THE HOUSE COMMITTEE ON THE JUDICIARY, MARCH 24, 1965

I very much appreciate having this opportunity to submit my statement on voting rights legislation now being considered by the House Committee on the Judiciary. As you know, legislation that I have introduced on this subject, H.R. 5294, follows the comprehensive voting rights bill introduced by the Honorable Charles McC. Mathias, H.R. 4553, and a host of other Members.

In addition, I have publicly pledged my full support of the President's voting rights bill which, closely following pending measures, is designed to strike down restrictions on voting in all elections—Federal, State, and local—which have been used to deny Negroes the right to vote.

I am fully aware of the forceful and eloquent statements that have already been heard by the committee on the need for this new voting rights bill. Further, I share the views and hopes of the majority of our citizens in urging thoughtful, but swift action. May I say that I have been particularly pleased with the dispatch this committee has taken in conducting hearings on this subject. I say keep up the good work.

This swift reaction, not only to the President's plea, but to that of many Members of Congress and the people, is as right and just as this bill. This is an "all American" involvement. And until we do away with the obvious voting denial tricks that are utilized, we are only kidding ourselves whenever we say, "This is the land of the free and the home of the brave."

Gentlemen, permit me at this time to quote in part from an editorial which appeared in the March 15, 1965, edition of the Saginaw News, Saginaw, Mich. These few words sum up the real need for this new voting rights bill:

"We explore the heavens, probe the depths of the seas and become intimately acquainted with our earthly environment. Yet, within our hearts, how far have we come from the cave age? We make notable advances in medicine and science in the art of prolonging our years; we struggle in the humanities to enrich the life we prolong. But what do we understand about our base impulses and instincts?

"It is time when the simple act of reaching out to embrace human kindness, honesty, humility, and decency seems somehow more distant than the moon or Mars.

"Whatever it is that comes from our newest and most violent encounter with old standards, let us hope it opens up a better world. We are paying enough for the privilege of searching."

Gentlemen, I remember well that the 1964 Civil Rights Act was hailed as the greatest single achievement of the 88th Congress. I am convinced that enactment of the voting rights bill you now are considering will gain equal stature. I am equally convinced that the vast majority of our colleagues are anxious and willing to lend their support to this measure once your committee has acted.

Again, my congratulations on your splendid work on this measure and my appreciation for this opportunity to endorse it fully and completely.

STATEMENT OF HON. ALBERT H. QUIE, REPRESENTATIVE FROM THE STATE OF MINNESOTA

Mr. QUIE. Mr. Chairman, I appreciate the opportunity to present my testimony regarding H.R. 5952, which I introduced on March 8, 1965, and which would provide for the implementation of voting rights, the appointment of Federal registrars, and other purposes.

In brief, this bill would amend title 42, sections 1971 (a) (2) and (c) to extend Federal voting right guarantees to all elections—Federal, State, and local—and would further provide for a system of Federal registrars to guarantee a fair hearing to all claiming discrimination on the basis of race, creed, or color.

I believe that this bill wisely includes a provision for allowing a qualifications test, to be prescribed and administered by the various States, so long as any applicant who has completed the sixth grade or its equivalent shall be judged literate. I believe that reasonable qualifications tests are justified, for it is reasonable to expect that potential voters must have knowledge of issues and candidates when they prepare to cast their ballots. However, I oppose anything beyond the minimal requirement of a sixth-grade education or its equivalent as a test of literacy in judging the qualification of a voter.

I believe that H.R. 5952 also includes effective and workable safeguards for the rights of all who qualify to vote, so that they may actually do so. To tell the truth, Mr. Chairman, it is unfortunate that it has been necessary for Members of Congress—first Republicans and then Democrats—for this is a bipartisan issue—to have had to introduce legislation at all in this Congress. There is more than enough legislation already on the books. The problem is that we have not found a way to truly enforce any of those laws. I believe that the system of Federal registrars included in H.R. 5952 will provide the means of enforcement for which we have previously searched and have yet to find.

I know that the members of the committee are carefully studying the provisions of the President's voting rights bill and other similar legislation. However, I want you to consider the provisions of H.R. 5952. Let me briefly explain my reasons for introducing it.

In doing so, there is one point, however, on which I want to make myself completely clear. That is how I, an advocate of Federal-State-local partnership in government, feel about what some people term "Federal intervention in the rights of the States" in regard to guaranteeing the right to vote in State and local as well as Federal elections.

The 15th amendment to the Constitution forbids discrimination in voting on grounds of race, color, creed, or condition of previous servitude. The constitutional amendment—and I hold the Constitution of the United States in the highest regard—does not qualify itself. It does not limit itself to Federal elections. It says nothing of the States. It speaks only of the individual. This is a case in which each American is guaranteed the basic right to vote, in the same way that he is guaranteed freedom of speech, freedom of the press, freedom of assembly, and freedom of religion.

It does limit itself to discrimination on the basis of race, color, creed, or condition of previous servitude. Thus, some type of qualification test is obviously constitutional and other parts of the Constitution support this view. What legislation has sought to do in the past, as H.R. 5952 does today, is to prevent constitutional methods to be used to gain an unconstitutional result.

There is no doubt that qualifications tests—of themselves constitutional—have been made so impossibly difficult in some places that they have served the unconstitutional purpose of discriminating on the basis of color. This is what H.R. 5952 seeks to correct.

It is the same situation that the Civil Rights Act of 1957 sought, the Civil Rights Act of 1960 sought, and the Civil Rights Act of 1960 sought.

Under the terms of H.R. 5952, both sides are fairly dealt with in determining whether discrimination has actually occurred. I feel that it is of utmost importance that we maintain fairness toward both those who claim they have been discriminated against and those who, it is claimed, have been guilty of discrimination. To do less is to negate our belief that the accused is innocent until proven guilty.

To implement this, my bill provides that if the court finds that any persons or person have been deprived on account of race or color of any right or privilege secured under the terms of this bill, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding concerning whether this deprivation was part of a general pattern or practice.

If the court finds that 50 or more persons of such race or color who are residents within the affected area are qualified to vote under State law, and have been, within 1 year from the date the proceeding was commenced, deprived or denied under color of law the opportunity to register to vote within 2 days of making application for registration or found not qualified to vote by any person acting under color of law, it shall then make a finding that a pattern or practice of discrimination exists.

It is then that the court shall appoint one or more Federal registrars to receive registration applications of persons previously discriminated against.

Mr. Chairman, I believe that the Constitution and precedent alike are equally clear concerning intent as well as the right of the Federal Government in this matter. Thus, I believe that what the Congress of the United States must now do it to provide a workable method of enforcement. This is what my bill seeks to do, while guaranteeing the integrity of the ballot box by providing for a reasonable qualifications test.

I do not believe such action is interference in the rights of the State, not only because of the Constitution and past precedent but because I believe that in our system of checks and balances it is incumbent on every level of government to protect the rights of individual citizens. Our whole system of government was developed for the protection of the individual. If a local government fails to protect individuals, or a State level fails in this regard, it is the duty of the Federal Government to do so. It is proper that the Federal Government may act as a check on the State for the protection of citizens, just as the State should act as a check on the Federal Government for the same high purpose. This is not, in the final analysis, a matter between Federal and State Governments. It is strictly between the individual citizen and what Americans have always called

the God-given right to govern oneself. As an extension of the opinion, Thomas Jefferson wrote: "States are instituted among men, deriving their just powers from the consent of the governed."

Any level of government which withholds a basic method by which people in our society act to govern themselves is not exercising "just power," according to one of the highest ideals of our founding as a Nation.

To allow this situation to continue is to make a mockery of all our highest ideals of self-government. Unless all responsible and qualified persons can vote, there is no "freedom and justice for all," no guarantee of "life, liberty and the pursuit of happiness," no "government of the people, by the people, for the people."

Mr. Chairman, I respectfully urge favorable consideration of H.R. 5952 and suggest its early passage.

TESTIMONY OF CONGRESSMAN JOSEPH Y. RESNICK, BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY CONCERNING THE VOTING RIGHTS ACT OF 1965, MARCH 26, 1965

Mr. Chairman, looking back over the events of the last decade, we can see that there is one lesson we should have learned in the field of civil rights legislation—any bill that does not do a complete job is not only ineffective but, even worse, lulls the public into a false and dangerous sense of security.

Past bills, leaving too much undone, have come back to haunt us, and the passage of a similar bill now would have the same effect. Since the school desegregation ruling in 1954, the Negroes' struggle for equality has been a painful experience. Much of this pain could have, and should have, been avoided. When the news of the violence in Selma, Ala., first became known, the public was shocked. I would estimate that the vast majority of our people thought that the 1964 Civil Rights Act, over which this committee worked so long and hard, guaranteed the right to vote to all citizens in this Nation. What went wrong to trigger the violence in Selma? What can be done now to right this tragic situation?

We must pass a law this session that can leave absolutely no room for the ingenuity of man to deny anyone the right to vote because of his race. If we do not accomplish this task now, we will only be setting the stage for the opening of old wounds next year or the year after. This vicious cycle, so harmful to the country, must be broken now. We must plug all possible loopholes. We must rectify the situation that has arisen in the past where the Negro could move ahead in many fields but remain mired down in his struggle to achieve equality at the ballot box. If we do not pass an all-inclusive voting bill, anticipating all difficulties, we can prepare now for more demonstrations and bloodshed next year.

The legislation so movingly proposed by President Johnson will stand as one of our country's truly historic pieces of legislation. I hope we can mold the President's intentions to fit the realities Negroes face in many Southern States. Officials in these States are determined to prevent the Negro from voting.

To bring intent into the realm of reality once and for all, I respectfully ask for the inclusion of a provision, similar to one now embodied in H.R. 4500, to abolish the payment of a poll tax or any other tax as a prerequisite for voting in any election. Not only would this benefit the Negro, but thousands of low-income white voters as well. It is difficult to justify the cost of casting a ballot when that expense is more than enough to buy a day's food for your family or guarantee a roof over your head for another week.

The 24th amendment to the Constitution has abolished the poll tax in Federal elections. Why then must the poll tax be allowed in the very elections that affect the Negro the most?

The most repressive laws affecting the Negro in the South are not passed by the Federal lawmakers—they are enacted by the local and State assemblies whose elections would still require a tax to vote. I don't believe that elections can be classed and governed by separate laws. If the poll tax is illegal in one election—if it is considered to be abominable in one election—it is as illegal and abominable in all elections.

Mr. Chairman, the legal guarantee of the right to vote does not automatically guarantee the basic right to vote free from pressures and intimidation. Not so long ago in the Negroes' bloody struggle to achieve voting equality, the real weapon of the southern segregationist was not the literacy test, or the subterfuge of hiding behind existing law, or even the poll tax—but the slightly

veiled threats of the Ku Klux Klan and other proponents of white supremacy of violent reprisals. These reprisals and intimidations still pose a potent threat in the South.

These threats may not always include a Klan rope dangling from a tree, but the result is the same when a job or extension of credit is involved. If we cannot effectively enforce the right to vote free from all the instruments of suppression, we have failed.

President Johnson has taken a step in his proposal that goes a long way in making the concept of equality a reality to a great many people. However, I suggest the inclusion, such as one included in H.R. 4509, that would provide for the voiding of an election when discriminatory practices have resulted in a substantial denial of the right to vote. A new election, under Federal auspices, would, in that case, be held.

We can see the reactions of southern officials now that their supremacy at the ballot box has been challenged. I believe that only when the Federal Government has the power to call a new election when racial discrimination is discovered, will the franchisement of the Negro be complete. I do not feel the President's enforcement by civil action of the Attorney General will be effective. We must in these hearings plug the loopholes of the segregationist, not just offer another in a long, tragic line of bills partially guaranteeing the basic rights to all of our citizens.

Mr. Chairman, on H.R. 6341, I feel that we must exercise the principle set forth in the Constitution when it requires that the basis of representation shall be reduced in proportion to the number of adult citizen inhabitants of such a State whose right to vote is denied.

This bill exemplifies the spirit of the President's civil rights message; will further the cause of equality for all citizens; and will reaffirm our determination to make all the Federal guarantees in the Constitution a reality.

Mr. Chairman, President Johnson concluded his historic message with the stirring phrase, "We Shall Overcome." I see the day, after the passage of these two important bills, when we can honestly say, "We Have Overcome."

HOUSTON, TEX., *March 23, 1965.*

Representative EMANUEL CELLER,
House Judiciary Committee,
House Office Building, Washington, D.C.

Subject: Voter registration bill.

DEAR REPRESENTATIVE CELLER: Our group is opposed to the voter registration bill. First, because we feel it violates the constitutional rights of the States, and second, because we feel the Civil Rights Act of 1964 was sufficiently broad in coverage so as to make additional legislation unnecessary.

Realizing, however, that the bill will probably be enacted due to the powerful pressures behind it, we would like to suggest some thoughts to be considered in the form of an amendment to the bill. Members of our group have observed the relative ease in which illegitimate voters can become registered and qualified to vote. Also, there is difficulty when honest citizens try to prevent the illegitimate voting by these "registered" voters.

It is the opinion of our group that the voter registration bill should include an amendment making it more difficult for people to multiple vote via multiple registration. This could be done by some system of absolute identification as a prerequisite to registration and a stiff penalty for registering illegally.

In general, we feel that if the voting franchise must be extended to all people, then it follows that the voting franchise must be limited to only one vote for each person.

Sincerely,

DAVID L. MEINE,
President, the Society for Conservative Political Action.

STATEMENT MADE BY FORMER REPRESENTATIVE ALBERT WATSON OF SOUTH CAROLINA ON H.R. 6400

Mr. Chairman. It is difficult to state with complete accuracy when it began. Nor can we know when it will end. We can, however, say without fear of successful contradiction that it is now at the highest point in our history. I refer to the rape of our Constitution for political expediency. No other rational explanation exists for the proposal known as H.R. 6400.

Within the past few days I read the following in a national magazine, "A workable definition of a functional illiterate is the man who believes the proposed legislation of Lyndon Johnson is constitutional."

The setting of voting standards is a legitimate exercise of the power of the sovereign States. This power is theirs alone, being clearly and succinctly stated in article I and amendment XVII of the Constitution. Amendment XV is essentially negative or prohibitive in nature. It does not represent an enlargement of Federal authority, but merely restricts State action. Merely saying that the bill is constitutional, as I understand the Attorney General has done on several occasions, does not make it so.

I know that the manifold constitutional shortcomings of this measure have been called to the attention of this committee by others. I know also that you are aware that as recently as 1959, the Supreme Court upheld the power of the States to impose literacy requirements for voters. If these were valid in 1959, it is inescapable that they are valid in 1965.

All of us know, Mr. Chairman, that the support of this measure is primarily the result of mass hysteria created and nurtured by the national press. An excellent example of this is the cartoon which appeared in a recent issue of the Washington Post, depicting a State trooper in Selma, Ala., with blood dripping from his fingers, and the caption, "I just got him before he reached the church door." Admittedly, we have little control over irresponsibility on the part of the press, but certainly we are responsible for our own actions. While the above is about what one would expect from the Washington Post, it ill becomes the membership of this body when it abandons its own responsibility, surrenders its own judgment, and succumbs to mob rule.

It is most disheartening, Mr. Chairman, but also very true, that passage of this measure may make political points for many of you. The more you abuse the South, the higher your stock rises in the North. And you have probably wondered many times, "When will these southerners learn that this committee is not going to give them any consideration? Why do they persist always in cluttering our minds with talk about the Constitution?" Well, in all honesty, Mr. Chairman, it is frustrating. You have the votes to do just about as you please and the comfort of knowing that the more you castigate the South, the greater your political reward will be. But frustrated and despaired though we be, we must come to you hoping ultimately that the Constitution, which all of us have sworn to uphold, will survive the assault upon it.

Where else can we turn? We see the Supreme Court sitting on the House floor wildly applauding legislative recommendations. Can we expect impartial examination of these proposals by that body if they become law?

We see the President of the United States take his stand before the Nation on the side of those who create and thrive on disorder, chaos, and even violence, albeit in the name of nonviolence. Instead of picking up the chant of the professional agitator, "We shall overcome," it would have been more appropriate for him to say, "I have been overcome." And let no man be misled into believing that passage of this measure will end their activities.

Their very existence depends upon continuation of domestic upheaval and their own words tell us not only that they intend no letup, but that they plan to expand their operations.

A former President of the United States stated on Monday that these activities were "silly." He added that "they can't accomplish a darned thing. All they want is to attract attention." Mr. Truman is not looking for votes. His position frees him from the pressure of making politically motivated statements. His right of free choice led him to disassociate himself from those who have chosen to make their beds in the temples of the lawless.

Mr. Chairman, if the bill is fair, why not let it apply to all the States? Surely the States not covered must be clamoring to enjoy its benefits. Why does it not embrace the District of Columbia, the only area where Congress actually has authority to provide voter qualifications? I notice that the District is not covered, and yet I also notice that only 38.4 percent of its estimated eligible voters participated in the presidential election of 1964. These figures are from the table prepared by the Civil Rights Commission, which I assume is the basis for selection of those States and subdivisions subject to coverage by H.R. 6400. The 38.4 percent is only 0.4 percent higher than the figure given for South Carolina in the same chart. Is voter discrimination so widespread in the District of Columbia? I would assume not, when I am told that one precinct here gave Senator Goldwater only 2 votes to his opponent's more than 3,000. I cannot match that in South Carolina, although I can offer one from my hometown

where Goldwater got 55 votes and his opponent received 2,203. And there was a rural box in my county where the Senator received 21 votes and the other candidate collected 301. In fact, Mr. Chairman, is it not strange that five of the seven States to whom this bill would apply voted against President Johnson last November? Perhaps you can convince yourselves that H.R. 6400 is not motivated by vindictiveness, but it will be difficult to convince the openminded citizen of this.

I do not ask you to take my word for the fact that there is no voter discrimination because of race in South Carolina. Roy Wilkins, executive secretary of the NAACP, stated sometime during 1963 in Charleston, that any Negro not registered in South Carolina had only himself to blame. Within the past 2 weeks the State leader of the Voter Education Project, the drive to register Negro citizens, has stated publicly that his only, repeat *only*, difficulty is apathy. Two Attorneys General of the United States have sent investigators into my State and on neither occasion was any substantial evidence of discrimination uncovered.

I would like also to call your attention to an article which appeared in the Monday, March 22, issue of the Washington Post, on page A-8. The author is Robert E. Baker. Neither the Post nor Mr. Baker are widely heralded for their conservative views. Mr. Baker wrote in part, as follows: "The plain fact of the matter is that Negroes in the South who fail to vote because of apathy outnumber those who do not vote because of discrimination."

You may ask then, "Why do you object to this bill when you have nothing to fear? If you are not guilty of discrimination the bill provides a method of relief from its provisions." Mr. Chairman, if you point a loaded gun at my head, surely you would not expect me to take much comfort by any words assuring that you did not intend to fire it.

From time immemorial we have found that good government depends upon informed voters. We have seen in our personal experience that the pattern of voting in the Negro precincts does not reflect an independent or individually considered vote as noted in examples given above. We know the pattern of the block vote, slips of paper with numbers or names given to each voter as he enters the polling place, to be returned upon leaving so that they may be passed on to others. Voting for numbers. Herded through like sheep. And you propose to increase this practice by eliminating literacy tests in those States which prevented the President's election by acclamation. I strongly oppose the denial of the right to vote to any qualified citizen, but at the same time, I oppose as strongly measures which can serve only to lower the quality of voting. We cannot hope to improve the quality of voting by eliminating all literacy tests.

Quality nearly always suffers when quantity occupies the focal point of one's thinking. No exception will follow if H.R. 6400 is enacted into law.

Mr. Chairman, this bill repudiates the golden thread of American justice in the presumption of innocence until proven guilty. It would require a State or board of registration to bring an action before a three-judge Federal panel to prove they are not guilty of discrimination, even though there has never been an allegation by anyone that they had been discriminated against. This bill defies all judicial reason and robs the people of far more rights than it purportedly seeks to confer on some.

In short, Mr. Chairman, this so-called voting rights bill is the most confused and unconstitutional hodgepodge of legislative nonsense ever penned by man.

The CHAIRMAN. We will now adjourn and meet tomorrow morning at 10 o'clock.

(Whereupon, at 12:02 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, March 31, 1965.)

VOTING RIGHTS

WEDNESDAY, MARCH 31, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (Chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Donohue, Corman, McCulloch, Cramer, and Lindsay.

Also present: Representatives Feighan, Gilbert, Tenzer, Conyers, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and Allan D. Cors, associate counsel.

The CHAIRMAN. The committee will come to order.

The Chair wishes to announce the following witnesses for the morning. The Honorable John Dowdy, Representative from Texas; the Honorable John Buchanan, Representative from Alabama; the Honorable W. J. Bryan Dorn, U.S. Representative from South Carolina; the Honorable L. Mendel Rivers from South Carolina; Mr. James Farmer, National Director of CORE; Mr. Sidney Zagri, the legislative counsel of the Teamsters Union.

We will be compelled to hold a night session at 8 o'clock tonight when we will hear the Honorable David N. Henderson, U.S. Representative from North Carolina; Representative Glenn Andrews from Alabama; the Honorable Richmond M. Flowers, attorney general of the State of Alabama; and representatives from the NAACP of Virginia.

I am sorry that we have to call another evening session but I do not see any other alternative.

Our first witness is our distinguished Representative from Texas and the very able and efficient member of our own Judiciary Committee.

Mr. Dowdy, we are glad to hear from you. I just want to explain that as Chairman I am compelled to go before the Rules Committee this morning to apply for a rule on the constitutional amendment concerning Presidential inabilities. I may not be able to be present throughout your testimony. I am sure you will understand.

The committee will be chaired by Mr. Rodino.

STATEMENT OF HON. JOHN DOWDY, A U.S. REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. DOWDY. I will not take a lot of time because I do not want to be repetitious.

Mr. Chairman, I appreciate this opportunity to have heard a few of my observations relating to this proposed H.R. 6400. I have no desire to be repetitious of the testimony and briefs that have already been presented to you, showing clearly and unmistakably that this bill is unconstitutional, and would be so construed by any judge worthy of the title.

Possibly in these days it is vain to advance constitutional questions, in view of the fact that the Supreme Court has assumed the power to amend the Constitution by judicial decree, and the Executive is here demanding that Congress amend it by legislative act, wholly ignoring the plain provisions of that Constitution, which set forth the manner and means by which it can be constitutionally amended.

An incident was related to me, the source being one for which I have high regard, that further leads me to believe we are indulging in wasted effort when we present logic, reason, and constitutional questions.

It is this: The Attorney General met with some of the leadership, both parties, of the other body, to discuss the proposed bill with them. When the constitutional questions were there raised, the Attorney General immediately laid them to rest, advising the Members of the other body, there present, that they would not have to worry about that; that he had shown the bill to Chief Justice Warren and four other Members of the Supreme Court and that they "enthusiastically approved" of it.

Without going into the ethics of a lawyer talking to the court about a case that might likely come before it, this matter has seemingly been prejudged. The report of this incident was hot from the meeting, almost within seconds, and was res ipsa loquitor—the act speaking.

As we are not to be permitted to be concerned about the constitutional aspects of this proopsal, we might turn, for a moment, to the reason advanced for the demand that it be forthwith enacted without having been subjected to the considered judgment which would be ordinarily given to a proposal of such far-reaching significance, that reason, of course, being rioting, mobs, and demonstrations that have been generated.

Perhaps this country is to be subjected to mob rule—I hate to believe it—and we certainly do not serve such. But, be it remembered that less than a year ago, the Civil Rights Act of 1964 was enacted, and the reason most loudly acclaimed in both Houses was that it had been demanded by the demonstrating mobs, and that its enactment would take the mobs off the streets, and put them in the courts. What has happened? The mobs let up until after the election, but the mob-leading agitators plainly stated that as soon as the elections were over, they would be back—and so it has happened, and we have even greater mobs, in more places, and with enhanced violence.

So, in fear and trembling, under threats and duress, we are told we must enact this piece of legislation because the mobs demand it—while at the same time, the mob leaders are telling us that enactment

will not satisfy their insatiable demands, but that the intensity will be stepped up, and carried to more and more sections of the Nation.

If it were not so serious, mob psychology could be called a funny thing. These characters that have been here in Washington, at the White House, at Speaker McCormack's office in the Capitol, and on the streets—and I only use them as examples—when they are alone, or only two together, they are pitiful, cringing, and cowed, but get them together, in a mob, and get the mob feeling running through them, they lay down in the streets, block the halls of the U.S. Capitol, and take over the White House, and with such fierceness that physical force and strength is required to move them.

In every case, these folks yell "police brutality," when, in fact, no more force than is necessary, is used. For this reason, President Johnson did not permit reporters or cameramen to attend the White House invasion, because he knew the purpose, and caused those invaders to be secretly evicted.

There is something else about these mobs. When they once learn that their actions will lead to granting of their every demand, there is a multiplication both of their demonstrations and riots, and of their demands. Already we are hearing of planned demands for a "Marshall plan" for the participants in the mobs.

History reveals what happens to a country once it surrenders to the anarchy of a mob. After all else is destroyed, then the mob turns upon itself. Something of the sort happened in Alabama, following the 5-day march to Montgomery. In that march, there was a large percentage of white people who had so far forgotten themselves as to participate in such an affair. It was mainly through their efforts that it got so much notoriety, and cost the American taxpayers in excess of a third of a million dollars. Yet when they got to Montgomery, and the pictures were to be taken, and the speeches were to be made, and the dangers were past, the Negro leaders took over, and in effect, said, "You white trash get back now—we are through with you."

Now, assuming we are to forget the Constitution, and cravenly submit to the demands of the mobs, and bring all elections, Federal, State, and local, under Federal control, I think it should not be done in a discriminating manner, such as in this bill; and that the purity of the ballot should receive as much protection as the casting of the vote, because if fraud, duress, voting of the dead, and other means of stealing elections is allowed, the right to vote is of not much worth.

I would now suggest, in rough form, a few amendments that might help carry out what should be, and seems to be the avowed purpose of the bill.

First, of course, it should apply universally and not discriminate and just apply to a few States—six or seven or eight or nine, however you want to interpret it.

First, of course, the allegation that the purpose of the bill, or one of its purposes, is to get the demonstrating mobs to go home. A long step in this direction would be a provision in the bill to make it unlawful for a person to cross State lines, or to transport other persons across State lines, for the purpose of participating in, inciting, causing, or encouraging riots or disturbances of the peace in violation of laws or ordinances of States or municipalities. It might be well that

a provision also be added to make it unlawful to buy a ticket for someone for such purpose; and, of course, adequate punishment should be provided.

A provision should be added to the bill forbidding mass demonstrations and riots, placing a reasonable limitation upon the numbers of people who can be involved at any given time and place, and providing penalties for violation.

The proposed bill provides that the registrar or examiner shall disregard the voter qualification laws of the subject State. This should be amended to require the registrar to be governed by the voter qualification laws of the State, to the extent that they be applied without discrimination on account of color, and provide a penalty for the registrar who willfully violates that law.

In Texas, and I imagine in other States that have poll taxes, it is a violation of the law for one person to pay the poll tax of another. In this proposal, wherein poll taxes may be paid to the registrar, similar provisions should be made, and also a provision making it a violation for a registrar to knowingly permit same to be done.

In my State, and I am sure in others, a person must be able to read and write to be able to vote, because, unless physically unable to mark the ballot, or being blind and cannot see, one person cannot mark the ballot of another. It should be made clear that this proposal does not intend to permit one person to vote for another, and an amendment is necessary to that end, and penalties provided.

I have in my files copies of poll taxes and registration without payment of poll taxes that occurred in Texas last year, after the adoption of the poll tax amendment, in which there are, in effect, duplicate registrations. This was deliberately done, by encouragement of the illiterate to so violate the law. Penalties should be provided therein for duplicate registrations, and the registrar should be included for knowingly and willfully participating in duplicate registrations.

I shall not take up more of your time, as others want to be heard. There are other amendments which would help insure honest elections. As I said earlier, if we are going into this, that ought to be our main purpose here, as honest elections and honest counts of votes is certainly just as important as the right to vote. If the vote is not honestly counted, then the right to vote is of no value.

Thank you, gentlemen.

Mr. ROMINO (presiding). Congressman, we want to thank you for appearance here this morning. We appreciate your opinions and your feelings in this matter. I had not intended to comment on your statement.

However, I think it is appropriate to at least point out, and I am sure that the gentleman would agree, that this Congress will not be intimidated nor will it act under fear or duress.

I think we are all aware of the fact that there have been areas where there has been a massive denial of the right to vote and we are acting on the basis of facts which have been presented.

I am sure that the gentleman who has a high regard for the Congress of the United States of which he is a part, will not want the record to show that we are going to act on the basis of intimidation or because of fear and duress.

The gentleman knows and respects——

Mr. DOWDY. I said we were being urged to so act.

Mr. RODINO. I am glad that the gentleman makes that clear because I certainly would not want him to leave that impression.

Mr. DOWDY. And I trust that Congress will not succumb to that urging.

Mr. RODINO. We thank you very much, Mr. Dowdy.

Congressman Rogers?

Mr. ROGERS. I did not fully understand what you meant when you said the constitutionality of this would not be a problem because the Attorney General had made certain statements.

Would you repeat what you stated before?

Mr. DOWDY. What I said was, and the report came to me as reported, as the act speaking itself in talking to Members of the other body when they were getting this bill ready for introduction. They asked him about these constitutional questions and he said that would be no problem because he had talked with the Chief Justice and four members of the Supreme Court about it.

Mr. ROGERS. That he had talked to the Chief Justice?

Mr. DOWDY. Showed it to him.

Mr. ROGERS. Showed it to him and four other members of the Supreme Court?

Mr. DOWDY. That is the report that came to me.

Mr. ROGERS. Is that a report that would cause any alarm to you at the time?

Mr. DOWDY. I think that that is unethical, of course, but I said I would just give that without commenting on the ethics of it.

Mr. ROGERS. You say you give it without comment.

Mr. DOWDY. I do not think comment is necessary.

Mr. ROGERS. You and I are lawyers, at least admitted to the bar.

Mr. DOWDY. We have a license to inflict ourselves on the public as lawyers.

Mr. ROGERS. Well, do you know of instances where the members of the Supreme Court are talked to about proposed legislation before it is ever introduced?

Mr. DOWDY. They should not be. They should not express any opinion about these matters before it is enacted.

Mr. ROGERS. They should not, and have you reason to believe that the information given to you was reliable?

Mr. DOWDY. It came to me from what I consider a reliable source.

Mr. ROGERS. Would it be from a Member of the other body that was in this conference?

Mr. DOWDY. It came from people who were in the conference; yes.

Mr. ROGERS. Would it be Members of the other body that made such statements?

Mr. DOWDY. I think that the people that related it to me—I would not be free to go that far.

Mr. ROGERS. Why would you not be?

Mr. DOWDY. Because it was given to me with the promise that I would not reveal where it came from.

Mr. ROGERS. Then why do you reveal it now?

Mr. DOWDY. I am not revealing where it came from.

Mr. ROGERS. But you did give the substance of what was in the conference.

Mr. DOWDY. I gave the substance of it and I think the Attorney General of the United States ought to be asked about it.

Mr. ROGERS. Did you direct it to his attention?

Mr. DOWDY. I did not, I am not a member of this subcommittee. I am giving the information——

Mr. ROGERS. But you are a member of the bar and a member of the bar of the Supreme Court of the United States; are you not?

Mr. DOWDY. That is right.

Mr. ROGERS. Do you not think you have some obligation as a member of the bar to——

Mr. DOWDY. If I did not so think I would not be saying anything about it right here, and if you are jumping on me for revealing the information that came to me, I think you are derelict in your duties as a lawyer.

Mr. ROGERS. That is what I am trying to find out. I want to know where you received such information, and since you believe it to be reliable I think we should look into it.

Mr. DOWDY. I do, too. I think you should ask the Attorney General about it.

Mr. ROGERS. Would you cooperate with us and expose to us those who gave you such information?

Mr. DOWDY. I do not think those people need exposing, I think the guilty people need exposing.

Mr. ROGERS. At least give us some indication as to whom we can talk to without going directly to the Attorney General and asking him.

Mr. DOWDY. I think I can probably give you the name of everybody that was at that conference.

Mr. ROGERS. Well, would you do it?

Mr. DOWDY. Here?

Mr. ROGERS. Yes.

Mr. DOWDY. I want to check to be sure that I have got all the names.

Mr. ROGERS. Well, will you check and get all the names and submit it here for the record?

Mr. DOWDY. As far as I am concerned; I will.

Mr. ROGERS. All right.

Mr. RODINO. Congressman Lindsay?

Mr. LINDSAY. No questions.

Mr. ROGERS. Congressman Buchanan? Is Congressman Dorn here? Is Mr. Farmer here in the audience?

I see Congressman Dorn entering the room. Would you please come to the witness stand, Congressman? Congressman Rivers, we are pleased to have you here and we await your testimony in this matter.

Mr. RIVERS. Mr. Chairman, I am appearing at the sufferance of my friend, Mr. Dorn. With the consent of your clerk—she let me take a part of Mr. Dorn's time, I better let Mr. Dorn begin.

Mr. RODINO. Congressman Dorn from South Carolina, would you identify the gentleman at the table with you? Is he going to assist in the testimony, Congressman?

Mr. DORN. Mr. Chairman, I have no prepared testimony. I would like to submit, with the Chairman's permission, a short statement later on in the day for the record.

Mr. RODINO. You have that permission.

Mr. DORN. In the meantime, permit me to thank the Chairman and the distinguished members of the subcommittee; each of you, for the privilege of coming here very briefly.

Mr. RODINO. May I say, Congressman Dorn, that we welcome your testimony before this committee. We know you are a respected Member of this body and we certainly appreciate the counsel you present before this committee. You may proceed, Mr. Dorn.

STATEMENT OF W. J. BRYAN DORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. DORN. I would like to say, Mr. Chairman, that coming over before this subcommittee is getting to be a very regular occasion. The last time I was before the subcommittee was less than a year ago in reference to the so-called Civil Rights Act.

Mr. ROGERS. I can testify you were here in 1957, 1960, and again in 1964.

Mr. DORN. Well, I was only going to mention, Mr. Rogers, just 1 year, 1964, the so-called Civil Rights Act. However, of course, there were other occasions.

One reason why I wanted to come this morning was to let the subcommittee know that this will not be the last. It seems that all we have to do to get a bill before the Congress in the last few months and years is to create some sort of a disturbance and some of our good friends in the country will react accordingly.

I do think the bill that is before the subcommittee today is a bad bill. I commend, however, each of you for your diligence and your perseverance and your honest, sincere desire to do something about the problems confronting our country. This bill is punitive, it is sectional, it is evil legislation.

I would like to say that as far as my own congressional district is concerned, that I know of no discrimination. I would like to say that Anderson County, which is the largest county in my congressional district—this may surprise some of you—they have registered 78 percent of the eligible Negroes in Anderson County, which is again the largest county in my congressional district; only 63 percent of the white people are registered in Anderson County.

Pickens County, which is second in my district in population, 72 percent of the eligible Negroes are registered, only 63 percent of the whites.

The third largest county, Oconee County, likewise, has not quite the same percentage but a larger percentage of the Negro adult population registered than the white.

These are the three largest, most populous counties in my congressional district constituting well over half of the entire population. I do feel that rather than being condemned we need to emphasize the positive, to emphasize some of these things we have done.

I think this is the great danger, the irreparable harm that is being done in this Nation, not just one section of it but to this Nation as a whole, we are being held up continually to unjust criticism—last year, again this year, and no doubt, next year, and right on. We never emphasize the great progress, quiet progress that is being made in the field of civil rights and voting rights and the exercise of the many privileges guaranteed by the Constitution of the United States.

Let me say this: In 1920 in South Carolina, 8 percent of the adult population eligible to vote participated in that great national election when I believe Cox of Ohio and Franklin D. Roosevelt were the Democratic nominees, Harding and so on was the Republican nominee.

In 1924, when Davis was the nominee, and Coolidge, we had only 6½ percent of our adult population eligible to vote in the national election.

In 1948, I have the figures right here, Mr. Chairman, only 13 percent of the adult population eligible to vote, voted in the 1948 elections.

What about last November? Thirty-eight percent of the adult population of South Carolina eligible to vote, voted. So I say that is the greatest progress, that is an increase of 300 percent over 1948 since I associated with you, Mr. Rogers, and you, Mr. Rodino, in this Congress, an increase of 300 percent—more than any other State in the American Union.

I think we have earned and deserved one little word of commendation on the progress we are making. If you just hold off on this legislation just a little bit, I believe in another 4 or 8 years we will be up to the national average, and I believe in a very short time we will be ahead of the national average because our people are conscious, and becoming increasingly so every day, of the responsibility and the privilege as well as the duty of participating in national elections.

Therefore, in view of this 300-percent increase since 1948, I do think this is evil legislation, it is bad advertisement, it is giving the world the wrong impression of what is being done.

The minor incidents throughout the country are being overemphasized and it is creating the wrong impression.

So I wanted to come here today to point out the positive—what is being done. I would like to plead with you gentlemen to consider the fact, and it is a fact, that we are making fantastic progress. I may not be as wise or even as moral as those who advocate this legislation.

Mr. RODINO. You are, Congressman.

Mr. DORN. But I hope you will concede to me a degree or at least a percentage of the desire to do what is right in this country toward morality and ethics in government and the political welfare and best interest of all of our people.

Now let me say this about McCormick County. I want to beat you to the draw. Every time I have been before this committee somebody pulls out McCormick County, so I am going to beat you to the draw.

Last summer, election year, my esteemed friend, Mr. Celler, and our good friend, Mr. Foley, pulled out McCormick County. Well, yesterday I called a member of the registration board in McCormick County, it is just a few miles from my county, and I cannot explain it really, it is just a few miles from Anderson County, the largest county in my district where you have 78 percent of the eligible Negroes registered, only 63 percent of the white in that county—but you drop down to McCormick County and the figures are somewhat different.

I have checked with Mr. Baggett, a member of the board of registration, who is a distinguished attorney. Here is what he told me on the phone last night, that the registration board in McCormick County meets the first Monday in every month—every month—this year, not an election year, no election scheduled in McCormick County this year.

Three of them on that board—there is no telling how much money Mr. Baggett loses, how many cases he loses, by going down and sitting in the courthouse all day long every month playing checkers, reading magazines or twiddling his thumbs and talking, waiting for someone to come in to register.

All right. Suppose a man comes in—I am not going to mention race because in McCormick County you do not have to say what race you are. You come in and ask for an application to register, that is the first step. You ask for an application, you fill it out and then the only thing you have to tell the registration board is your age, where you live, and your occupation.

Then the member of the registration board will hand you the Constitution of the United States.

Now, all this business about interpreting the Constitution, I am not an attorney but I have heard quite a few of them, a great many of them on the floor of the House, and I have never seen any two really agree on the Constitution. The board in McCormick does not ask anyone to interpret the Constitution.

They ask this applicant just to read, and you know he could just get up and quote: "We the people of the United States, in order to form a more perfect Union"—we memorize that in the second or third grade—he could say that. If he has any difficulty in reading a particular section, they will kind of help him out a little bit. They ask the white teachers and all the rest of them to do the same thing. This is a very simple requirement.

All right. If he can't read at all, he can do this: He can still vote if he can show where he paid taxes on $300 assessed valuation of personal property, which includes furniture, automobile, house, land, or anything.

Then failing in that in McCormick, under the voting law of South Carolina he has the right to appeal to the court of common pleas. This is written and spelled out in the law and the court can overrule on the other two counts—that of being able to read a simple line or two in the Constitution or on the tax question.

The court can still overrule and say you must put this man's name on the registration book. I see nothing difficult or complicated about that.

Why more people are not registered in this particular county, there are several explanations. One, of course, is that it is a rural county, people engaged in lumbering and forestry. Another reason, and you will be interested in this, the member of the registration board said that the population of McCormick County nonwhite is 62 percent but that this does not tell the whole story; that a good portion of the parents work in Atlanta or Washington or Philadelphia or Baltimore or New York, possibly Detroit, and their children remain in McCormick County, though, to go to school because they have good schools.

This is one of the reasons that has been advanced for considerably less nonwhite registration in this particular county.

The FBI went into McCormick County 5 years ago and they made a thorough investigation but found no discrimination.

The Civil Rights Commission said no sworn affidavits charging discrimination have been submitted to the Commission from this county. I just hope that we will give McCormick County a little more time and not condemn these people for doing the best they can.

I am reliably informed that officials of McCormick County, in order not to be criticized by the FBI and the Civil Rights Commission and some of my good colleagues in the Congress, have gone out and actually encouraged at their own expense nonwhite residents of that county to get on the registration books and to vote so as to clear the good name of the county.

I do think these people are making an honest effort and I want to emphasize this. I think that if our great democracy is going to be preserved, we must acknowledge the right of people not to vote if they do not want to, to have freedom of choice. There is a great difference, in voting and being voted.

I greatly fear that some people want to come down and vote some segments of our people. I would hate to see that in any section of this country. Certainly I would not be a party to voting people in Chicago or in any section of this country or in not giving the people of this country in national elections an honest count of the ballots.

I do think that the legislation, Mr. Chairman, is punitive, it will do more harm than good. We are making fantastic progress and we need to continue this progress. If there is any need for redress let it be through the courts and through legal proceedings and not through demonstrations and violence. Democracy, in order to survive, must be disciplined and restrained.

I want to remind this committee that on the floor of the United States House of Representatives we have a Sergeant at Arms, his name is Zeake Johnson, and I cannot refer to you on the floor in terms other than the gentleman from New Jersey or the gentleman from Massachusetts or the gentleman from Colorado. We have discipline on the floor of the United States House of Representatives, the greatest deliberative body in the world, or else you could not have legislation.

If this democracy is to be the arsenal of democracy and the heart and core of freedom, we must be disciplined and restrained and not battle in the streets and on the highways of the country, but in an orderly, deliberate fashion as envisioned by the Founding Fathers.

I could go into what Plato and Aristotle said about the survival of democracy. Thomas Jefferson, writing in 1814, said, in substance, it was ridiculous for a person to be permitted to vote who could not read the ballot.

I could go into all that but I won't take the time of the committee. I would like to reserve my philosophy along that line for the floor debate, and I do hope that the committee will insist that the Rules Committee give us time to debate this measure as you did last year.

I commend this committee, and Mr. Celler, the chairman, and the subcommittee chairman who insisted on a full debate which I think was beneficial to the whole country. I believe you will do likewise when this bill is debated.

I want to thank you, Mr. Chairman.

Mr. RODINO. Congressman, I would like to state for the record that we recognize that the gentleman is making his presentation sincerely and that he undoubtedly is expressing what is his considered judgment in this matter. I, for one, respect him personally for his views.

I am also happy to hear him say that all of us who are Members of the Congress look upon it as the greatest deliberative body.

I would therefore like to say when the gentleman says or implies that the Congress will be pushed into taking action on these measures, I am sure that is not the inference that he would want to leave. This body will only act after it has deliberated.

I personally want to commend the gentleman for bringing to the attention of the committee facts which we already have, that there are counties in certain parts of the United States where the nonwhite population has been voting and has been voting in increasing numbers.

We do commend you. We think it fine. I think this is a process of urging on the part of those who are deeply interested in seeing that this right to vote be not denied, but be preserved and protected.

So we do say we recognize this, we applaud you for this, we only hope that this would be the case in all areas. We recognize that there are difficulties in some areas and we would only hope, as you pointed out in the various counties, in Anderson County and in Pickens County, that this might be the case in Marion, Sumter, or Calhoun. We would hope that this legislation might not have been necessary but I think the gentleman will agree that where there are deficiencies—and I am sure the gentleman knows that such areas do exist where there has been massive discrimination in the denial of the right to vote—then measures must be taken, not punitive but corrective.

I think that this is what we are attempting to do. At least, speaking for myself as a member of this committee, I want to assure you that that is what I want to do.

With that I want to thank the gentleman for his presentation and I want to assure him that we will deliberate, opponents will be given every opportunity as they have in the past to express themselves and to bring their views before this committee and the Rules Committee and to debate it in an orderly manner on the floor of the House of Representatives.

Mr. DORN. I do want to thank the chairman, of course, for his fairness and his kindness but I would like to remind the committee, I have a picture here with me of former Premier Khrushchev voting the other day in Moscow. You know, it was interesting to me that during that short interview when he first came out after 5 months of hibernation, many of us wondering what had happened to him, and he said something about the ballot and 99½ percent of the people voted but only one ticket. I think people in this country argue that that is the right to vote. I do not see how you can say that that is a right to vote when you have only one ticket on the ballot.

I think the great question here today is whether or not our people are going to vote of their own free will and accord or whether they are to be voted.

I do fear that the rapidity with which the Congress considers this legislation, largely as a result of demonstrations, is a dangerous trend and could lead to this type of legislation being run through the Congress just as happened in Germany when they had the Reichstag, and so on.

I do fear that, that is why I am here today.

Now, I will say this, Mr. Chairman: In all sincerity, and I did not want to mention this but many of us in that area have been living night and day with this problem, and really we have devoted a good portion of our time—very frankly, I have not had a vacation in 16 years, this is the 17th year, that I have been to Congress.

One thing I do every fall, and I did not want to mention this, but some of my colleagues are not directly involved in this problem. Every fall, last fall—and it is hard work, Mr. Chairman, beyond, I think, the call of duty, to get up at 5 o'clock in the morning and go to every high school in my congressional district, sometimes without a loudspeaker and 1,200, 1,500 students of all races and all creeds and bring them this message about the importance of voting and getting registered and the fact that if we do not participate in democracy and use our freedoms we are going to lose them.

I think that is something on the positive and the tangible side that many of us have been doing over the years.

I spoke to 25,000 high school young men and women last year about the right to vote and the importance of being good citizens, and I did not discriminate, in the high schools of my congressional district, and I am proud of that fact.

So, I very frankly, instead of having a complex about this whole thing and feeling inferior about it, I feel very positive that I have done as much probably as any other single person in the Congress could possibly do about a given problem and I pledge you even more.

Mr. RODINO. We know the gentleman is very able in his field.

Congressman Rogers?

Mr. ROGERS. No questions.

Mr. RODINO. Congressman Donohue?

Mr. DONOHUE. No questions.

Mr. RODINO. Congressman Cramer?

Mr. CRAMER. No questions.

Mr. RODINO. Congressman Conyers?

Mr. CONYERS. Thank you.

I am not a member, sir, of the subcommittee, I am a member of the full committee. I am very pleased that the Chairman, today, will allow me to just make a couple of points and raise some questions because if we were to go through this entire matter, I do not think there would be any other witnesses permitted to testify today. Therefore, I am going to have to, unfortunately, just raise a couple of questions with you.

I take it that you are for the rights of all Americans to vote without regard to their race, color, national origin. I am very happy to say of South Carolina, the State which you have represented for so long, the Civil Rights Commission has never seen fit to go there and that fortunately there have been none of the incidents that have occurred in other States, and I think that is to the credit of your State.

The fact that three Americans have lost their lives in petitioning for redress of grievances, most lately Mrs. Liuzzo of Detroit and Reverend Reeb of Boston, and the Negro from Alabama, I think his name was Willie B. Jackson, would you not consider to be very serious matters which have rather correctly aroused the American people to see that there is legislation enacted that will help correct the situation which is at the base and the heart of these petitions and demonstrations going on in the South?

Mr. DORN. Mr. Congressman, of course I appreciate your being over here this morning and your question, of course, is a fair question and it

I do not believe anyone in this country in his right mind would condone any murder anywhere—the murder of the young man on the subway in New York the other day by a mob, the three people that were put in the deep freeze after being killed in New York, I believe last Friday night.

I might say to my distinguished and beloved colleague that I certainly would not take off from South Carolina and go to Detroit and criticize any of the practices of the people there because I am confident that a great majority of the people of that community want to do what is right.

I could point out that in June 1943 when we were fighting for freedom, I and 6 brothers serving the country, that 34 people were killed in Detroit and 750 injured. The Federal Government had to devote half of a combat division into the city of Detroit to restore law and order because of violent demonstrations.

I certainly would not condemn the great State of Michigan or the great city of Detroit for that.

I want you to be just a little more sympathetic and bear with us a little bit because we are making great progress, we want to do even better, not just our section but the entire Nation—it is a national problem.

I might say this, Mr. Chairman, that we do not tell the world enough, that we are handling this problem better than any other country in the history of the world with a similar problem.

For instance, look at Israel and the countries surrounding there. When I went to visit a group there I had 14 guards as a Member of Congress, with fixed bayonets all around me because of the intense racial and religious feeling, and they told me that thousands have been killed since World War II.

I went on to Pakistan and the driver of my car said that his wife and children had been burned alive before his own eyes because he was a Moslem and they were Hindus. He said a million people have been killed in the last 20 years in that area of the world.

So when you look around the world and remember how Hitler attempted to solve his racial problem and Mussolini, the Russians, liquidated the White Russians and Ukranians—in the light of all this we need to talk a little more about what we have done and are doing.

We have done better than any other country with a similar problem and we are going to do even more, Mr. Congressman, without this kind of legislation.

Mr. RODINO. Thank you very much, Congressman Dorn.

STATEMENT OF CONGRESSMAN WILLIAM JENNINGS BRYAN DORN OF SOUTH CAROLINA

Mr. Chairman, again Congress is being forced to bow and subvert itself to the will of the mob. This is the second time in less than 1 year that the Congress and the country are being blackmailed and stampeded by threats of violence to pass ill-advised, ill-conceived, and unconstitutional legislation. This bill would make a mockery of the rights of the States, the local governments, the Constitution, and due process of law. This legislation would make a sham of our democratic ideals in favor of mobocracy. This is punitive legislation. It is vindictive and sectional. It is evil legislation conceived in the minds of those who would vote masses of our people rather than permit them the choice of a free ballot. This bill would make it possible for many of our people to be voted. When freedom is involved, there is a vast difference in voting and being voted. We

cannot escape the fact that this legislation is being railroaded through the Congress by mob action in the streets and highways of our country. Apparently, legislation will no longer be considered in the cool, calm, deliberative, intelligent atmosphere as invisioned by the Founding Fathers. I never thought this Congress would seriously consider such reactionary legislation.

This bill would turn the wheels of progress back to thought control, nationalized elections, and stark, centralized power. The Armed Forces of the United States, representing the forces of freedom for almost 25 years, have been constantly engaged with the reactionary forces of totalitarianism. We have destroyed many and are continuing to oppose the remaining reactionary regimes who boast of their democracy, voting nearly 100 percent of their people, but with only one ticket on the ballot.

This un-American legislation would permit registrars appointed by the Federal Government to go into a few Southern States only and sit in judgment of registration boards, local officials, and the voting public. They will be empowered by the Federal Government to register voters and then return on election day to see that those they registered voted or were voted. These registrars, examiners, and "commissars" could be sent into South Carolina, the Deep South States, or Alaska, from California, Detroit or New York City. Mr. Chairman, this would be democracy—Russian style.

Under this bill a person unable to read or write the English language could be placed on the registration books in South Carolina under the order of the Attorney General sitting in Washington. Under the same bill, however, in New York a person could be denied the right to vote if he could not read and write this same English language. This is the most sectional and vindictive legislation ever proposed in the history of our country. The law would apply to certain States and not apply to others. It would establish a dangerous precedent of partiality and favoritism to the chosen States and certain pampered pressure groups. Under this legislation, those who could not even read the ballot could be hauled in and voted without regard to the constitutional rights of the States to set certain qualifications, protecting and preserving the right to vote.

Under this Federal vote control legislation, any State or local registration laws passed since November 1, 1964, would have to be approved by a three-judge court in Washington, D.C. Mr. Chairman, why Washington, D.C.? Any local official or registrar or citizen accused by the Federal Government under the provisions of this vindictive legislation could be subjected to 5 years in a Federal prison or $5,000 fine, or both.

Rather than this constant harassment and intimidation by the Federal Government, South Carolina has earned and deserves the commendation of the country and the Congress. South Carolina is making fantastic progress in the field of human relations. We are making great progress in extending the full blessings of citizenship, economic opportunity and educational advantages to all of our citizens. We are urging and making it possible for our citizens who desire to do so to register and vote. We are protecting their right to vote, and Mr. Chairman, we are protecting their right not to vote.

In 1924 only 6½ percent of the adult people of South Carolina voted in the national elections of that year. In 1948, only 13 percent of the adult population of South Carolina voted in the important national elections of that year. In 1964, the last national election in November, 38 percent of our adult population in South Carolina voted, an increase of 300 percent over 1948—a greater percentage of increase than in any State in the American Union. In South Carolina, we are proud of this record. Without this legislation, in a very few short years, voter participation in all elections in South Carolina will be equal or higher than the national average. I hope you will help me tell the world about this amazing progress in a Deep South State. Let's accentuate the positive and not always dwell on the negative. No wonder the United States does not have the best image around the world. We are simply not telling the world the true facts.

Yes, South Carolina comes under the provisions of this legislation while the overwhelming majority of the rest of the States are exempted. Yet, in Anderson County, the largest and by far the most populous county in my district, 78 percent of the adult Negro population is registered to vote, while only 63 percent of the white population in Anderson County is registered to vote. Mr. Chairman, is this discrimination? Is this trickery and fraud to prevent nonwhite citizens from voting?

Pickens County, in my congressional district, is the second most populous county. Pickens County has 72 percent of its adult nonwhite citizens registered to vote, while only 63 percent of the white adults of that county are registered to vote. Let's look at Oconee County, the third most populous county in my district. The percentage is 63 percent Negro registration and 62 percent white registration. I know of no discrimination against nonwhite voters in my area of the country. None has been proven in any court. No charges of voter discrimination have even been brought into the courts. No sworn affidavits of discrimination in voting or registration have been presented to the Civil Rights Commission. The inescapable conclusion is that there is a desire by someone here in Washington to register and vote large segments of our people. This legislation is a reflection on the splendid accomplishments and earnest desires of the people of South Carolina to encourage good citizenship. It is a reflection on the great Negro people of South Carolina who know when and where to register and how to vote. The nonwhite citizens of South Carolina do not need Federal registrars, armies of invasion and examiners to tell them how to register or vote.

Mr. Chairman, every time I appear before this subcommittee, which has been very frequently in the last few years, the counsel to the committee or the Chairman will bring up McCormick County in my congressional district. Before you reach in the files and ask about McCormick County, let me tell you about this fine little county in the lower part of my congressional district. I called an honest, forthright member of the board of registration in McCormick County last night, the Hon. Julius Baggett, a distinguished attorney and a Christian gentleman, who is concerned about the misinformation and distortion of the facts concerning McCormick. Next to my own county, I am more familiar with the situation in McCormick than in any other county in the United States.

Mr. Baggett informed me that the registration board meets in McCormick County the first Monday in every month. They meet at the Courthouse to register any potential voter who desires to have his name placed on the registration books. The prospective voter is required to fill out a simple application blank. Before his name is placed on the book, he is only asked his name, age, address, and occupation. You do not have to be listed on the registration books by race. There is no discrimination in the registering of voters in McCormick County. Before registering, an applicant is handed a copy of the Constitution of the United States and asked to read any portion of it. If they cannot read one part of the Constitution, the board of registration will even suggest another part, such as the Preamble, familiar to virtually every elementary school child. This is only required in order to demonstrate the ability to read. Even teachers of both races often are required to read a few words from the Constitution.

In McCormick County, if they cannot read any portion of the Constitution and are therefore denied registration, the applicant can become registered if he has an assessed personal property evaluation of $300. This includes automobile, house, land, personal belongings, etc. If the applicant pays taxes on this assessed personal property evaluation of $300, he is permitted to register whether or not he can read and write. If an applicant in McCormick County cannot read or write or does not have an assessed personal property evaluation of $300, the applicant can still appeal under the State voting laws of South Carolina to the court of common pleas. The right of appeal to the court of common pleas is guaranteed by State law. The State court could order the applicant's name placed on the registration books even though he cannot read and write and even though he does not have the assessed personal property evaluation of $300. This simple requirement is not discrimination. Anyone in McCormick County who genuinely has the desire to register and vote can do so.

Several years ago the FBI made a thorough investigation of registration and voting in McCormick County and no action was taken against anyone. No evidence of discrimination was found. No sworn affidavits from McCormick County alleging discrimination have been submitted to the Civil Rights Commission. Nonwhites are voting in McCormick County in increasing numbers. Ninety-five percent of all those registered in McCormick County voted in the last election. One reason for the overall smaller percentage of the total adult population voting in McCormick County is that a good number of the nonwhite adults in McCormick County work in the large cities of the county such as Philadelphia, Washington, Baltimore, and Atlanta while their children go to school in McCormick. These children stay with guardians, grandparents, relatives and friends. This is a recommendation of the splendid school system

of McCormick County. Many of these parents have frankly confessed to me that they prefer that their children go to school in McCormick because of the better discipline and emphasis upon courtesy and good manners—an environment free of juvenile delinquency, teenage gang warfare, riots, and school boycotts.

Mr. Chairman, I am alarmed and concerned about legislation being considered and passed as a result of recurring demonstrations, violence, and disrespect for local law and order. These demonstrations are a strange phenomenon which is on the increase throughout the world. They have caused the overthrow of friendly allied governments. Demonstrations and student riots are an ever-increasing threat to our own democratic society and even our national security whether they occur at the University of California, Philadelphia, Saigon, Ankara, or Panama. Democracy can only survive as a restrained, disciplined society. Even the House of Representatives that we all love as a great institution requires discipline for orderly deliberative consideration. We have a Sergeant-at-Arms to enforce the rules of the House and the orders of the Speaker. No legislation is possible in Congress without restraint and discipline.

Mr. Chairman, I think the greatest contribution we can make today for freedom, brotherhood, and the rights of all of our citizens is to reject this legislation. Let emotions cool, permit reason to replace prejudice. Let us make no decision here in the Congress during this session that will encourage power-mad, dues-paying pressure groups. Let us take no action that will lead to more demonstrations, more demands and more so-called civil rights legislation. Let us digest what we have.

This legislation, if adopted, will be no more successful than the Civil Rights Acts of 1957, 1960, and 1964. This bill, as the other legislation, would only whet the appetites of mob leaders for more attention, more money, and publicity.

It is my hope that the conscience of this committee and the conscience of the people of the United States will awaken to the need of withholding a self-righteous judgment of other sections of our great Nation. It is my hope that our conscience will awaken to the urgent need of discipline, individual restraint, and respect for law and order so that freedom might not "perish from the earth."

Mr. RODINO. We have next the able and very competent and respected chairman of the Armed Services Committee.

STATEMENT OF HON. L. MENDEL RIVERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. RIVERS. Mr. Chairman, I want to thank the committee for the opportunity to speak even for a few moments on this bill through the generosity of you, Mr. Chairman, and my colleague Mr. Dorn.

I have no misgivings about what is going to happen to this bill. You know and I know that it is going to pass. You have set the deadline for the termination of the hearings. You have a schedule and we know all of this, but I want to remind you of history.

Before I do that I would like to submit a short prepared statement for the record.

Mr. RODINO. Your statement will be made part of the record.

(Document referred to follows:)

STATEMENT OF HON. L. MENDEL RIVERS, A U.S. REPRESENTATIVE FROM THE STATE OF SOUTH CAROLINA

Mr. CHAIRMAN: It is unnecessary, of course, to advise this committee that I am unalterably opposed to this legislation.

What is more significant, however, is the fact that if I were a northerner, or from one of the great large cities of America, I would still be against the bill.

I would be opposed, not because of the features that appeal to minority groups that might predominate in my district, who could carry the balance of power spelling out political victory or defeat, but because deep in my heart I believe this bill, if enacted into law, contains the seeds of destruction of rights held so dear to every American.

During my years in the Congress, I have always believed it was the duty of a Member to cast his vote for or against legislation on the basis of his knowledge and convictions, not upon the agitation and pressure applied by those who are long on sound and fury, competent in their ability to picket, to demonstrate, to foment civil strife, but those who are extremely questionable—in my opinion—with respect to the sincerity of their goals for a better America.

Mr. Chairman, you know and I know that this is a political bill—nothing more, nothing less.

Nevertheless, it is the most vicious bill aimed directly at the South since Reconstruction. To be brutally frank, I believe this legislation is tantamount to a second Reconstruction era.

Provisions of this bill could well have been drafted by Field Marshal Martin Luther King, whose legions of fanatics have fomented violence in previous peaceful communities.

Again, I ask you to heed my warning. Civil disobedience leads to anarchy. Violence begets violence. I caution you, in all sincerity, to go slow on this proposal.

Mr. Chairman, you can well be presiding over the liquidation of the Democractic Party in these United States.

The Communists in Peking must be smiling as this bill is debated. Although they are taking heavy blows in North Vietnam, they are scoring strong gains in America. They are witnessing what they have long sought to spread—turmoil, the spread of emotionalism designed to encourage civil disobedience, and the rapid spread of a fanaticism bent on depriving the States of rights lawfully belonging to them.

The activities of Martin Luther King and others of his ilk are leading to the same goal as those of the Communists—civil strife in America. Mark my words and mark them well. If this legislation occomes law, those today who are clamoring the loudest for those claiming voter discrimination will be the first to clamor that this proposal is depriving them of their rights, because they are vesting in the Federal Government powers traditionally reserved by the States, and thereby destroying the last vestige of personal and States rights.

I sincerely hope proponents of this bill know what they are doing, but I fear not.

This measure is being railroaded through in an air of emotionalism. And I am not so naive as to believe that commonsense and cool analysis will prevail in the existing atmosphere. But there will come a day as surely as I am standing here when those supporting this legislation will wish they could re-chart the path upon which they are directing America.

Mr. Chairman, you have been most cordial to me. For this I am grateful. Thank you very much.

Mr. RIVERS. I can read you Mr. McCulloch's letter of May 23, 1857, to a senator in New York which I am sure your scholarly counsel, Mr. Zelenko, has read and, as we say in the Episcopal Church, learned and digested it.

I am sure you are familiar with the contents of this message, prophecy written all over it. Not that I agree. I do not agree with the first sentence. He said he does not like Thomas Jefferson.

Mr. RODINO. Do you want to put it in the record?

Mr. RIVERS. Not necessarily; it has some things in there with which I do not agree but prophetic about the State of New York. I say we ought to have that with such a fine statement.

I would like to remind my distinguished friend, for whom I have a high regard, and particularly the new members, that we people from the South always are on trial, always criticized; try not to be tyrannical or bigoted or have some kind of discriminatory attitude.

When I first came to Congress 25 years ago, that is before anybody on this committee ever came to Washington, they had a fellow from New York who ran every year, I am not going to mention his name but you know him, on poll tax and lynching and all this kind of stuff.

Of course people are against that. We do not have this kind of stuff where I come from, we do not believe in murder.

The Civil Rights Commission is not holding my State up as violating the law; we believe in law. We happen to have written this Constitution, people from my blood relationship wrote this document. We are kind of proud of this.

We urge people to vote. There is no place in this constitution where it says you have a "right" to vote. Find it and show it to me. You have a right to the equal protection of the laws, not a right to vote. You have a right to qualify based on the State law. There is no "right" to vote but you can't discriminate against me because my hair, what is left of it, is gray.

I do not say that any of you ought to look any better than I do, but what you do have you ought to be proud of.

Mr. RODINO. I would like to call the gentleman's attention, since he talks about the Constitution and doctrine as written by his predecessors, to article XV of the Constitution, section 1, "The right of citizens of the United States shall not be denied or abridged * * * on account of race or color * * *."

Mr. RIVERS. That is after it has been established by the States. The Constitution does not say you have a right just because you have two feet to go out and vote in South Carolina or New Jersey. First of all, you have to qualify but you can't keep me from going because I wear green trousers and you wear white ones. You can't be denied equal protection. Of course, we agree with this.

I represent many colored people in South Carolina. We urge them to register, to qualify. Our biggest trouble is getting them interested, in even bothering with voting.

Mr. ROGERS. Will the gentleman yield for a question?

Mr. RIVERS. I am making a pretty good speech, don't interrupt if you can't contribute to it. [Laughter.]

What is the gentleman's question?

Mr. ROGERS. The question is: Is not most all legislation that we propose in the Federal Government in effect in all of the States.

Mr. RIVERS. No, most of the legislation that you have been mixed up with since I have been in Congress has been directed at me and I don't see any signs of your changing. [Laughter.]

Mr. ROGERS. Well, I do not know about that.

Mr. RIVERS. But I am not against you because you just do not know what you are doing. I am sorry for you. [Laughter.]

Of course I am with you, I eat breakfast with you every morning and enjoy it. Most of the time you give me indigestion but I enjoy it.

Before I was interrupted, I was trying to tell you this: We urge people to qualify and exercise their right of suffrage. Now give my State, for instance, credit for what we are doing. You won't see these things in my State.

When we integrated our university you did not see any trouble. When the Supreme Court, the present makeup for which we have no respect, when they render a decision we are going to be here despite the fact we do not like their legislating all over hell's half acre, but when this Supreme Court speaks we believe the only way you can run this country is as a disciplined America, whether we like it or not. We recognize this and we are going to do it.

So we are making strides, we are going through a terrible change in America. I am not arguing about what is happening for instance in Detroit, where my daughter lives—they had to call off a basketball tournament the other day at some high school because the white and the colored had fights all over the place.

We recognize we are going through a change and a revolution in this country. I did not see anybody get on the floor of the Congress and holler about a banker being killed in Georgia right next door to me by two colored schoolteachers; this was murder, it had no place in Congress. We did not get up on the floor and brag about or say what had happened in New York when Malcolm X was killed, this was a tragedy. The murders you talk about in Alabama, of course they are tragedies, and whoever did it ought to suffer and pay the penalty for murder. I do not care where it is, we do not condone this kind of stuff.

Your civil rights bill last year can give everybody equal rights if you will give this Commission time to act, but it has to have time. This has enough authority to do anything, give it time.

The reason you are not willing to give it time is because Martin Luther King has told you to get busy and you are getting busy. This is not the way to legislate. No man who has the following of any sentimental group should dictate to the Congress, and this is what is happening.

So I ask you this: What is next? What is coming up next year? Are you going to take my land and, as Mr. McCulloch said, are you going to take it and reapportion it? Are you going to set people on my property because somebody said there is discrimination in the way we have not followed your minimum wage laws? What is next?

You know the reason you do not know, because they have not told you.

Now, this is the tragedy and the revolution through which we are going in the South. This is a political bill. In my State last year, 95,000 voted Republican because of the antics in Congress. Is this the way you want it?

Maybe you do not want the South tied up in the Democratic Party. Well, I have news for you, they are getting out and fast. They are Goldwater fans.

I do not know what all of them are going to do when they get their thinking lined up with the new leadership. I do not know what is going to happen, but we are going through a change all up and down the line.

What we need, and I want everybody to hear this, is to rest a while and let's for God's sake see where we are heading.

I do not plan to get on the floor of the Congress and make any violent speeches, I never have and I shall not begin; I do not want to offend people. I know what your problems are—you have all kinds of problems. I do not want to get out here and criticize or accuse you of something. Of course this bill is going to pass but let us go slowly and see where we are headed.

There are so many constitutional provisions violated in this thing here. It is directed at my part of the world and Alaska.

You cannot make people register. I begged people to vote last year after they registered but they did not vote.

Mr. RODINO. Does that conclude the gentleman's statement?

Mr. RIVERS. I guess it had better conclude because the more I talk the less progress I make for the committee.

Mr. RODINO. No, I would just like the gentleman to be aware of the fact, and I am sure he is, that we are trying to conclude in the next hour and we still have four more witnesses. I am certain that the gentleman can appreciate this.

Mr. RIVERS. Of course I do. I am taking up more of your time and I apologize very profusely, Mr. Chairman. I just wanted to say this: I will leave now with your grace of having let me testify. I was not really scheduled but I just ask you to remember these things. The laws have got to apply to all people, we know this. Give us credit for what we are trying to do and let's not violate any more constitutional prerogatives or guarantees.

I do not plan to say much more on this because I do not think it will do any good. We all have problems, let's stay together and try to work them out. It is the only way to save the country.

Mr. RODINO. Thank you very much.

Mr. CONYERS. Mr. Chairman——

Mr. RIVERS. Did the gentleman have a question?

Mr. RODINO. I am sorry, but the gentleman is not a member of the subcommittee.

Mr. RIVERS. You can ask me on the floor.

Mr. CONYERS. Mr. Chairman, can I have it recorded that my distinguished colleague, Mr. Rivers, did invite me to ask questions and that I was extremely anxious to respond. I recognize the time considerations, but I do appreciate your invitation, sir. There are a number of questions that you raised in good faith that are not being gone into. I do not think we are, unfortunately, doing it adequately but I would respect your invitation and I respect also the time considerations of the Chair. Thank you, Mr. Chairman.

Mr. CRAMER. I am sure the gentleman from South Carolina does not mind answering questions. Is there any reason why we cannot provide proper opportunity for questions from those people who think it is imperative they have to be asked? Do we have to rush the hearings?

Mr. RODINO. We are not rushing the hearings, the members of the subcommittee may ask questions if they wish to. It was my understanding that none of the members of the subcommittee desired to question the gentleman from South Carolina.

Mr. CRAMER. I understand that. The gentleman said he specifically had some questions and he felt it was important that they be asked, and in effect the chairman has not given him an opportunity to do so.

Mr. RODINO. I am still going to insist. This is the subcommittee hearing and the chairman has expressly decreed this. I believe that we must get on since we have other witnesses. We will never get through with this and never get down to the voting bill.

I am sure that the gentleman is interested in getting a voting bill and this is what we are going to do.

Thank you very much.

Mr. RIVERS. Thank you.

Mr. RODINO. Congressman Buchanan.

Mr. BUCHANAN. Mr. Chairman, gentlemen: May I first reassure the distinguished chairman of the Armed Services Committee on a point he raised about the South slipping away from the Democrats. Mr. Chairman, in Alabama when people learn how to read they begin to vote Republican, and since this bill is one which will permit in certain States vast registration of people who are illiterate, whatever their race or color, I want to assure him that this bill might work in the opposite direction.

Mr. Chairman, I wonder if I might yield at this point. There are present here some 140 or 150 ladies of DRIVE organization and their representative is scheduled to testify. I wonder if I might yield for him without losing my place altogether?

Mr. RODINO. Who is that?

Mr. BUCHANAN. Mr. Zagri.

Mr. RODINO. We had scheduled Mr. Farmer, the national director of CORE, before Mr. Zagri. I appreciate your suggestion.

I understand that there was some understanding of the staff that if the gentlemen yielded he would yield to Mr. Zagri at this time.

Mr. BUCHANAN. I yield at this time.

Mr. RODINO. Mr. Zagri, legislative counsel of the Teamsters Union.

Mr. Zagri, I would like to again emphasize the need to try and get on with this hearing, this morning, so that we might be able to hear Mr. Farmer as well, because we have to finish this session before this evening, when we have other Members of Congress scheduled to testify.

STATEMENT OF SIDNEY ZAGRI, LEGISLATIVE COUNSEL, TEAMSTERS UNION, WASHINGTON, D.C.

Mr. ZAGRI. Thank you very much.

Mr. Chairman, and members of the committee: I want to thank Congressman Buchanan for his courtesy in yielding to me at this time because so many of his constituents and mine from Alabama, Mississippi, Louisiana, and Texas are here in the room and they are scheduled to return to another appointment at the White House shortly after they hear my testimony, so I indeed appreciate the kindness extended to me at this time.

My name is Sidney Zagri, legislative counsel for the International Brotherhood of Teamsters. On behalf of the general executive board and General President Hoffa, representing 1,780,000 members and their families, I wish to express appreciation for the courtesy extended me in being invited to appear on H.R. 6400 and other related bills.

As you can see this morning accompanying me in this room we have 180 Teamster wives from Alabama, Mississippi, Louisiana, and Texas. Their presence is symbolic of DRIVE's (Democrat, Republican, Independent, Voter Education—the political arm of the Teamsters Union) devotion to extending citizenship participation in the vital issues of our day and in the important business of electing our friends and defeating our enemies. They are here because of their deep conviction in the importance of extending voting rights guaranteed by the 14th and 15th amendments to all Americans.

They are here, and have asked me to express to you their strong feeling that the death of another Teamster wife, Mrs. Viola Gregg

Liuzzo, who was slain near Montgomery, Ala., while engaged in transporting civil rights marchers back to Selma, shall not have been in vain.

Mrs. Liuzzo was also a member of DRIVE and was in Selma, Ala., because of her deep-seated dedication to the principle that all Americans, irrespective of race, color, creed, or national origin should enjoy the same rights under the Constitution, that none should be deprived of any of these rights because of bias or discrimination.

There are certain facts which cannot be denied:

1. That large numbers of the citizens of the United States are denied the right to vote on account of their race or color.

2. That many State and local officials are determined to deny these rights.

3. That such denials are sometimes accomplished through violence, threats of violence, economic reprisals, and other forms of intimidation.

4. That in many areas of the United States the literacy test, interpretation test, tests of "moral character", are frequently abused so as to deny qualified citizens the right to vote on account of race, color, creed, or national origin.

5. That the delays incidental to granting the right to vote to citizens of the United States regardless of their race, color, or national origin under existing legislation have been excessively and unreasonably limited.

6. The existing process of law is incapable of overcoming systematic and ingenious discrimination; that the Civil Rights Acts of 1957, 1960, and 1963, have been ineffective in dealing with voter discrimination.

The voter-referee plan provided for in these three statutes has proven to be merely a paper advance for the Negro and not worth the paper that the statutes were written on.

In not one of the cases brought under the statutes has a district judge exercised his option to appoint a referee. In only one of these cases has the judge consented to hear the application of Negroes.

In addition to the one on whose complaint the Attorney General's suit was based, the remaining 22 suits brought where injunctions were imposed on local registrars no contempt citations were ever issued by the district courts for registrar noncompliance.

With all of these laws on the statute books, the Civil Rights Commission reports that in 100 southern counties selected for review in 1960 and again in 1963, the ratio of Negroes of voting age who are registered to Negroes of voting age has increased only about 3½ percent.

It is clear that discrimination is extensive, varied, and that existing laws are ineffective.

It is also clear that the legal remedy must be coextensive with the problem and that the means proposed be adequate to the task. Unless there is a comprehensive approach, the battle of civil rights will not be transferred from the streets to the legislative halls and the courts where it really belongs.

A piecemeal approach will result in more frustrations and will play into the hands of the extremists—the Ku Klux Klan, and the White Citizens Councils, on the one hand, and the Black Muslims on the other.

The brutality and violence of Selma will return another time and at another place. The martyrdom of Rev. James J. Reeb and Viola Gregg Liuzzo will be succeeded by new martyrs, and bloodshed will again become the order of the day under the dominance of the Klan and other leaders of the radical right.

The piecemeal approach of past voting rights bills has come back to haunt us and the passage of a similar bill now would have the same effect. The question has been asked, "What went wrong to trigger the violence in Selma? What can be done now to right this tragic situation?"

For these reaons, it becomes important to examine the administration bill and to strengthen those sections which offer less than a comprehensive solution to the manifold aspects of voter discrimination.

The essential prerequisites of an effective voting rights bill must include:

1. It must be national and not sectional in application.
2. It must have an automatic triggering mechanism and not rely upon the discretion of the executive or the courts for initiating action.
3. It must eliminate all existing devices used to discriminate in denying voting rights.
4. It must protect the individual from economic and physical reprisals for exercising such rights.
5. It must remedy the wrongs of discrimination by setting aside elections and calling for new elections within a reasonable period after the registration mechanism has been instituted.

The bill must be national and not regional or sectional in approach:

The areas primarily affected by the administration bill consist of 6 Southern States and 34 counties in North Carolina.

In this week's issue of The New Republic, Alexander M. Bickel places the reconstruction tag on the administration bill. He states: "* * * it is a Reconstruction measure, for it applies exclusively—with one or two incidental exceptions—to the hard-core Southern States and Black Belt counties. * * *"

Southerners will rightfully resent a bill which is aimed exclusively at them when discrimination in voting rights is a national and not a sectional problem.

The experience with the Reconstruction era will be repeated when the South struck back with terror tactics of the Ku Klux Klan. The reform will be accepted more gracefully in all parts of the country if the approach is a national one.

The bill does not help the Negro or other minority groups in a State which does not have a literacy test. For example, in Newton County, Ark., 78 percent of the whites are registered, but not one Negro. The bill will not apply, since Arkansas does not have a literacy test. Neither does Florida nor Tennessee have a literacy test, but 22 counties in Tennessee and 5 counties in Florida have less than 50 percent of the qualified voters registered or voting in the last election.

The U.S. Civil Rights Commission has found extensive civil rights discrimination against the voting rights of Negroes in these two States.

In Texas, only 44.4 percent of the adult population voted in the last presidential election. Only 38 percent of the citizens of Mexican origin in that State go to the polls. There are some voting districts

in Texas near the border of Mexico where there are what is known as "boss controlled machines," and the vote reported often is unanimous or nearly unanimous for the boss' candidate.

In New York City, the literacy test prevents large numbers of Spanish-speaking Puerto Ricans from voting.

The problem with the administration bill is to be found in the formula which triggers the voter registration mechanism. The requirement of a literacy test and 50 percent or less of the qualified voters not registering or voting is somewhat arbitrary and certainly results in a sectional approach. The mere existence of a literacy test is not necessarily an indication of discrimination. It exists in 11 States where more than 50 percent of the qualified voters are registered and voted in the last election.

On the other hand, there are States where no literacy tests exist, as in the case of Texas, where only 44.4 percent of the qualified voters were registered and voted in the last election.

The 50-percent requirement does not directly reflect the status of discrimination of Negroes, since there are many counties where a sufficiently large number of whites registered and very few Negroes, and yet the total number of eligible voters registered and/or voting will exceed 50 percent.

Notable examples are to be found in the U.S. Civil Rights Commission's report on counties in Tennessee and Florida, as well as among Puerto Ricans in New York City, where widespread voting rights discrimination takes place, but over 50 percent of the eligible voting population voted in the last election.

Recommendation: I recommend the adoption of section 3 of H.R. 4552 (the Lindsay bill) which provides the President would appoint Federal registrars if the court makes a finding that 50 or more persons have been discriminated against in a given area and failed to act within 40 days.

Mr. RODINO. Mr. Zagri, on page 4 you refer to the fact that in Newton County, Ark., 79 percent of the whites are registered but not one Negro.

Mr. ZAGRI. Right.

Mr. RODINO. Would you know how many nonwhites there are voting in Newton County?

Mr. ZAGRI. Well, I do not know.

Mr. RODINO. Do you know that there are only two nonwhites of voting age in the county according to recent information supplied by the Civil Rights Commission?

Mr. ZAGRI. Well, whatever the case may be. There are other samples which are not as dramatic as this but include more people. I point it out because it is a dramatic figure. We have many other counties. I have the report of the Civil Rights Commission which has a detailed study in Tennessee and in Florida which indicates that you have counties where you have a very large number, large percentage of whites, sometimes as many as several thousand, and just a handful of Negroes registered.

Mr. RODINO. I merely wanted to point this out.

Mr. ZAGRI. I see your point because sometimes percentages can be misleading.

Mr. CRAMER. Would the chairman yield?

Mr. RODINO. Yes.

Mr. CRAMER. Similarly, in Montgomery County, Ark., there are 20 Negroes and none are registered. And in Crittenden County, there are almost 13,000 Negroes of voting age and only 1,700 are registered. That is a mere 13.8 percent.

I think the point is well taken that Arkansas can hardly be stricken off of the list of States where there is no discrimination any more than can Florida, Tennessee, or Kentucky in which there are obvious instances of discrimination, but they are not included in this bill.

Mr. RODINO. You may proceed.

Mr. ZAGRI. This approach triggers the mechanism with reference to the existence of either literacy tests or the 50-percent formula, and yet requires the establishment of discrimination in at least 50 cases, which is a reasonable basis for the action prescribed.

The need for an automatic triggering device:

Section 4(a) of H.R. 6400 provides that the Attorney General may request the Civil Service Commission to appoint examiners if "he believes"—and I underscore "believes"—"such complaints to be meritorious" or that "in his judgment"—and I underscore "judgment"—"the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment. * * *"

Without casting any reflection on any Attorney General, past or present, I need not remind the Members of the Congress that the Attorney General has been the most powerful political appointee in the Cabinet, particularly during the Eisenhower and Kennedy administrations.

For this reason, the Congress should be wary of giving additional discretionary power to the Attorney General which could be used as a political instrument to perpetuate the party in power.

It is inconceivable that under section 4(a), the Federal registrars could be requested by the Attorney General only in areas where political advantage could be found, and a refusal to exercise this power in areas where it would be politically disadvantageous. Since this power relates directly to voter registration and to voting, it is a power that must be jealously guarded and taken out of politics as much as possible.

Recommendation: Adoption of section 3 of H.R. 4552, which makes it mandatory upon the President to appoint Federal registrars if the court fails to act within 40 days and 50 persons have signed sworn complaints that they have been deprived of their right to vote.

Elimination of discrimination devices:

In his memorable voting rights address to the Congress on March 15, President Lyndon Johnson stated:

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

Literacy tests and other discriminatory devices:

The thrust of the principal bills under consideration banning the discriminatory administration of literacy tests, interpretation tests, understanding tests, good moral character vouchers, is not in interference with the States' right to enact responsible regulations covering State and local elections.

Nor would a statute proscribing the poll tax in all State and local elections be an interference, as it could be established that the poll tax was not primarily for the purpose of raising revenue but for the purpose of keeping people from voting. Then Congress would be within its power to act under the 15th amendment.

The U.S. Civil Rights Commission's reports are abundant with documentations that support the premise that all of these tests and devices have been created for the sole purpose of barring Negroes and other minority groups from voting.

Recommendations:

1. In areas where a pattern of discrimination has been found, Federal registrars should be instructed (1) to conduct house-to-house registration; (2) with a flexible literacy test device to be applied as described above; (3) officials in such areas will be prohibited from closing registration books more than a month before an election or from refusing to accept any registrant who has satisfied all qualifications any time up to such a 30-day period.

In this connection, I would also recommend the establishment of voter-education information centers which would undertake the affirmative responsibility of familiarizing those wishing to vote with registration forms and qualifications.

2. The Resnick bill provision repealing the poll tax in State and local elections should be adopted. The administration bill requiring the Federal Government to collect poll taxes for the States has the effect of giving Federal sanction to discriminatory poll tax laws in local elections which are inconsistent with the mandate of the 24th amendment to the Constitution.

Economic and physical reprisals to prevent exercise of voting rights:

The U.S. Civil Rights Commission in its 1961 report documented the use of economic coercion as an instrument of intimidation to prevent Negroes from registering and voting. What is there in the administration bill to protect the "Negro tenant farmer and sharecropper in Fayette and Haywood Counties, Tenn., of being evicted from their farms and being subjected to other forms of reprisal, including the cutting off of supplies, refusal of credit and cancellation of insurance policies"?

How can the Negro sharecropper continue to exist, if the "white banker cuts off his credit"? In Fayette County, Tenn., one white banker was quoted as saying:

> My secretary's got the names of 324 who registered. I tell them, anybody on that list, no need coming into this bank. He'll get no crop loans here. Every store has got that list.

As bad as the problem of economic intimidation may be at the present time, it will get much worse as reaction among the leaders of the existing power structure of the South begin to feel the full impact of the provisions contained in any of the key bills before the Congress.

On March 25, 1965, Governor Johnson of Mississippi told the press that President Johnson's statement on voting rights "provoked nausea" and that they would not call a special session of the State legislature until such time as a voter rights bill had been enacted by the Congress—in other words, new devices, even though the law prohibits new laws which would further tend to invalidate voting rights; but

new subtle devices which would sanction types of economic coercion would be developed.

As the automated cotton economy makes more and more people dependent upon the large landowners, different forms of economic coercion will develop.

For example, licensing laws could be enacted for the purpose of licensing farmhands—which has nothing to do with this bill—who, in turn, could have their licenses revoked if they were to exercise their voting registration rights under the law.

Recommendations:

1. Criminal sanctions will not be enforced in southern courts and by southern juries. Therefore, cease-and-desist orders comparable to those presently employed by the National Labor Relations Board should be issued by a Federal Voter Registration Commission, as suggested by the Resnick bill, which could be enforced by Federal courts under contempt proceedings, if necessary.

2. Any person engaged in denial of voting rights would be declared to be ineligible to participate in any of the Federal programs presently available to business and to farmers. Setting aside elections and calling for new elections within reasonable period after the registration mechanism has been instituted.

The administration bill simply provides that any qualified voter who has been denied the right to vote shall have his vote counted. The administration bill does not undo the damage caused by discrimination by requiring that the newly qualified votes be counted.

Under the Taft-Hartley law, the National Labor Relations Board requires that, where intimidation or coercion is established in connection with an NLRB election, the election will be set aside to purge the coercive effect of the intimidation of all eligible voters.

Recommendation: I suggest that the provision of the Lindsay bill setting aside elections because of discrimination be adopted and that new elections be called within a reasonable period after the voter registration mechanism has been put into motion.

Mr. RODINO. Thank you very much, Mr. Zagri.

First, Mr. Zagri, I would like to commend you and your organization for its interest. Especially since you have present with you the wives of Teamsters who come here in such numbers and indicate their sincere and definite interest in this great problem.

We want to compliment them for having taken the time out to show that they are responsible citizens. I want to assure you, on behalf of this committee, that the death of Mrs. Liuzzo did not go unnoticed. We certainly want to enact this bill or any bill which is going to strengthen and guarantee the right of people to vote, regardless of race or color.

We want to get on with the job; we want to make sure that in those areas where massive discrimination does exist, we want to be able to meet the problem. I assure you that the committee is going to work energetically.

The gentleman from Colorado.

Mr. ROGERS. I want to express my appreciation to the witness, because this is not the first time he has appeared here and given an analysis of legislation dealing with civil rights. I appreciate the fact that he has devoted a great deal of time in analyzing some of the bills that we have before us.

I want to say "thank you" for a job well done.

Mr. RODINO. Congressman Donohue?

Mr. DONOHUE. No questions.

Mr. RODINO. Congressman McCulloch?

Mr. MCCULLOCH. Yes; I would like to ask one question of the witness. Is there any discrimination authorized or permitted by the top people of your organization by reason of race or color?

Mr. ZAGRI. The answer is a categorical "no," and I would like to amplify by stating that we have 904 local unions in America and they are all integrated locals. Also I would like to state that our promotions are based entirely on seniority and irrespective of race, color, creed, or national origin.

Mr. MCCULLOCH. Does that statement go for your locals in the six States covered by the main thrust of the administration bill?

Mr. ZAGRI. That is true. As a matter of fact, our Southern Conference of Teamsters under the able leadership of Vice President Maury Miller has been in the vanguard of leadership in the area of bringing about integration within our local unions and a better understanding in race relations in the South.

Mr. MCCULLOCH. I would like to compliment your organization for that positive action. I am inclined to believe from the record that has been made in this committee within the last 3 or 4 or 5 years that there is substantial discrimination by certain labor organizations at the local level, at least, in this country.

Mr. ZAGRI. I would like to say that under the leadership of our general president, James R. Hoffa, we have brought about an equalization in economics in income to our members in the South so that a southern truckdriver today in Mobile or in Birmingham gets exactly the same amount of money for his labor as a truckdriver in Detroit, New York City, or Washington.

This economic basis is a very important part in our struggle for equality, and from economic equality comes political equality.

Mr. MCCULLOCH. I noted the last paragraph of your statement contained a recommendation that elections be set aside where there is discrimination and that new elections be called.

Who would bear the expense of such elections? I just made a quick calculation for my State of Ohio and I think it would cost someplace between $3 and $5 million to have a statewide election in Ohio.

Who would bear that cost under your recommendation?

Mr. ZAGRI. I would say that the State of Ohio would bear that cost. The State of Ohio and even the poorer States of this country, considering all the Federal aid they already get, could very well find that they could at least bear the small expense of undoing a wrong.

Mr. MCCULLOCH. If this alleged wrong was on a countywide basis or a political subdivision basis, do you think your answer would apply to them? Could such elections be afforded in political subdivisions if the total population might not be more than from 5,000 to 15,000?

Mr. ZAGRI. I would assume that if they could afford special elections for bond issues, special elections for where there are posts on the city council and other things, they could afford a special election to undo a grievous wrong where discrimination and coercion displaced people from their voting rights.

This is particularly important where we have repression and brutality, because once the officials, being politicians, realize that they will get their comeuppances by the calling of elections within a reasonable period, this will have a very salutory effect upon their attitude and the view which they take of their responsibility in law enforcement.

Mr. McCULLOCH. It has long been my opinion that corrupt elections where people are permitted to vote are sometimes as bad or even worse than discrimination which prevents registration and voting, because that creates in the mind of honorable and conscientious people that corruptive action will destroy that which is urged upon them as one of their duties.

Do you have any suggestion about incorporating in this bill provisions that not only shall there be no discrimination, but that only those entitled to vote shall vote and those that do vote shall have their votes honestly counted?

Mr. ZAGRI. Yes. I believe that the President's Commission on Registration and Voting Participation has a recommendation on this and I would recommend that an amendment be prepared along the lines you suggest, because corruption is a fact of political life in many parts of this country, particularly in some of the big city machines.

Mr. McCULLOCH. I would like to say that some of our colleagues on the subcommittee have been spearheading an attempt to do this for a number of years, and I hope that these will soon be successful.

Mr. ZAGRI. We would be happy to support such an amendment.

Mr. RODINO. Mr. Cramer?

Mr. CRAMER. I thank the gentleman for such a reference. I would hope the gentleman could write the amendment in this bill.

I have difficulty with the time problem under which we seem to be constantly operating in these hearings. I was impressed with your statement on page 2 and page 3 about the piecemeal approach of the bill before us and that the present legislation under discussion would not accomplish the job.

As a matter of fact, you characterize the present law of voting as not worth the paper it is written on.

Not commenting on whether or not that is strong language, the administration's position is that outside of the seven States covered by this bill before us now, the remedy of citizens discriminated against is under the statute which you say is not worth the paper it is written on.

Would you care to comment on that approach to this problem?

Mr. ZAGRI. First, I would like to point out that the Attorney General is very optimistic that the district judges that have the responsibility under the present law would do a better job in enforcing the present law in the future than they have in the past.

In the past, the record shows that in no cases brought under the statutes of either 1957, 1960, or 1964 has the district judge exercised his option to appoint a referee in any cases. In only one of these cases has the judge consented to hear the application of Negroes in addition to the one listed in the complaint.

The Attorney General's complaint was based wherein judges were imposed on local registrars, no contempt citations were issued by the district court in these cases for registrar noncompliance despite continued complaints.

So I would say that looking at the record—and of course I don't ask you to look at the record, just listen to what President Johnson said. President Johnson in his memorable address to the Congress made it clear that the present laws are incapable of dealing with the ingenious devices used by local officials to deny voting rights.

Mr. CRAMER. Yet, it would mean that people outside these seven States would be second-class citizens as far as discrimination is concerned.

I yield to the gentleman from Ohio.

Mr. MCCULLOCH. I noticed, Mr. Zagri, you commented upon the fact of the delay of the district courts in some of these statements. Of course you know that delay in some instances is from 1 to 4 years.

Mr. ZAGRI. Yes; I do.

Mr. MCCULLOCH. I am sure you know that the caseload in some of those district courts is not nearly as great as in many other district courts in the United States.

Do you think it might serve a useful purpose for us to inquire as to the reason for this delay?

Mr. ZAGRI. Yes; I think it would.

Mr. MCCULLOCH. You know, I think that justice delayed that permits an election or two or three or four to go by is justice delayed that never can be remedied. One might sue for damages and there might be a delay of 1, 2, 3 or 4 years, but the person who is successful will catch up with the delay in the interest accrued, at least, so far as the money is concerned; but once an election is gone, it is gone forever.

Mr. ZAGRI. I believe that the three D's, the "Death Dealing Delay," is responsible for the civil rights movement, the civil rights revolution, in taking the battle of civil rights into the streets instead of dealing with it in the courts where it belongs.

That is why I say that the administration bill, insofar as it is an effective bill, and I think it is in many respects, should be applied uniformly and nationally.

Mr. MCCULLOCH. When the Civil Rights Act of 1957 left the House, it was stronger than the civil rights bills that have been passed in 1960 and 1964.

We were of the opinion, particularly since some 89 new Federal judgeships were created in the United States, that there would be time to apply the law in each of those Civil Rights Acts.

Mr. RODINO. Mr. Cramer?

Mr. CRAMER. You are a very good constitutional lawyer, Mr. Zagri, and I wanted to ask you a couple of questions relating to this proposal that we have to wrestle with.

In view of the statistics you cited, and they are correct, do you have any question in your mind relating to the constitutionality of the approach of the administration as compared to the approach that you suggested?

Mr. ZAGRI. I think both approaches are constitutional, but I prefer my approach that it is contained in the Lindsay bill because I believe it is not a sectional approach and because it has an automatic trigger and cannot be used for political purposes by a political-minded Attorney General.

My preference is primarily a policy preference rather than a constitutional preference.

Mr. CRAMER. I think that is very responsive to the question.

Relating to your statement on page 6 concerning literacy tests, this, too, involves a basic constitutional question as to what extent Congress can strike down the authority of the States given under article 1, sections II and IV. The right of a State to fix voter qualifications has been acknowledged by the Supreme Court as power within the States, if there has been no discrimination in violation of the 15th amendment in a given State or political subdivision.

What is your position as to the right of the States to establish voter qualifications where, in fact, discrimination does not exist?

Mr. ZAGRI. The States, of course, have the prime responsibility to write voter qualification laws. The Congress has the responsibility in the 15th amendment to protect the rights of voters and to pass legislation which would curb the States in a discriminatory application of its regulatory function.

Now, if it is established that certain qualification tests or regulations are for the purpose of discrimination, such as the poll tax and such as the interpretive tests and the vouching of good moral character test and so on, there is a very strong presumption there that there has been a denial within the meaning of the 15th amendment, and in this area Congress could act.

But this is not saying that Congress can deny the States the rights to legislate in this area without at least establishing a legislative history that there has been a discriminatory use of this power.

Mr. CRAMER. Yes. Of course I assume you realize the administration bill, as drafted, would permit any State to pass any literacy test it wishes in the future and not be subject to this.

Mr. ZAGRI. One of the very interesting things about the administration bill is what would the Attorney General do if the six or seven Southern States that are primarily the target of the bill were to repeal the literacy test?

What would they do?

Mr. RODINO. Mr. Zagri——

Mr. CRAMER. I will yield to the chairman.

Mr. RODINO. The bill is prospective; the bill merely relates to the elections of 1964.

Mr. ZAGRI. I was hopeful that the bill would apply to the future, too. If this bill is not going to apply in the future, what are we talking about?

Mr. CRAMER. That is the very point I was trying to make, Mr. Chairman. The bill specifically says on page 2, line 1, that: "The Attorney General determines, maintained on November 1, 1964, any test or device as a qualification for voting." The record is replete with statements, and it is obvious on the face of the bill that the State of Texas could enact a strong literacy test in the future and would not be subject to the jurisdiction of this bill. There is no question about that, and it was a suggestion of Mr. Zagri that this is another weakness in the draftsmanship of trying to set a specific date, that date being in the past and not affecting what happens in the future.

Isn't that a correct statement as you read the bill, Mr. Zagri?

Mr. ZAGRI. Yes.

Mr. ROGERS. Would the gentleman yield for one question?

Mr. CRAMER. Yes; I will yield.

Mr. RODINO. It is a quarter of 12 and Mr. Buchanan is still to testify and then we have to hear Mr. Farmer.

Mr. CRAMER. Mr. Chairman, just let me say that this has been the case every single day we have had witnesses. There has not been a day that interrogation of witnesses has not been cut off.

Now, it is not the responsibility of the minority to schedule witnesses; it is the responsibility of the majority. The majority has consistently scheduled far more witnesses, as a general rule, than can be heard and properly interrogated.

I would suggest that my questions are being rather brief. I have no intention of delaying any matter, but I would like to yield to the gentleman and would like to do so without being lectured about it.

Mr. RODINO. I am not lecturing.

Does the gentleman yield?

Mr. CRAMER. Yes.

Mr. ROGERS. Section 8 of H.R. 6400 provides:

> Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment—

Now, there is at least an attempt to see that they do not change the law in the middle of the stream.

Mr. ZAGRI. I agree with that.

Mr. ROGERS. That is what I was trying to point out.

Mr. ZAGRI. I agree with that, but I would like to point out though that it is inconceivable to me that any court or the Attorney General would in all seriousness suggest that the elimination of a literacy test would be the type of regulation that would be construed to interfere with the proper administration of a voter registration act; in fact, it could be construed just the opposite.

Mr. ROGERS. Yes; but—well, I said one question, that is all. Thank you.

Mr. CRAMER. I would like to point out that the bill does not answer the situation where States do not have literacy tests now and therefore are not subject to section 3(a). The bill does not prevent them from enacting all the literacy tests they want to in the future, for in so doing, they are not subject to section 3(a) because they were not subject to it in the first place. Is that not correct?

Mr. ZAGRI. That is correct.

Mr. CRAMER. So, other than the seven States that are affected, you can enact in the future all the literacy tests you want to and not be subject to the provisions of this bill.

That does not make sense to me. Does it to you?

Mr. ZAGRI. No.

Mr. CRAMER. Thank you.

Mr. RODINO. The gentleman from New York, Mr. Lindsay.

Mr. LINDSAY. I have had a chance to read your statement. I am sorry I had to leave while you were testifying. I would like to commend you for your statement.

Thank you.

Mr. RODINO. Thank you very much, Mr. Zagri, we appreciate your coming to testify.

Mr. ZAGRI. Thank you very much, Mr. Chairman, and thank you again, Mr. Buchanan. I didn't mean to take this much time.

Mr. RODINO. Congressman Buchanan.

May I merely state that it is our hope that we may at least be able to—Mr. Farmer, will you be able to come back this evening?

Mr. FARMER. I can come back this evening, Mr. Chairman.

Mr. RODINO. Thank you.

STATEMENT OF HON. JOHN BUCHANAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. BUCHANAN. Mr. Chairman, gentlemen, I have done graduate work at the University of Virginia and while there learned a motto from the pen of Thomas Jefferson, the founder of the institution, which was a motto of the school and which went as follows: "For here we are not afraid to follow the truth wherever it may lead us nor to tolerate any error so long as reason is left to combat it."

I would not venture to instruct the distinguished gentlemen of this subcommittee in the law. I am not an expert in any matter, but I am here to testify to the truth as I understand it in the assurance that where there is error in my testimony or in my point of view, the distinguished members of this committee will have reason enough to combat it.

Gentlemen, I have here in my hand portions of the Congressional Record of May 25, 1946, which is the record of an event in the history of the Congress in which the President of the United States had called upon the Congress to pass what was called a "work or fight" bill.

During the progress of World War II there came a strike that was, in the opinion of many, an unpatriotic act and one which brought about wrath, great emotion, and near hysteria in the country. With much popular support, the President called upon the Congress to pass a law drafting these workers if the strike did not immediately end.

The House of Representatives passed this measure overwhelmingly and when it reached the floor of the Senate there was much sentiment toward its passage. There was in the Senate one man, Robert Taft, of Ohio, who made a speech recorded in these passages of the record. Taft offered an amendment, an amendment which met the emotion and the hysteria with calm, with reason, and which toned down the bill to that which was more just and more reasonable.

This amendment offered by one man in the midst of the overwhelming emotion and near hysteria of the context was passed by 59 to 19 votes.

Mr. Chairman, I submit that there is considerable evidence that this is a comparable situation. Our whole country is emotionally involved in the drive of Negro citizens for equal rights in all America.

We are in a particularly emotional context at this time because of the tragic death which has recently occurred in my State.

May I say, Mr. Chairman, that we are therefore considering legislation in this body responsible to all the people, to all American history, and to the entire future of this Republic, in a highly emotional context, and under great pressure.

We are considering this legislation, I believe, because all of us would agree—all of us, Mr. Chairman, from all States—that section 2 of

H.R. 6400 is right, that "no voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color."

Mr. Chairman, I submit that this is a conviction of the men of the Alabama delegation to the Congress, that this is right for all America, that this is a conviction of vast numbers of the people of the State which it is my privilege to represent in the Congress.

Mr. Chairman, the actions of a small minority of people do not necessarily reflect the will of the people of a State, and whatever small contribution I might make I would like to make in saying a few words about the background of this particular point of history in Alabama, and it is simply this:

There are certain forces at work in Alabama that are being overlooked by our detractors. In the first place, there is an economic force that is changing the life in our State. As we have proceeded with a rather rapid program of expansion of our industry and agriculture, more and more economic opportunities have been opened to all our people.

This means new hope, new opportunity for people of both races, and this can help to change the very unfortunate situation that has existed in our State of relative economic poverty, with all its concomitant limitations.

The second is a political force. We have made great progress in recent years in the development of a much needed two-party political system. This may very well change the situation which has resulted in widespread apathy and failure to register and vote on the part of many of our citizens. Because there has been for so many years such apathy, the registration procedures in our State were slow, were in many cases unworkable, and do need to change.

Mr. Chairman, I call to your attention the fact that for some 4 or 5 years a large number of our citizens have been working on this matter of creating more interest in government on the part of all our people. The Alabama Republican Party has devoted much time and energy toward this end. Other forces have also worked toward stimulating people of both races to register in increasing numbers and more and more are being drawn into the electoral process.

Therefore, while the test in this bill, the test of low registration and voting, would at this point apply to the State of Alabama, along with six other States, this is something which results from widespread political apathy because we have walked in the dark valley of one-party government. We have had too little competition in politics in Alabama.

I do not mean to imply that there has been no discrimination in Alabama. I do wish to point out that there are economic forces working toward increased opportunities for all our people and that there are political forces in the State, prominently including that of my own political party, working toward stimulation of voter interest.

There is also a movement in my State at this time toward the liberalization of procedures and standards in registration and voting. I am absolutely in favor of this taking place.

I hope that we shall be able to produce legislation that will guarantee this without doing violence to the Constitution, without doing violence to the legitimate civil rights of any of our people regardless

of race, color, or religion. I fully support the constitutional guarantee that no man be denied his right to register and vote on the basis of race or color, the guarantee that in my State and any State this shall not be the basis for a failure to vote, that a man has been discriminated against by any voting requirement or procedure.

Mr. Chairman, I do not need to instruct this committee in the fact that the Constitution does permit the States to set certain qualifications, nor do I need to instruct this committee in the fact that throughout the history of our Republic the legislation of this body has been legislation which applies without discrimination on the basis of race, color, or religion; legislation which applies to all citizens and all States alike.

This bill, because it is a bill which reflects a certain double standard, does, in fact, however, put States into two different classifications; which does, in fact, mean that a citizen living in Alabama might well, through action of the Attorney General, be registered to vote; yet if that same citizen moved to New York he might become disenfranchised.

It would seem to me that civil rights should apply equally and exactly in all sections of our country. It is as important that Puerto Ricans shall vote in New York who have reasonable qualifications to vote as it is that Negro citizens should vote in Alabama.

It seems to me that this bill is discriminatory in its essence. It is clear that some States will be permitted to have basic literacy tests, or basic tests as to moral character, and other States will not.

Mr. Chairman, I would say that it would seem to me we are developing a pretty thoroughgoing double standard in this country. We have a double standard as to what is legitimate for persons to do; some of us believe in obeying all our Federal, State, and local laws, some of us believe in civil obedience at every level. Some of us determine that the people of our States and of our regions must live in compliance with such law.

It seems to me unfortunate that, with official encouragement and praise, some of our citizens feel they may disobey a law they deem unjust.

It seems to me, out of this double standard in which some of us are apparently free to disobey while all others must comply with law, we are producing here a bill which in itself reflects a double standard—one standard for the States which fall under its jurisdiction and these States are by November 1964, determined, so it is retroactive. We know specifically the States to which it will apply.

These States are under one standard of voting procedures whereas all other States are under another. This means that civil rights of the citizens who live in those States inequitably covered must be abridged by this legislation.

Mr. Chairman, I would say simply that while I would subscribe to section 2 of this bill and while I would wish our time were not gone——

Mr. RODINO. I am afraid the bells are going to cut you short, Congressman.

Mr. BUCHANAN. I would say "No voting qualification or procedure shall be imposed or implied to deny any person the right to vote on account of race, color, or religion," and that everything else in this bill should be struck and replaced by something to guarantee all Ameri-

cans alike, regardless of where they live or who they are or their race or color, the same basic rights in this matter of voting.

I thank you, sir.

Mr. RODINO. Thank you very much, Congressman.

Mr. MCCULLOCH. Mr. Chairman, I would like to commend our colleague in a very excellent statement before this committee. I hope that the people will read your statement who have not heard it.

Mr. BUCHANAN. Thank you.

Mr. RODINO. Thank you very much.

The committee will reconvene this evening at 8 p.m., at which time we will hear first from Mr. Farmer.

Mr. Farmer, we want to ask your indulgence for keeping you this late. We thought you would be able to get on before this.

We will hear Mr. Farmer and then Congressman Henderson, Congressman Andrews, and the attorney general of the State of Alabama, Mr. Flowers.

The committee will now adjourn.

(Whereupon, at 12:01 p.m., the subcommittee recessed, to reconvene at 8 p.m., the same day.)

VOTING RIGHTS

WEDNESDAY, MARCH 31, 1965—RESUMED

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 8 p.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Donohue, Corman, Cramer, and Lindsay.

Also present: Conyers, Hutchinson, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and Allan D. Cors, associate counsel.

The CHAIRMAN. The committee will come to order.

Our first witness is the Honorable David N. Henderson of North Carolina.

STATEMENT OF HON. DAVID N. HENDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. HENDERSON. Mr. Chairman, members of the committee, I thank you for the opportunity of presenting a very brief statement in connection with the bill H.R. 6400.

Mr. Chairman, my statement is directed to what I think is a comparatively minor but very important result of the bill. Of the 34 counties in North Carolina that would come within the provisions of H.R. 6400, only three are in the Third Congressional District which I have the honor to represent.

All three of these counties, Mr. Chairman, and members, contain major military installations. These counties are Craven, Onslow, and Wayne Counties. The military installations are Cherry Point Marine Corps Air Station, Camp Lejeune Marine Corps Base, and Seymour Johnson Air Force Base.

Mr. Chairman, I would point out that on the Marine bases in the two counties, one-fourth of the Marines of the United States are stationed. It is very obvious that at every major military installation in the Nation there is a sizable transient population of military personnel and their dependents not eligible to vote because they do not meet the residence requirements.

In many instances they maintain their legal residences in their original home States and vote in those States by absentee ballot or otherwise.

Yet I can find no provision in the bill H.R. 6400 that takes this factor into account.

Let us see how this has affected these three counties that I represent. Wayne is a good example because I happen to have detailed voting and registration statistics for this county. On November 1, 1964, it had 25,350 registered voters. Of this number, 19,228 were white, 6,122 were Negro. Wayne has and uses a very simple literacy test.

Mr. J. B. Hooks, Jr., chairman of the Wayne County Board of Elections, has certified to me in writing that in 1964 not a single Negro who applied for registration was kept off of the books for failing the literacy test.

It is very obvious that in this county there is no discrimination in applying the literacy test and in fact there have been no allegations of such brought to my attention; none have been reported to the Civil Rights Commission as I understand it, and the Commission stated that it had not received a single complaint about voter discrimination in Wayne County.

In Onslow County, the 1960 population of the entire county was 82,707. The Marine Corps advises me that the closest approximation that it can give at this time on military personnel and military dependents at the Camp LeJeune military base is 2,591 officers, 34,826 enlisted men, and 7,038 dependents over 21 years of age.

The CHAIRMAN. Mr. Henderson, apparently in Wayne County, over 51 percent of the total-age population were registered. They would be out of the realm of the bill.

Mr. HENDERSON. What is it in Wayne?

The CHAIRMAN. Wayne County that you mentioned a moment ago would not come under the terms of the bill because 51.9 percent of the voting population registered.

Mr. HENDERSON. Mr. Chairman, I hope that you are right and if so I certainly would not trespass on the time of the committee. From the listing that I had seen of the counties that were included—Wayne, Craven, and Onslow were listed.

The CHAIRMAN. Do you know what the actual vote count was in Wayne County?

Mr. HENDERSON. Yes, sir; the figure that I have for voting for President in 1964 in Wayne County was 17,346.

The CHAIRMAN. How about the percentage—have you figured it out?

Mr. HENDERSON. The percentage of the eligible voters if you exclude the military, was in excess of 50 percent. However, if you take the census figure for 1960 of the population above 21 years of age, it would not be 50 percent.

Mr. RODINO. Is that because you are including the military?

Mr. HENDERSON. Yes, sir; I feel sure that it is the intention of the Justice Department and the Administration and this committee that what obviously I consider to be unnecessary, unreasonable and not intended, could be the result of merely taking the population statistics above 21 and comparing those with the 1964 actual voting or the 1964 registration.

If the military are eliminated on both scores, Wayne County will be in excess of 50 percent.

The CHAIRMAN. I would suggest that you try to get the percentage of voting population. It may be that Wayne County may not be within the confines of the bill.

Mr. HENDERSON. Mr. Chairman, I have not been able to get for that county as definitive statistics as I have for Craven County.

May I ask that my statement be printed as read and let me refer to the third page which is an appendix?

The CHAIRMAN. Your statement will be placed in the record.

Mr. HENDERSON. Thank you, sir.

(Statement referred to follows:)

TESTIMONY OF CONGRESSMAN DAVID N. HENDERSON

Of the 34 counties in North Carolina which would come within the provisions of H.R. 6400, only three are in the Third Congressional District.

All three of these contain major military installations. The counties are Craven, Onslow, and Wayne. The military installations are Cherry Point Marine Corps Air Station, Camp Lejeune Marine Corps Base and Seymour Johnson Air Force Base.

It is very obvious that at every major military installation in the Nation, there is a sizable transient population of military personnel and their dependents not eligible to vote because they do not meet the residence requirement. In many instances, they maintain their legal residences in their original home States and vote in these States by absentee ballot.

Yet no provision is made in H.R. 6400 to take this factor into account.

Let us see how this has affected these counties. Wayne is a good example, because I happen to have detailed voting and registration statistics for Wayne. On November 1, 1964, it had 25,350 registered voters. Of this number 19,228 were white and 6,122 were Negro. Wayne has and uses a literacy test; but Mr. J. B. Hooks, Jr., the chairman of the Wayne County Board of Elections, has certified to me, in writing, that in 1964, not a single Negro who applied for registration was kept off the books for failing the literacy test.

It is very, very obvious that in this county there is no discrimination against Negroes in applying the literacy test and, in fact, no discrimination against Negro voting at all. The Civil Rights Commission has not received a single complaint about voter discrimination in Wayne County.

In Onslow County, the 1960 population of the entire county was 82,707. The Marine Corps advises me that the closest approximation it can give me on military personnel and military dependents at Camp Lejeune Marine Corps Base is 2,591 officers; 34,826 enlisted personnel and 7,938 dependents over 21 years of age. The county voted some 20 percent of its total population over 21 despite the fact that a tremendous percentage of its population was not eligible to vote by reason of the residence requirement.

Given time, I could compile very detailed and very specific statistics which would show beyond any doubt that if the military personnel and their dependents not eligible to vote by reason of residence were eliminated from the computation, these particular counties would not be under the bill.

I do not believe that it is the intention of the administration or of this committee to create a presumption of wrongdoing against any county solely because a large military installation is situated therein.

The bill should be amended to provide that where the political entity applicable to a particular situation is a county unit, and there is a major military installation situated within that county unit, the Director of the Census, in determining the number of persons of voting age residing in such county, will eliminate from his calculations persons of voting age physically residing within the county, but ineligible to vote for reasons of legal residence.

It is true that these counties could come into the three-judge court in the District of Columbia and attempt to get out from under the bill by "showing cause." But the cost of the undertaking would be on each county unit to do so and would be considerable. There would be an unwarranted and unnecessary creation of ill will in counties which have actually taken positive steps in recent years to improve race relations by such voluntary actions as the creation of biracial committees, Negro representation on city councils and similar acts.

Such an amendment would not weaken the bill to any degree and its enactment would cause very, very, little extra work and trouble to the Director of the Census as compared to the ordeal of a tedious and long drawn-out court proceeding for these counties, if such an amendment is not adopted.

CRAVEN COUNTY

Total population as of 1960 census		58,773
Military assigned to Cherry Point (current)	9,126	
Military dependents at Cherry Point (current)	13,750	
Total military		22,876
Net population		35,897

Census record says that of Craven's population, 53.1 percent were over 21.

53.1 percent of 35,897 is voting age population	19,051
Votes cast in Craven County for President in 1964	12,113

(This represents more than 63 percent of the residents over 21, if the military population is disregarded.)

Mr. HENDERSON. I would like to refer you to the third page on Craven County where I have been able to get from the Marine Corps positive figures and have been advised by them——

Mr. RODINO. Which county?

Mr. HENDERSON. This is Craven County which is illustrated on the appendix or the last page of the statement.

Craven County had a total population in the 1960 Census of 58,773. The current military count—and Mr. Chairman, I point out that it is current because we do not have a count or could not get a count for 1960 but there has been no major change in the military strength of the station.

The assigned military were 9,126, their dependents were 13,750 for a total military population of 22,867.

Now, Mr. Chairman, I think only in fairness to the committee, a small portion of these live in other counties but some 90 to 95 percent of this 22,000 live in Craven County or are stationed on the base in Craven County.

The Census record shows that of Craven's population, 53.1 percent were over 21 years of age. This would give you a voting age population of 19,051 and in the 1964 presidential election 12,113 votes were cast which represents more than 63 percent of the residents over 21 if the military population is disregarded.

Mr. RODINO. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. RODINO. In other words, you are suggesting that the military population should not be considered; since they do not vote there, when it comes to determining the amount of people registered and voting.

Mr. HENDERSON. Right, sir. My specific recommendation is that the bill have a clarifying amendment that would direct the Director of the Census to get—and he can get them so I am informed from the military, even off of the computers that they have with regards to their personnel—the statistics of the military personnel that are above 21 years of age.

In these counties only, Mr. Chairman, I think we have the unusual situation in that we can only be talking about four counties. In North Carolina of the 34, 3 of them are in my District. Cumberland County in which Fort Bragg is located, is in Congressman Alton Lennon's district, but 4 of the 34 counties in North Carolina could possibly be affected by the military population.

I understand that there are three other counties over the Nation; if I recall correctly, in Arizona, Idaho, and Maine. I do not know whether they have military installations that bring about this situation or not, but at the most we can only be talking about seven counties in the Nation, four in North Carolina.

A direction to the Director of the Census to take this factor of military population into account could very simply be handled by him at least in this regard, Mr. Chairman, I think the bill would be greatly improved and would be much fairer.

The CHAIRMAN. May I ask if you deducted the military population from the general population, would those counties that you aver to be taken out of the bill?

Mr. HENDERSON. Yes, sir; it is my understanding that not only the three that I represent but the County of Cumberland that Congressman Lennon represents, and my opinion in that regard is based on conversation with him.

I have not studied and I am not familiar with the statistics of that county.

The CHAIRMAN. Do any of these Marines actually vote?

Mr. HENDERSON. Mr. Chairman, a very small number of them vote in North Carolina. Now, I am sure that some of their dependents do, they certainly are free to. As I am informed, the Marine Corps does have a statistic of absentee votes that were cast by their personnel in States other than where they were stationed and they also have a figure of those that voted in the State and the county in which they voted in North Carolina.

The reason, they tell me, that they have made these studies in connection with their efforts to get their military to vote, either at home or where they are stationed. So again, I think that these figures are readily available and with a little effort on the part of the Director of the Census, this matter could be determined.

Let me say, Mr. Chairman, that if in the event any one of the three counties that I represent fell on the classification I would have a much easier job explaining to them the burden that the bill would put on them in coming into the three-judge court in the District of Columbia.

This is really no problem, as I see it, of satisfying the court but the problem of the cost is one that would be, I think, an undue burden to put on these counties, particularly in the view of the very fine progress that has been made in these counties that have a military installation in them.

The CHAIRMAN. Would you say that according to the Census Bureau regulations that the military becomes a part of the population where they are temporarily resident?

Mr. HENDERSON. This has a number of real advantages that we have definitely seen since the 1960 census. For example, in this county of Onslow in North Carolina, as a result of the Marine population there has been an additional representative in the State legislature granted to this county. Obviously a county with 82,000 population, of which some 40,000 are Marines, has additional problems that they would not have if they only had 40,000 population.

This factor of the 1960 census has resulted in, I think, a great benefit to these counties and to our men stationed there.

This bill, I think, would set us back in many progress areas and particularly in the area of race relations and in voting.

The CHAIRMAN. Well, I can assure you, sir, we will take that into consideration when we finally come to the writing up of the bills.

Mr. HENDERSON. Mr. Chairman, I hope that the information that I have furnished the committee is helpful. Let me assure you that, as you give this matter consideration, if I can contribute further to solving this problem, you or the staff feel free to call on me, sir.

The CHAIRMAN. We will be very glad to receive any other information you care to submit.

Thank you very much, Mr. Henderson.

Mr. HENDERSON. Thank you.

The CHAIRMAN. Our next witness is Mr. James Farmer, national director of CORE.

Mr. Farmer, we are sorry that we had to inconvenience you but you understand the difficulty under which we operate.

Mr. FARMER. I understand perfectly.

The CHAIRMAN. Do you have a prepared statement?

Mr. FARMER. Yes, I have a prepared statement which was passed around to the committee members today.

The CHAIRMAN. You may proceed.

STATEMENT OF JAMES FARMER, NATIONAL DIRECTOR, CORE

Mr. FARMER. Mr. Chairman, members of the committee, my name is James Farmer, and I am the national director of CORE, the Congress of Racial Equality, and I am today testifying on behalf of CORE.

The importance of the right to vote is so deeply ingrained in the spirit of American civilization and democratic government that comments in support of this right now are in the nature of cliches. Nonetheless, denial of this right to millions of our fellow citizens makes necessary the present bill. President Johnson is to be honored for his presentation of this bill, and the eloquence with which he has supported it.

The Congressmen who supported the bill should be similarly applauded.

I should like to say, Mr. Chairman, that I think the Congress of the United States is facing a historic challenge today, a challenge to get the important part of the civil rights revolution on the way and behind us. That task is confronting us now and I think that we have an opportunity to make more progress within the next month than we have been able to make in 100 years in regard to voting rights.

Negroes are denied the right to vote not only in the registrar's office, not only at the polls, but in the stores where they are refused credit, in the fields where they are thrown out of work, in the churches where the arsonist does his evil work, in the shop or home where they are discharged, and on the highways and streets where violence is done.

In the past month, three persons have been cruelly murdered in Alabama. While none of them were directly engaged in the process of voting, all of them were acting so as to make that right possible. Last year in Mississippi, 38 churches were bombed or burned. Who will deny that these acts were designed to intimidate those who might seek to register and vote?

Attached to my testimony is a photograph of the Pleasant Grove Baptist Church—incidentally, this is in Jonesboro, La.—which was burned to the ground on January 17, 1965, after a series of CORE-conducted voter registration classes.

(Photographs submitted with Mr. Farmer's testimony are in the files of the committee.)

The CHAIRMAN. Give us an opportunity to look at those photographs for a moment.

Mr. FARMER. Certainly.

The CHAIRMAN. Which was the first one?

Mr. FARMER. The first one I mentioned was Pleasant Grove Baptist Church in Jonesboro, La., burned to the ground on January 17 of this year.

The CHAIRMAN. All right.

Mr. FARMER. And also attached is a photograph of Tent City in Fayette County, Tenn., where in 1961 Negro sharecroppers were forced to live after being evicted from their farm homes after attempting to register.

Another shows a Choctaw Indian Church bombed near Philadelphia, Miss.—just a few miles from where two CORE staff members and a student volunteer were murdered last June. These acts of violence and intimidation have occurred over a period of years and still persist.

There are also other methods of denying Negroes the right to vote. This morning the gentleman from North Carolina said there were no problems concerned in his State. I, myself, was in Williamsburg County in the town of Kingstree, S.C., where we find in the State the registration offices are open only one day a month and on that day for several successive months we had 250 people outside the registration office lined up trying to get in. They succeeded in registering only about 8 to 10 people on each day. So at that rate, you see, it would take us a millennium before we could achieve a significant political breakthrough in the State.

Not only must the act of registering and voting be protected by the Federal Government, but the Negro must be free of the intimidation of the club, the gun, the torch, and the dollar. CORE proposes the following principles:

1. Where death is the result of intimidation designed to deny a person the rights guaranteed under this bill, there should be Federal penalties equal to those provided by the State for murder.

In other words, that would make the murder of an individual for the purpose of denying the Negro the right to vote a Federal offense.

2. Where physical harm is the result of efforts to deny citizens the right to vote, the perpetrators of that harm must be subject to Federal sanctions equal to that provided by the State.

3. Where the initiators of other forms of intimidation receive Federal funds, these Federal funds must be cut off.

The CHAIRMAN. Haven't we got that now in the Civil Rights Act of 1964—Federal funds shall be cut off where in the operation of a project or program there is racial discrimination?

Mr. FARMER. I don't think we have it in the case an individual employer who happens to receive subsidies fires a man and we can prove that he was fired because——

The CHAIRMAN. "Wherever Federal funds are received," I think is embraced in that act.

Mr. FARMER. I am not sure, Mr. Chairman. I was advised by my counsel that that was not applicable here. What we are trying to do there is apply the principle of title VI of the 1964 Civil Rights Act to the voter bill which you are considering now.

The CHAIRMAN. I just do not know how that could be done. I sympathize with what you are saying but I just do not understand the procedure by which we could do a thing like that.

Mr. FARMER. Well, the source of intimidation comes from an employer, be it a school board——

The CHAIRMAN. You mean an employer who is guilty of discrimination should have his Federal funds cut off?

Mr. FARMER. Yes; or a farmer who receives crop loans and perhaps dispossesses sharecroppers because they have participated in the voter rights demonstration.

The CHAIRMAN. You would extend it from what I call a program or project to these individual cases.

Mr. FARMER. I would indeed; yes. I think you are correct there that the 1964 Civil Rights Act refers to programs and projects and not individual cases like this.

Mr. LINDSAY. If the chairman will yield, does not the 1964 act also exclude the lending functions? Loans are excluded I think; am I right on that?

Mr. ZELENKO. Insurance and guarantees are excluded.

Mr. LINDSAY. Insurance and guarantees are excluded.

Mr. FARMER. Now the first two principles that I enunciated here, those regarding death or physical harm, apply criminal sanction against those who seek to deny to others the right to vote. The third principle applies the spirit of title VI of the Civil Rights Act of 1964 to the present bill.

For example, if the source of intimidation comes from an employer who receives Federal funds—be it a school board, a firm directly holding a Government contract, a farmer receiving crop loans or other forms of assistance, and so forth—these funds must be cut off. We can no longer tolerate the subsidy of intimidation by the public purse.

The efforts of the Attorney General, Mr. Katzenbach, to propose legislation which would have an automatic application, thus avoiding long, drawn-out litigation, are to be lauded. We must also insure that this bill will bring the right to vote to all and not just most of those who have been denied it for discriminatory reasons.

We must end now, once and for all, the exclusion, because of their race or color, of fellow Americans from participation in the making of the decisions that face our society, and from the benefits of that society.

It is therefore imperative that a broader application be included in this bill.

Too many political subdivisions of States where discrimination has been practiced, where Negroes have been denied the right to vote, are not now included in the bill and some counties in those States where more than 50 percent of the people are registered, despite active discrimination, would not come under the protective umbrella of the proposed bill. This is true in Florida, especially in northern Florida; and North Carolina, particularly northern North Carolina; and Arkansas and Texas, particularly east Texas where we have received complaints of intimidation in voting.

In Florida, many areas not far from the State Capitol at Tallahassee are serious pockets of bigotry, discrimination, and racism. This is true also in parts of Arkansas and Texas.

There are several ways in which the coverage of this bill can be broadened.

We believe that the 50-percent registration provision proposed is much too limiting. Thus, our suggestion is that where 20 people in any political subdivision address a complant to the Attorney General asserting that they have not been allowed to register and/or vote because of their race or color, this matter should then be certified by the Attorney General if he believes it to be true, and then referred to the Civil Service Commission for the appointment of a Federal examiner.

Now when we say "certified" we mean the Department of Justice would investigate the validity of the complaint.

The terms "political subdivision" should be clarified to mean, we suggest, any part of a State which elects a person to represent that area in any legislative body or in a State directed convention or elects someone to participate in the governing of that area. This, it seems to us, would make the meaning of political subdivision much more explicit.

We do not believe that any requirement other than age or residence is necessary as a basis for voting, except confinement in a prison or mental institution. Persons who have completed a sentence have paid their debt to society and should be permitted to register.

The CHAIRMAN. Will you explain that a little further?

Mr. FARMER. Yes.

The CHAIRMAN. When you speak of felony, that often includes some very heinous crimes. You would not want all felons who have committed heinous crimes to vote; would you?

Mr. FARMER. It is our feeling, Mr. Chairman, that if a person has served his sentence and is out of prison that our society then assumes that he has paid his debt to society, has paid his penalty to society.

One reason that we object to a felony conviction excluding a person from voting is that some of our activists in the struggle in the South have been convicted of felonies.

The CHAIRMAN. I have been told that some of the misdemeanors have been converted into felonies. Suspects were asked to plead guilty to those enlarged charges and were told they would go scot free, thereafter, the record showed that they pleaded guilty to a felony. Are those the cases you refer to?

Mr. FARMER. There have been some cases like that and there have been others. There have been people charged with criminal anarchy and insurrection in Georgia; the insurrection case was finally thrown out in the appellate court.

The CHAIRMAN. You would not want a man who had been convicted of murder and convicted of arson and actually served his sentences to vote nonetheless; would you?

Mr. FARMER. If a man has been convicted of arson, shall we say for example, and has served his sentence, whatever that sentence is, and is out of jail, then he is a part of society, he has been readmitted to society by virtue of being let out of jail. He has served his penalty. If he had not been, presumably he would be in prison for life. Must

a man go on being punished, Mr. Chairman, for even the commission of a felony?

The CHAIRMAN. Can the Congress, which is limited in its power by the Constitution, actually do a thing like that?

Mr. FARMER. Well, I am not aware that this is a constitutional provision and inclusion.

The CHAIRMAN. It is a qualification for voting.

Mr. CORMAN. Mr. Chairman?

The CHAIRMAN. Mr. Corman.

Mr. CORMAN. If the chairman will yield; I wanted to inquire if we might get around this problem by specifying the kind of felony conviction that would bar a man for instance, requiring that it be only a felony where he has served a year or more in prison.

In my own State that is a part of the definition of a felony, but I have been very disturbed about this problem of felony convictions for participation in voter registration drives, not quite so much about the number of voters we lose as the number of potential candidates for office that we lose.

Now, if we had that kind of provision in this bill where you would be disqualified only on the condition that you served a reasonable prison term, perhaps 1 year, would that exclude most of these people who have been convicted of felonies as a consequence of voter registration drives?

Mr. FARMER. Yes, that would exclude most of them to date but it is conceivable the way things are going that we will have some serve much longer sentences than that. My biggest complaint is not on the basis of the number of voters we would lose or the number of potential candidates, but the fact I think a person should be reclaimed into society.

If we want him to be a constructive citizen, then I do not think that we move toward that goal by excluding him from the citizenship process which is one of voting.

It seems to me that this is a part of his rehabilitation and we want to reclaim him into society.

The CHAIRMAN. You are entering a rather sensitive zone.

Mr. FARMER. Yes; I realize that, sir.

The CHAIRMAN. We probably will have to have some courses in psychology and criminology.

Mr. FARMER. I understand.

I was just handed a note, Mr. Chairman, indicating that murderers can vote in Mississippi but rapists cannot, and it is said that the reason for this is that Negroes are considered more likely to commit rape than murder.

A very interesting commentary but with your permission I will continue, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Mr. FARMER. Persons who have completed a sentence have paid their debt to society and should be permitted to register.

Furthermore, permitting felony convictions to exclude can cut out many of the very freedom fighters who have participated in the dramatic demonstration of the necessity of this bill.

Furthermore, even the formal ability to read or write is no longer important. This requirement is an anachronism of the 19th century when the primary means of communication was the printed word.

In our times, with the successive and successful development of the radio and television, an appreciation of the political issues involved and the candidates aspiring to office can be had without ability to read and write.

Literacy requirements will only penalize older people who have been deprived for discriminatory reasons of the simple education which would give them a means to pass this qualification. No one can demonstrate that this inability to read or write will affect the character of the vote.

Indeed, in connection with my work in the South I have discovered that many of the elderly Negro citizens who cannot read or write show more political sagacity than many of the other persons who do vote in their communities.

I simply do not believe, Mr. Chairman, that the ability to read or write has a direct relationship to a person's understanding of political issues any more. I note that many persons, those who are followers of man like George Lincoln Rockwell, are, by and large, literate people who can read and can write. Presumably if Mr. Rockwell were a candidate for office these persons would vote for him.

I do not think any of the illiterate Negroes in Louisiana, Mississippi, or Alabama would vote for him. I think they would have too much political judgment to vote for a man like that.

So it is possible that a functional political person may have more political sense than that person who can read and write expertly.

The CHAIRMAN. I think your example is rather strained.

Mr. FARMER. Well, perhaps it is strained but we are dealing in strained times, Mr. Chairman.

Mr. MCCLORY. Mr. Chairman, could I ask a question at that point?

The CHAIRMAN. Yes.

Mr. MCCLORY. Mr. Farmer, don't you think that it is important for the person to be able to read the names on the ballot, or do you contemplate that the person who was illiterate would get assistance in marking the ballot?

Mr. FARMER. Well, I think a person certainly could memorize the names that are on the ballot very easily, he hears those names and he sees them written and thus he can identify them.

Mr. MCCLORY. The reason I ask the question is this: There have been numerous cases of vote fraud in the city of Chicago, particularly, and a great many of them relate to the voter coming into the polling place and asking for assistance. Although he does know how to read and write, nevertheless, he asks for assistance. Often the assistant who helps him into the polling booth helps him also with the voting and thus the person does not exercise the free right to vote or the secret ballot. Of course vote fraud would be multiplied many times if the illiterate is going to be given the right to vote. He will be in a position where he will naturally ask for assistance.

That is why I do not think we want to encourage the changes here which are going to impair the significance and the integrity of the ballot.

Mr. FARMER. Well, sir, obviously we do not want to impair the integrity or the significance of the ballot. I think it becomes a function, a responsibility of political organizations, and including civil rights organizations, to communicate with potential voters and inform them as to how to fill out their ballot once they go in.

This we would not hope to do, obviously, within the confines and the privacy of the voting booth, we would do it prior to voting.

Mr. McCLORY. Do you think that being able to write a person's name would be important? For instance, in Illinois, you have to apply for a ballot in writing. You would not argue with that.

Mr. FARMER. I do not argue with that requirement at all.

A major requirement we urge to be inserted in this bill is the elimination of the poll tax. No one should have to pay in order to exercise the right to vote. It is a dreadful commentary on American life when a Congress in 1965 can give even token lip service to one of the most vicious provisions of law enacted for discriminatory reasons this country has ever seen. The imprimatur of the Congress can only adversely affect the decision of a court in considering the constitutionality of the poll tax as a requirement for voting.

The CHAIRMAN. At that point, Mr. Farmer, this committee is wrestling with the problem of the poll tax. I personally hope that the poll tax will be wiped off the books entirely. Only four States now have the poll tax; Arkansas recently abolished it.

I am in accord with you on poll tax. The question that baffles us is whether or not we can do this by statute or whether we need a constitutional amendment to abolish the poll tax.

Now, I take it you are not a lawyer.

Mr. FARMER. I am not a lawyer and I do not speak as one.

The CHAIRMAN. Maybe it is unfair to put this question to you but nonetheless the problem is a baffling one. I have asked members who appeared before us whether they could give us information as to whether the poll tax was actually used to discriminate against the Negro in voting. Now, up to this point we have had only a sparsity of proof.

If it can be shown that poll tax is used for purposes of discrimination against the Negro voting, we probably could put it into a statute under the 15th amendment, but we would have to have solid substantial proof that the poll tax was used for discriminatory purposes.

Now when Mr. Wilkins was here with Joseph Rauh, attorney, I asked him whether he could give us information about this discrimination and all he could tell us was that the Senate Judiciary Committee way back in 1942 made a self-serving declaration not fostered by any kind of proof whatsoever that there was discrimination practiced and that poll taxes were used for that purpose.

Now, I wonder whether or not you or your organization could furnish us with definite proof that the poll tax is used and has been used in the various States for purposes of preventing the Negro from voting on the grounds of their race or color?

Mr. FARMER. We will see what information we can get to the committee on that. At this point what I would say, Mr. Chairman, is that the effect of the poll tax obviously is one of discrimination in view of the fact that Negroes are the poorest citizens of all the respective States.

The CHAIRMAN. Yes, but it is always coupled with the literacy test and it is probably the literacy test that causes the difficulty rather than the imposition of the poll tax. Now, we would cherish some real solid information on that score and perhaps your organization could furnish it.

Mr. FARMER. We shall endeavor to do that.

The CHAIRMAN. You see our problem there.

Mr. FARMER. I see the problem, yes. It is quite clear to us that it is a discriminatory device and we do not believe the poll tax was introduced to provide revenue.

The CHAIRMAN. That may be due to the fact that everybody repeats the same conclusion that the poll tax does discriminate—the poll tax does discriminate—everybody reverberates that idea and that statement, but what proof is there?

Mr. FARMER. Well, sir; the proof which I would find is that in those areas where a poll tax is required the poor Negroes, the people whom we are trying to relieve in the war on poverty, find it difficult to pay the poll taxes.

The CHAIRMAN. It is probably the literacy test that provides the discrimination. If you can give us the information we would welcome it, we would like to have it.

Mr. FARMER. We will try to give you factual information on that, Mr. Chairman.

We also urge that the terms of all persons, and here I would add except U.S. Senators and Representatives because I believe that their terms are constitutionally set, elected under Federal and State laws which come within the purview of this act, be terminated no later than December 31, 1966, and that the new elections for such offices be held no later than the first Tuesday following the first Monday of November 1966.

This provision, in our judgment, needs no justification: When fewer than 50 percent of the people in so many areas have been allowed to vote because of discrimination, the very least we can do is to make certain of their right not to have foisted upon them for additionally long periods of time persons so elected.

In other words, if officeholders have been wrongly elected through discriminatory machinery, it seems to me only fair that their term should be cut short. I realize that this has been called by some an extreme proposal but I would submit to the committee that there is in my opinion nothing extreme in cutting down and shortening the terms of those who have been elected through machinery that discriminates.

There is already ample precedent for such a step, for example, in the Federal court decision in New York State to terminate the normal 2-year terms of the State legislators after 1 year because they were elected under an apportionment scheme which has been found unconstitutional.

So now if it is found by the courts that terms can be cut short when there has been wrong apportionment, would it not be even more reasonable to cut terms short if there has been exclusion?

Connecticut is another illustration. I believe that in Connecticut the terms have been changed.

Now, CORE has proposed three kinds of changes in this bill, and this is in the way of summary.

First, we have sought to broaden the coverage of the bill by providing for its implementation by a petition of 20 aggrieved persons, by seeking to clarify the term "political subdivision," by ending various discriminatory and anachronistic restrictions upon the right to vote, such as felony convictions, literacy requirements, and the poll tax.

Second, we have sought to prevent various forms of intimidation from preventing Negroes even getting to the registrar's office or the polling place. While there can be no assurance that such intimidation will be prevented, we can and must assure that those who commit such intimidation will face the full and severe sanction of the Federal Government.

Third, we have sought to cut to a minimum the time which those who have been prevented from voting are forced to live under the rule of those who have been elected under a discriminatory system.

We must assure not only the prevention of future discrimination and intimidation, but we must not allow those who have gained public office as a result of past discrimination to savor that fruit any longer.

We must end now, once and for all, the exclusion because of their race or color, of fellow Americans from participation in the making of the decisions that face our society, and from the benefits of that society.

Three times in the past decade Congress has passed voting rights bills. While more could have been done in their implementation, each of them was flawed by inadequate coverage or invited excessive litigatory procedures or by too limited penalties for violation.

CORE urges that this voting act of 1965 avoid those pitfalls. The coverage must be broad and automatic, those who intimidate must be punished, and those who have profited from discrimination in the past must no longer be allowed to so benefit.

The right to vote is too precious, too many have died for its preservation, too much is at stake for us all, for you and us to allow further delay, or to allow any weakening of this bill.

Its language must be strong.

Its passage must be swift.

Its enforcement must be sure.

The CHAIRMAN. Mr. Rodino?

Mr. RODINO. No questions.

The CHAIRMAN. Mr. Donohue?

Mr. DONOHUE. No questions.

The CHAIRMAN. Mr. Conyers?

Mr. CONYERS. I want merely to thank Mr. Farmer, his work is well known to many of us, for this very forceful and effective statement.

There have been a number of people who have testified similarly before this committee and I for one am very, very grateful for your presence here tonight.

Mr. FARMER. Thank you very much.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. No.

The CHAIRMAN. Mr. Cramer?

Mr. CRAMER. I have a couple of brief questions, Mr. Chairman.

I notice the gentleman mentioned, and properly so, the States of Florida, Arkansas, and Texas, and you could add Kentucky and a few others.

Mr. FARMER. You certainly could.

Mr. CRAMER. And I am sure he knows that it is my position that wherever discrimination exists it should be covered by the legislation that results from the deliberations of this committee.

Mr. FARMER. I am aware of your position on that, Mr. Cramer.

Mr. CRAMER. And I gather that is what you mean as well when you say that the coverage, I assume you mean broadened, should cover all areas of discrimination in America.

Mr. FARMER. That is right.

Mr. CRAMER. That might even mean New York City relating to Puerto Ricans.

Mr. FARMER. Of course. I think, sir, that the Puerto Rican may be very skilled in the Spanish language but unable to speak English well enough to pass a literacy test.

Mr. CRAMER. He may also take an English course but not study in a predominantly English-taught school.

Mr. FARMER. That is correct.

Mr. CRAMER. But still be denied the right to register and vote.

Mr. FARMER. Precisely.

Mr. CRAMER. I am interested in your comment relating to the definition of a political subdivision.

The term "political subdivision," as you accurately indicate in your statement, is nowhere defined in the administration proposal, H.R. 6400.

Mr. FARMER. That is right.

Mr. CRAMER. You suggest in your second paragraph that:

> The term "political subdivision" should be clarified to mean, we suggest, any part of a State which elects a person to represent that area, in any legislative body or in a State directed convention, or elects someone to participate in the governing of that area—

The definition in the present Civil Rights law is somewhat broader than that. I am sure you are familiar with that which includes any borough or school district.

Mr. FARMER. Yes.

Mr. CRAMER. Any municipality.

Mr. FARMER. Yes.

Mr. CRAMER. Of course, voting in those "political subdivisions" has considerable consequences, does it not?

Mr. FARMER. That is correct.

Mr. CRAMER. Do you intend, in your definition, to limit it to those areas which you suggest, "legislative body or in a State-directed convention or elects someone to participate in the governing of that area"?

Mr. FARMER. We are interested, sir, in using as a unit any unit in which voting is important to the citizens. We are interested in the election, local elections, county elections, and so forth.

Mr. CRAMER. In effect, you are interested in all elections?

Mr. FARMER. We are interested in all elections.

Mr. CRAMER. And you did not intend by suggesting this definition to limit it.

Mr. FARMER. No, it is not to be limited or exclusive.

Mr. CRAMER. You suggest your concern, on the bottom of that same page, with literacy tests. You attempt to justify permitting people, without any literacy qualifications, reading and writing, for instance, to vote. I am sure you are familiar with the present constitutional provision discussed in the Supreme Court decisions, that permits a Sate to fix reasonable qualifications for voting so long as those qualifications are not administered in a discriminatory fashion and thereby violate the 15th amendment or in the alternative, as found in the

Louisiana case, that those qualifications are on the face of them subject to discrimination.

Mr. FARMER. Yes, sir.

Mr. CRAMER. You do not dispute that status of the law, do you?

Mr. FARMER. I am not disputing the law at all. All that we are saying is that the literacy test is in itself discriminatory in the areas of the Deep South because there Negroes have historically been denied an equal education and they should not be further penalized from this point on in participation in the political process, so we consider the literacy test discriminatory in that respect.

Mr. CRAMER. You realize the committee has the problem of conforming to the right of the State to fix reasonable standards while preventing those standards from being discriminatorily applied. There are limitations on what Congress can do under the Constitution.

Mr. FARMER. Yes. Well, I think I would assume that you have the responsibility not only to prevent those requirements from being discriminatorily applied but from seeking to prevent requirements which in themselves are discriminatory.

Mr. CRAMER. Such as in Louisiana.

Mr. FARMER. Yes.

Mr. CRAMER. The next page of your statement——

Mr. FARMER. If I may interrupt just a moment, Mr. Cramer.

Mr. CRAMER. Yes.

Mr. FARMER. My father grew up in South Carolina and Georgia. When he was a child in Georgia there were no high schools for Negroes at all. He finally had to go to Florida to the Bethany Cookman Institute. Now, it would be discriminating against many elderly Negroes to require that they be able to read and write in order to vote; that on the face of it would discriminate and rule them ineligible for reasons over which they have no control.

Mr. CRAMER. Do you think Congress has the power to eliminate all literacy tests where there has been no discrimination in their application?

Mr. FARMER. Sir, I am not a lawyer, I am a layman. I know the moral principles that are involved and I am speaking to the moral issue rather than the legal.

Mr. CRAMER. On the next page you discuss the new elections. For instance, the Governor elected in 1964 would, in effect, stand for election again in 1966 even though he was elected for a 4-year term. Is that correct?

Mr. FARMER. That is correct.

Mr. CRAMER. Now, as I gather from your statement, you base your justification for that on the sentence, and I quote:

> This provision needs no justification: when fewer than 50 percent of the people in so many areas have not been allowed to vote because of discrimination.

That is an assumption on your part, is it not?

If, in fact, 50 percent of the people did not vote, does it follow automatically that they did not vote because of discrimination?

Mr. FARMER. Well, it seems to me that the administration bill makes that assumption. I think it is an assumption that we need to make. The bill automatically applies, I believe, to those areas where less than 50 percent are registered or less than 50 percent voted in November.

Mr. CRAMER. Plus the literacy test.

Mr. FARMER. Plus the literacy test, yes.

Mr. CRAMER. And of course that is what presents the troublesome problem in the administration bill. Let me give you an example, and we can substantiate it and have it in the record relating to voting and registration.

If you have a county with an 8,000 population and you have 4,500 whites and 3,500 Negroes, if 4,000 whites register and 1 Negro, there is obvious discrimination.

Mr. FARMER. Of course.

Mr. CRAMER. They are not covered.

Mr. FARMER. That is right.

Mr. CRAMER. So you have over 50 percent of the people registered.

Mr. FARMER. Yes.

Mr. CRAMER. Does that make sense?

Mr. FARMER. I am afraid I do not get the point you are making from that, Mr. Cramer.

Mr. CRAMER. Let me run over it again.

The CHAIRMAN. You might ask the gentleman where is such a county.

Mr. FARMER. Well, I could give him an even better illustration, Beauregard Parish in Louisiana where Negroes are about 6 percent of the population, so that you might have 94 percent registered and no Negroes.

The CHAIRMAN. Louisiana is covered by the bill.

Mr. FARMER. Yes, Louisiana is, of course.

Mr. CRAMER. Except in a State where over 50 percent of the people are registered, and a county in which 50 percent of the people are registered.

Mr. CORMAN. Would the gentleman yield?

Mr. CRAMER. That is the very point I am making. Let me give you an example.

Mr. CORMAN. Would the gentleman yield?

Mr. CRAMER. In just a moment.

You have a population of 8,000 of voting age.

Mr. FARMER. Yes.

Mr. CRAMER. You have 4,500 whites and 3,500 Negroes.

Mr. FARMER. Yes.

Mr. CRAMER. You have 4,000 whites and one Negro registered. You therefore have 4,001 registered. You have over 50 percent and you have obvious discrimination.

Mr. FARMER. Yes.

Mr. CRAMER. But under the formula of the administration bill, since you have a 50-percent registration, those who are being discriminated against are not covered by the bill.

Mr. FARMER. Well, we think that they ought to be covered and that is the reason I suggest that 20 people should be able to petition the Department of Justice.

Mr. CRAMER. Yes.

Mr. FARMER. And the Department of Justice then investigates. Our point here was, sir, the belief that if it is determined that there has been discrimination or the legislation becomes applicable, then any officeholder who has been elected through that machinery which discriminated should have his term of office shortened so that these people would have an opportunity to vote to elect their officeholder.

Mr. CRAMER. I am sure you are familiar with the fact that the administration——

The CHAIRMAN. Mr. Corman?

Mr. CRAMER. Yes.

Mr. CORMAN. On that point the gentleman suggested that a State might be covered but a subdivision within that State might be excluded. That is not my understanding of the bill before us. I thought we might clarify the point for the record.

The reason I make the point is that I have read some news accounts suggesting that there is consideration being given to make this law apply county by county, a step which I would be very much opposed to.

It would seem to me that if a State comes in, the whole State is in, political subdivision which might not of itself come in is still within section 3, and, therefore, under section 4

Mr. CRAMER. I cite an instance where a State is not covered but the political subdivisions can be. You agree with that conclusion, do you not?

Mr. CORMAN. Yes, sir.

Mr. CRAMER. Where a State is not covered but the political subdivisions can be.

Mr. CORMAN. Yes; Mississippi may have more than 50 percent registered.

Mr. CRAMER. The State of North Carolina is an example. North Carolina is not covered and therefore you judge each political subdivision separately. The instance I cited can occur in North Carolina, obvious discrimination, but it is not covered.

Mr. FARMER. And it should be covered.

Mr. CRAMER. I agree with that.

The CHAIRMAN. Would the gentleman yield?

Mr. CRAMER. Yes.

The CHAIRMAN. And a number of other counties would not be covered.

Mr. CRAMER. Yes.

The CHAIRMAN. That is the matter that we have to address ourselves to; there is no doubt about it.

Mr. CRAMER. I assume you are familiar with the fact that the provision on page 2 of this bill, that limits the Attorney General to a determination that on November 1 of 1964 a State maintained any test as a device of qualification, would not prevent any State in the future from enacting any literacy test it wished and it would not be covered by this legislation.

Mr. FARMER. Is that correct? Is that the interpretation?

Mr. CRAMER. Do you have the bill before you?

Mr. FARMER. Yes, I do. Obviously it needs to be strengthened in that connection then.

Mr. CRAMER. Section 3(a) on the first page, "No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification."

Mr. FARMER. Yes. Or at any point thereafter.

Mr CRAMER. So that if a State now wished to enact it, a literacy test would not be covered.

Mr. FARMER. That ought to be corrected in the bill.

The CHAIRMAN. Would the gentleman yield?

Mr. CRAMER. Yes.

The CHAIRMAN. I doubt very much if any State is going to enact any literacy test here. Thirty States already have no literacy tests whatsoever. The trend is the other way; the trend is against literacy tests. So I think we can assume that no State is going to adopt any literacy test here because public opinion is set against them, without question.

Mr. CRAMER. I will say to the distinguished chairman, and I know the distinguished chairman's intention, that I personally am not willing to just assume that they will not do so, but I think we have the duty to provide in the legislation protection against such tests that can be used for discriminatory purposes.

Mr. FARMER. I agree with you if there is that loophole in the bill, it ought to be plugged up.

Mr. DONOHUE. Will the gentleman yield?

Mr. CRAMER. Yes.

Mr. DONOHUE. What significance does he give to section 8?

Mr. CRAMER. I am glad the gentleman asked that because apparently there is a lot of misunderstanding relating to section 8. Section 8 deals with the subject of future legislation. If the witness will look on page 7—

> Whenever a State or political subdivision for which determinations are in effect, under section 3(a), shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia.

I call the gentleman's attention to the fact that that refers to States in which determinations are in effect under section 3(a), meaning that they maintained literacy tests on November 1, 1964.

So that offers no protection whatsoever for those who enact literacy tests subsequent to November 1, 1964.

Mr. DONOHUE. Don't you think that it was the intent of the drafters of the bill to prevent the very situation that you have in mind, that any State that saw fit to enact any law or ordinance setting up voting qualifications or a test or device must then appear and attempt to obtain the declaratory judgment in the Federal court of the District of Columbia?

Mr. CRAMER. I will say to my distinguished colleague from Massachusetts, yes. That is the intention, but relating solely, however, to States that are covered by section 3(a), and that was so testified to by the Attorney General.

The CHAIRMAN. That is correct, Mr. Donohue.

Mr. FARMER. Mr. Chairman, I would much rather err on the side of having some provision in the bill which may prove to be unnecessary than to err in the other regard by leaving something out that may at some time in the future prove to be necessary.

Mr. CRAMER. I have one more question, Mr. Farmer.

On your last page, you refer to the present existing law and what kind of relief is offered.

Three times in the past decade Congress has passed voting rights bills. While more could have been done in their implementation, each of them was flawed by inadequate coverage or invited excessive litigatory procedures or by too limited penalties for violation.

Now, the testimony of the Attorney General was, and I believe I asked him the question, that in those areas outside of the seven States covered by this proposal, citizens who are discriminated against still will have only one remedy, and that is under the present procedure which you just described.

Now that makes in effect, does it not, second-class citizens out of everybody outside of those seven States? Don't you think we should do something about it?

Mr. FARMER. I think we ought to; I think we should include everyone. That is one reason for our recommendation that 20 people be allowed to make petition to the Attorney General.

Mr. CRAMER. Then you disagree with the Attorney General?

Mr. FARMER. I disagree with the Attorney General, yes, in this regard.

Mr. CRAMER. Thank you.

Mr. FARMER. Mr. Chairman, on the poll tax issue, I have been advised that in Mississippi the poll tax is not tied to the literacy test, it is paid independent of the literacy test and 2 years in advance, and that the Federal courts in United States versus Diggin in Mississippi found that sheriffs refused to accept the poll tax from Negroes and that, of course, is discriminatory use of the poll tax.

The CHAIRMAN. Any questions, sir?

Mr. MCCLORY. Mr. Farmer, you suggest that the mechanism of the bill be set in motion through a petition or an application of 20 or more voters through the Attorney General. Does that contemplate that there would be no review, except in the manner which is already set forth in the legislation?

Mr. FARMER. Yes; I think that the manner that is set forth in the legislation would be correct.

Mr. MCCLORY. In 1964.

Mr. FARMER. Yes.

Mr. MCCLORY. The reason I asked that question was that there is other legislation which is also before the committee, including a measure by Mr. Lindsay of New York, which contemplates the setting in motion of the mechanics through an application of 50 or more voters, followed by a court determination that discrimination was practiced against the 50 who applied and claimed to be discriminated against.

Mr. FARMER. Yes.

Mr. MCCLORY. Would you object to that review in advance of setting this machinery in motion?

Mr. FARMER. Well, our experiences have been that waiting for a court ruling on this might delay the process considerably in some parts of the country, and I just want to impress upon you Congressmen the urgency of the situation and the necessity for speed.

This is the reason for our proposal that the Attorney General or the Department of Justice make this determination; it would be subject to the checks which are elsewhere included in the bill.

Mr. MCCLORY. I want to ask one more question, if I may. It is something that came up in the other body yesterday. I get telephone

calls and a certain amount of correspondence which suggests to me that there is some sort of Communist influence that is involved in the demonstrations that occurred in Alabama and elsewhere.

Are you familiar with any activity of that kind? Has it come to your attention at all?

Mr. FARMER. I am familiar with the charges, but I see no evidence of Communist infiltration. Many persons have assumed that Negroes would not be demonstrating or protesting unless Communists told them to, and this is on the face of it an insult.

As I said before, and I would repeat, that most Negroes consider that it is tough enough just being black without being black and red at the same time.

Mr. MCCLORY. I said I was only going to ask one more question. I would like to ask one more, if I may.

Mr. Farmer, you make the suggestion that the Federal assistance should be withdrawn, for instance, from a plantation owner or landowner where he threatens or intimidates one of the tenant farmers, for instance in regard to his right to vote or register.

Now, I think your suggestion is a very good one. I want to ask if you would likewise support a corresponding proposal where a person is threatened with being cut off of relief if he does not vote for a particular candidate or for a particular party. Would you support that?

Mr. FARMER. Yes; a very good suggestion. I would support that wholeheartedly.

The CHAIRMAN. Counsel wants to ask you one or two questions.

Mr. FARMER. Yes, sir.

Mr. ZELENKO. You refer on the first page of your statement to Fayette County, Tenn. We have heard a good deal about Tennessee, because Tennessee is not covered by this bill as it is now written.

Are you aware of lawsuits instituted by the United States in 1960 in Fayette and Haywood Counties seeking to enjoin voter intimidation in those counties?

Mr. FARMER. I am aware of that.

Mr. ZELENKO. I am asking these questions really, Mr. Farmer, in order to put in the record the decisions in the cases of United States versus Beaty and United States versus Barcroft which dealt with Haywood County, and the case of United States versus Atkeison which dealt with Fayette County, which resulted in injunctions against voter intimidation in 1962.

I am going to read a summary of those cases for the record and I wish you would correct me if any of these facts are incorrect to your knowledge:

In November 1960, the United States filed an amended complaint under the 1957 Civil Rights Act in the Federal District Court for the Western District of Tennessee against 70 individual and corporate defendants (including the mayor of Brownsville, the sheriff, the school superintendent, and various banks, merchants, and landowners of Haywood County, Tenn.).

In December 1960, a virtually identical action was brought in the same court against 10 other defendants. The court consolidated the two actions, since both complaints sought to enjoin defendants from causing threats and intimidations of an economic nature to be made against county Negro residents because of their status as registered voters.

On May 2, 1962, a consent decree of final judgment was entered, enjoining defendants from using threats or coercion for the purpose of interfering with the registration of persons to vote or with their voting for candidates for public

office. The injunction was not limited to specific acts, but it expressly prohibits the specific acts of terminating employment, refusing to sell goods or services, refusing to lend money, and evicting or changing the customary terms of tenancy, for the purpose of voting interference.

This relief was obtained under 1957 act.

Mr. Chairman, I would like to put these decisions in the record.

(Documents referred to follow:)

ELECTIONS

REGISTRATION—TENNESSEE

UNITED STATES OF AMERICA *v.* A. T. BEATY ET AL.

UNITED STATES OF AMERICA *v.* R. J. BARCROFT ET AL.

United States District Court, Western District, Tennessee, Western Division, May 2, 1962, Civil Actions Nos. 4065 and 4121

SUMMARY: In November 1960, the United States filed an amended complaint under the 1957 Civil Rights Act in the Federal District Court for the Western District of Tennessee against 70 individual and corporate defendants (including the mayor of Brownsville, the sheriff, the school superintendent, and various banks, merchants and landowners of Haywood County, Tenn.). In December 1960, a virtually identical action was brought in the same court against 10 other defendants. The court consolidated the two actions, since both complaints sought to enjoin defendants from causing threats and intimidations of an economic nature to be made against county Negro residents because of their status as registered voters. After proceedings in both the district court and the Court of Appeals for the Sixth Circuit, a preliminary injunction was granted on April 19, 1961. (For a full account of these proceedings, see 6 Race Rel. L. Rep. 201–202.)

On May 2, 1962, a consent decree of final judgment was entered, enjoining defendants from using threats or coercion for the purpose of interfering with the registration of persons to vote or with their voting for candidates for public office. The injunction was not limited to specific acts, but it expressly prohibits the specific acts of terminating employment, refusing to sell goods or services, refusing to lend money, and evicting or changing the customary terms of tenancy, for the purpose of voting interference.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaints herein on September 13, and December 1, 1960; the defendants having appeared by their attorneys; and the plaintiff and the defendants by their respective attorneys having severally consented to the entry of this final judgment;

Now, therefore, Without final trial or adjudication of this cause upon the merits, and without this final judgment constituting evidence or an admission by any of the defendants with respect to issues of fact, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

This court has jurisdiction of the subject-matter herein and of the parties hereto. Defendants having agreed, solely in order to permit entry of this final judgment, to waive any defense which might be asserted by them that the complaint fails to state a claim upon which relief may be granted, the court adjudges that the complaint states a claim upon which relief may be granted against the defendants under 42 U.S.C. 1971 (b) and (c) (71 Stat. 637), commonly known as the "Civil Rights Act of 1957."

The purpose of this final judgment is to prevent intimidation, threats, or coercion, or attempts to intimidate, threaten, or coerce, or conspiring to threaten, intimidate, or coerce persons in Haywood County, Tenn., for the purpose of interfering with the right of such persons to register to vote and to vote for candidates for public offices; including Federal offices, or for the purpose of punishing any persons for having exercised such rights.

The defendants, Robert Kerr Archbell, R. J. Barcroft, Donald Hamilton Beard, Mary Bond, Maxwell Bond, Jones Caldwell, Annabelle Clark, E. B.

Coburn, Edgar C. Evans, Leroy C. Gillespie, Jr., Leroy C. Gillespie, Sr., Alex H. Gray, C. T. Hooper, John M. Jackson, Sammie Franklin King, John Ware Moses III, Jesse T. Mullen, Joe T. Naylor, Thomas Homer Rainey, A. C. Viers, Herbert B. Willis, Hiram A. Whitehurst, William Whitehurst and Bernard Alexander Whitelaw, be, and they are, hereby permanently enjoined from engaging in any acts, including, but not limited to, those specified below, for the purpose of interfering with the right of any other person to register to vote and to vote for candidates for public offices, including Federal offices, or from engaging in any such acts or practices on account of the exercise of said rights.

1. Terminating the employment of any person or altering the terms of such employment.

2. Refusing to sell goods or provide services for cash or credit to any person.

3. Refusing to lend money to any person.

4. Combining or conspiring among themselves or with other persons to engage in any of the conduct specified in the immediately preceding three subparagraphs, or counseling or advising other persons to intimidate, threaten, or coerce or attempt to intimidate, threaten or coerce any other person by the application of economic penalties or otherwise.

5. From engaging in any threats, intimidation, coercion whether by eviction or threatened eviction or refusal to deal in good faith with them concerning their tenancies in keeping with the usage and customs heretofore prevailing in Haywood County, Tenn., of any of their tenants for the purpose of interfering with the rights of such tenants or other persons to become registered or to vote in Haywood County, Tenn., and for punishment for having previously registered or voted, or engaging in any act or practice which would deprive the tenants of any such right or privilege.

It is further ordered, That as to the following named defendants this action be dismissed: Maude Baird, Buelah Roberts, Ben W. Whitelaw, Mary Golden, Dr. F. P. Hess, Nathan A. Tann, G. R. Bencraft, Mrs. J. B. Warren, Everett E. Williams, and The First State Bank of Brownsville.

It is further ordered, That no costs shall be assessed against any defendants.

It is further ordered, That the defendants and each of them shall be personally served with a copy of this final judgment.

It is further ordered, That jurisdiction of this cause be retained for the purpose of enforcement of the provisions hereof.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on September 13, 1960, the defendants having appeared by their attorneys; and the plaintiff and the defendants by their respective attorneys having severally consented to the entry of this final judgment.

Now, therefore, without final trial or adjudication of this cause upon the merits, and without this final judgment constituting evidence or an admission by any of the defendants with respect to issues of fact, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

This court has jurisdiction of the subject matter herein and of the parties hereto. Defendants having agreed solely in order to permit entry of this final judgment, to waive any defense which might be asserted by them that the complaint fails to state a claim upon which relief may be granted, the court adjudges that the complaint states a claim upon which relief may be granted against the defendants under 42 U.S.C. 1971 (b) and (c) (71 Stat. 637), commonly known as the "Civil Rights Act of 1957."

The purpose of this final judgment is to prevent intimidation, threats, or coercion, or attempts to intimidate, threaten, or coerce, or conspiring to threaten, intimidate, or coerce persons in Haywood, Tenn., for the purpose of interfering with the right of such persons to register to vote and to vote for candidates for public offices, including Federal offices or for the purpose of punishing any persons for having exercised such rights.

The defendants, Samuel Clifton Buchanan, Joseph Shelby Dixon, Joe Richard Gibbs, Taylor Hunter, Harold Kelso, James Allen Kurts, Herbert Martin, J. B. Mathews, Lloyd McCool, Charles W. Scott, James Harvey "Preacher" Shelton, Alvis Stuart, Lofton K. Stuart, Walter Stewart, George W. "Buddy" Sullivan, Edmund Tayor, Miss Mary Ware, and Tommy B. Willis, be, and they are, hereby permanently enjoined from engaging in any acts, including, but not limited to

those specified below, for the purpose of interfering with the right of any other person to register to vote and to vote for candidates for public offices, including Federal offices, or from engaging in any such acts or practices on account of the exercise of said rights.

1. Terminating the employment of any person or altering the terms of such employment.

2. Refusing to sell goods or provide services for cash or credit to any person.

3. Refusing to lend money to any person.

4. Combining or conspiring among themselves or with other persons to engage in any of the conduct specified in the immediately preceding three subparagraphs, or counseling or advising other persons to intimidate, threaten, or coerce or attempt to intimidate, threaten or coerce any other person by the application of economic penalties or otherwise.

5. From engaging in any threats, intimidation, coercion whether by eviction or threatened eviction or refusal to deal in good faith with them concerning their tenancies in keeping with the usage and customs heretofore prevailing in Haywood County, Tenn., of any of their tenants for the purpose of interfering with the rights of such tenants or other persons to become registered or to vote in Haywood County, Tenn., and for punishment for having previously registered or voted, or engaging in any act or practice which would deprive the tenants of any such right or privilege.

It is further ordered, That as to the following named defendants, this action be dismissed: A. T. Beaty, Jimmy Freddie Campbell, Murdock Hudson Johnson, Floyd Qualls, and Paul M. Windrow.

It is further ordered, That no costs shall be assessed against any defendants.

It is further ordered, That the defendants and each of them shall be personally served with a copy of this final judgment.

It is further ordered, That jurisdiction of this cause be retained for the purpose of enforcement of the provisions hereof.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on December 1, 1960; the defendant having appeared by his attorney; and the plaintiff and the defendant by their respective attorneys having severally consented to the entry of this final judgment;

Now, therefore, Without final trial or adjudication of this cause upon the merits, and without this final judgment constituting evidence or an admission by any of the defendants with respect to issues of fact, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

This court has jurisdiction of the subject-matter herein and of the parties hereto. Defendant having agreed, solely in order to permit entry of this final judgment, to waive any defense which might be asserted by him that the complaint fails to state a claim upon which relief may be granted, the court adjudges that the complaint states a claim upon which relief may be granted against the defendant under 42 U.S.C. 1971 (b) and (c) (71 Stat. 637), commonly known as the "Civil Rights Act of 1957."

The purpose of this final judgment is to prevent intimidation, threats, or coercion, or attempts to intimidate, threaten, or coerce, or conspiring to threaten, intimidate, or coerce persons in Haywood County, Tenn., for the purpose of interfering with the right of such persons to register to vote and to vote for candidates for public offices, including Federal offices, or for the purpose of punishing any persons for having exercised such rights.

The defendant, John T. Gillespie, be, and he is hereby permanently enjoined from engaging in any acts, including, but not limited to, those specified below, for the purpose of interfering with the right of any other person to register to vote and to vote for candidates for public offices, including Federal offices, or from engaging in any such acts or practices on account of the exercise of said rights.

1. Terminating the employment of any person or altering the terms of such employment.

2. Refusing to sell goods or provide services for cash or credit to any person.

3. Refusing to lend money to any person.

4. Combining or conspiring with other persons to engage in any of the conduct specified in the immediately preceding three (3) subparagraphs, or counseling or advising other persons to intimidate, threaten, or coerce or attempt to

intimidate, threaten or coerce any other person by the application of economic penalites or otherwise.

5. From engaging in any threats, intimidation, coercion whether by eviction or threatened eviction or refusal to deal in good faith with him concerning his tenancies in keeping with the usage and customs heretofore prevailing in Haywood County, Tenn., of any of their tenants for the purpose of interfering with the rights of such tenants or other persons to become registered or to vote in Haywood County, Tenn., and for punishment for having previously registered or voted, or engaging in any act or practice which would deprive the tenants of any such right or privilege.

It is further ordered, That no costs shall be assessed against any defendant.

It is further ordered, That the defendant shall be personally served with a copy of this Final Judgment.

It is further ordered, That jurisdiction of this cause be retained for the purpose of enforcement of the provisions hereof.

[In the related case of *United States of America* v. *Atkeison, et al.* (6 Race Rel. L. Rep. 200), the same court, on July 26, 1962, entered a final judgment in terms identical to the judgment in the *Beaty* and *Bareroft* cases, above.]

Mr. ZELENKO. I understand, Mr. Farmer, that in those two counties, Fayette and Haywood Counties in Tennessee, that since 1960 the percentage of Negroes registered, and these are approximate figures, has risen from zero percent in 1960 in Haywood to approximately 32 percent in 1964.

Mr. FARMER. That is correct.

Mr. ZELENKO. And that in 1960 in Fayette County, the percentage of Negroes registered has risen from 0.73 percent to approximately 44 percent in 1964.

Are you aware of any complaints at the present time in any of those counties?

Mr. FARMER. I am not aware of complaints at the present time in those areas. I would like to say this, counsel, and that is that injunctive relief is very helpful to us, yet injunctive relief does not deter other persons from doing the same thing in some other area.

They might merely be enjoined and told to stop it. We believe there ought to be punishment for such persons in withholding Federal subsidies and we feel that such punishment for the act will deter others from committing similar acts elsewhere, and that is the rationale behind our suggestion.

Mr. ZELENKO. Would you say that in the cases of Haywood and Fayette Counties that the injunctive procedure under the existing Civil Rights Acts has resulted in some real progress with respect to relief from voter intimidation?

Mr. FARMER. It has shown some progress. I understand Mr. John Doar of the Department of Justice has said there is still intimidation in those counties so it is still not completely effective.

Mr. ZELENKO. Thank you.

The CHAIRMAN. Now the purpose of this bill, H.R. 6400, is primarily to get at those States where there exists massive discrimination and to provide automatic—I use the word "automatic" advisedly—automatic relief. As to the other pockets where there is discrimination like in Tennessee and some other States, the Department of Justice could avail itself of the Civil Rights Acts of 1957, 1960, and 1964. Through an alleviation of the condition in these "hard-core" States which are covered in the bill it is expected that the Department of Justice could release much of the personnel that had concentrated on that problem, and permit them to devote themselves to attacking sporadic discrimination.

This bill was primarily aimed at the States where there was wholesale discrimination, massive discrimination.

Now in view of the testimony that has been given by yourself and others, we may have to widen the bill but it would be unfair to offer any criticism against the Department of Justice or Mr. Katzenbach—not that you have done so but others have in criticizing this bill.

No bill may go far enough but you must consider that if you weight this bill down with too much, you may get into serious difficulty, and you may not get anything.

You must remember that we must be pragmatic here in this committee, we must be very careful that we do not incur too many hostile votes on this bill. That must be remembered also by the general public as well as organizations like your own and we labor under considerable difficulties in that regard.

Mr. FARMER. Well, Mr. Chairman, I certainly sympathize with your point of view there.

I would like to remind you, though, that the 1964 Civil Rights Act which was finally enacted by Congress, was a stronger act in a number of regards than the original bill which was introduced. It was strengthened in the process of such discussions as these and we hope that this legislation will similarly be strengthened.

We, of course, understand that the bill is aimed at those States where there is massive discrimination. We would like to see it include those States where there are pockets of discrimination because we think now is the time to get this job done and get it over with, get it behind us and move on to other things.

The CHAIRMAN. Mr. Farmer, somebody once said wisely that friends sometimes are more troublesome than enemies.

Mr. FARMER. Yes, we consider, Mr. Chairman, that one of our functions is to be troublesome in a constructive way to American society and thus help.

The CHAIRMAN. To a greater degree to help us.

Thank you very much, Mr. Farmer. I want to say personally speaking, I am aware of the great contribution that you have made to civil rights because you have worked diligently, and I know you have worked painstakingly to advance that cause, you have made great sacrifices for the cause.

I am sure that history is going to take note of the good work that you are doing. We are very grateful for receiving your contribution.

Mr. FARMER. Thank you, Mr. Chairman, and committee members.

The CHAIRMAN. Our next witness is our distinguished Member from Alabama, the Honorable Glenn Andrews, who is accompanied by the Honorable Richmond M. Flowers, attorney general of the State of Alabama.

Mr. Andrews.

Mr. ANDREWS. My testimony was not offered.

Mr. Chairman, I asked permission for Mr. Richmond Flowers to appear tonight and telephoned you yesterday and told you that Mr. Flowers could not attend. Do you remember?

I regret it very much. Thank you.

The CHAIRMAN. Do you want to say anything?

Mr. CRAMER. Would the gentleman wish to testify tomorrow?

The CHAIRMAN. Now just a minute, please. This hearing won't go on forever. We have a full schedule tomorrow.

Had Attorney General Flowers indicated to you that he wishes to testify?

Mr. ANDREWS. As I told you yesterday, Mr. Chairman, Mr. Flowers thought that the notice that I was able to give him with your permission was too short for him to prepare a statement and I telephoned you yesterday afternoon to that effect.

The CHAIRMAN. Would Mr. Flowers be able to get here tomorrow?

Mr. ANDREWS. I will be very glad to consult him but I doubt that very much.

The CHAIRMAN. Would Mr. Flowers be able to get here Friday?

Mr. ANDREWS. That, sir; is quite possible. If you will allow me, I will attempt that. I think Mr. Flowers would like to testify.

The CHAIRMAN. I will be very happy to set down Friday for the testimony of Mr. Flowers. I had intended to close these hearings tomorrow, I will stretch it one more day. We cannot let these hearings go on.

Mr. ANDREWS. I promise you an answer by tomorrow morning, sir.

The CHAIRMAN. If he can get here Friday morning, we will be very glad to receive him. You let us know tomorrow.

Mr. ANDREWS. Tomorrow.

The CHAIRMAN. Do you wish to say anything, Mr. Andrews?

Mr. ANDREWS. Thank you very much. I wish to listen to this very interesting testimony but I decline to comment at this time.

The CHAIRMAN. The hearings will now adjourn and we will assemble tomorrow morning at 10 a.m.

I will say that Mr. Wilkins will be here for further interrogation by the members of the minority.

(Whereupon, at 9:25 p.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, April 1, 1965.)

VOTING RIGHTS

THURSDAY, APRIL 1, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the subcommittee) presiding.

Present: Representatives Celler, Rodino, Rogers of Colorado, Brooks, Corman, McCulloch, Cramer, and Lindsay.

Also present: Representatives Whitener, Edwards, Hungate, Tenzer, Conyers, King, and McClory.

Staff members present: Benjamin L. Zelenko, counsel, and Allan D. Cors, associate counsel.

The CHAIRMAN. The committee will come to order.

The chairman wishes to announce the following. Up until this morning we have had 12 hearing sessions on voting rights bills, taking testimony from approximately 41 witnesses who appeared before the subcommittee in person.

These figures do not include statements which were submitted for insertion in the record. The chairman hopes to conclude the hearings this morning.

Our first witness this morning is Mr. Roy Wilkins, executive director of the NAACP, who returns for further testimony.

Mr. Wilkins.

STATEMENT OF ROY WILKINS, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, NEW YORK, N.Y., ACCOMPANIED BY JOSEPH RAUH, LEGISLATIVE COUNSEL

Mr. WILKINS. Thank you, Mr. Chairman.

It may be recalled that on March 23, when the committee was kind enough to hear my original testimony delivered in behalf of the Leadership Conference on Civil Rights, the committee requested that we submit language to cover the suggestions for strengthening or amending H.R. 6400.

We have prepared that language touching on each of the points raised and are prepared to submit it this morning.

If the chairman wishes, since it is not extensive, I would be happy to read it or to submit it, whatever the chairman wishes.

The CHAIRMAN. We will place the full statement in the record.

(Document referred to follows:)

AMENDMENTS PROPOSED BY LEADERSHIP CONFERENCE ON CIVIL RIGHTS TO H.R. 6400

I. POLL TAX

(i) Leadership conference testimony March 24, 1965 urged:

"(1) The total elimination of the poll tax as a restriction on voting in state and local elections as well as in federal elections."

(ii) Suggested language for proposed amendment:

"On line 6, page 6, delete all of section 5(c) and on line 13, page 11, insert a new section as follows: 'Section 12. No State or political subdivision shall deny or deprive any person of the right to register or to vote because of his failure to pay a poll tax or any other tax or payment as a precondition of registration or voting.' Renumber sections 12 and 13."

(iii) This amendment would have the effect of abolishing the poll tax in Mississippi, Alabama, Virginia, and Texas (Arkansas has already passed a constitutional amendment authorizing the abolition of the poll tax and an implementing statute is expected promptly).

II. APPLYING DIRECTLY TO FEDERAL EXAMINER

(i) Leadership conference testimony on March 24, 1965 urged:

"(2) The elimination of the requirement in the bill that a prospective registrant must first go before the state official to attempt to register before going to the Federal registrar or examiner. The prospective registrant ought not to be put to the delays, the hardships, and the indignity of attempting to satisfy hostile state officials before he can come to the Federal registrar."

(ii) Suggested language for proposed amendment:

"On line 19, page 4, change the comma after the word 'vote' to a period and delete the remainder of section 5(a)."

(iii) This amendment would have the effect of permitting an applicant for registration to go directly to the Federal examiner without first having to try out the State authorities.

III. EXPANDED COVERAGE

(i) Leadership Conference testimony on March 24, 1965 urged:

"(3) Extended coverage of the registrar or examiner provisions of the bill, so that persons who have been wrongfully denied the right to vote, regardless of their geographical location, will have the benefits of these provisions of the legislation."

(ii) Suggested language for proposed amendments:

"On line 19, page 3, after the word 'residents' insert '(i)' and on line 20, page 3, after the words 'section 3(a)' insert the following: 'or (ii) of a political subdivision with respect to which the Director of the Census has certified to the Attorney General that the number of persons of any race or color who were registered to vote on November 1, 1964 was less than 25 percent of the number of all persons of such race or color of voting age residing in such subdivision,'"

"On line 15, page 4, insert a new subsection as follows: '(c) Whenever the Attorney General receives complaints in writing from 20 or more residents of a political subdivision not covered by the provisions of section 4(a), alleging that they have been denied the right to vote under color of law by reason of race or color and he believes such complaints to be meritorious, the Attorney General shall appoint a hearing officer to hold a hearing and determine whether there exists in such political subdivision a pattern or practice of denial of the right to vote on account of race or color. Whenever the Attorney General certifies that a hearing officer has determined that such a pattern or practice does exist in such political subdivision, the Civil Service Commission shall appoint examiners for such subdivision in accordance with section 4(a). The determination of the hearing officer shall be reviewable in a three-judge district court convened in the District of Columbia in an action for declaratory judgment against the United States by the affected political subdivision or by one or more of the 20 residents making the original complaint. The findings of the hearing officer if supported by substantial evidence shall be conclusive. There shall be no stay of any action of the examiners appointed by the Civil Service Commission unless and until the said three-judge district court shall determine that the findings of the hearing officer are not supported by substantial evidence.'"

(iii) These amendments would have the effect of broadening the coverage of H.R. 6400. While leaving intact the excellent automatic provisions of the administration bill covering Mississippi, Alabama, Louisiana, Georgia, Virginia, South Carolina and 34 counties of North Carolina, they would provide for examiners in *other* political subdivisions *if*:

(1) less than 25 percent of a racial group were registered on November 1, 1964 and 20 residents complained to the Attorney General that they had been denied the right to vote, or

(2) 20 residents in any subdivision complained to the Attorney General that they had been denied the right to vote and a hearing officer found, after hearing, that there is a pattern or practice of discrimination in such subdivision.

IV. PREVENTING INTIMIDATION

(i) Leadership conference testimony March 24, 1965 urged:

"(4) Further and maximum protection of registrants and voters both those who will be registered under the bill and those already registered, and prospective registrants, from all economic and physical intimidation and coercion. In extending such protection, the Federal Government should use the full range of its powers, criminal, civil, and economic, to protect the citizens from the beginning of registration process until his vote has been cast and counted."

(ii) Suggested language for proposed amendments:

"On line 10, page 7 delete the entire section 7, and substitute the following: 'Section 7 No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person to vote whose name appears on a list transmitted in accordance with section 5(b), or is otherwise qualified to vote, or fail or refuse to count such person's vote, or intimidate, threaten or coerce any person for registering or attempting to register, or assisting one registering or attempting to register, or for voting or attempting to vote under the authority of this Act or otherwise,'"

"On line 14, page 10, insert a new subsection as follows: '(g) Whoever shall deprive or attempt to deprive any person of any right secured by section 2 or 3 or who shall violate section 7 shall be subject to a civil penalty in the amount of $500 for each act of deprivation, or violation, or attempt. Such penalty shall be collected on behalf of the affected individual by a civil action, brought by the United States in the District court for the district in which such act, violation, or attempt occurs or in the district in which the person responsible for such act, violation, or attempt is found. In any action brought hereunder involving any person acting under color or law who is in the employment of any State or political subdivision, said State or political subdivision shall be jointly liable and shall be made a party.'"

"On line 14, page 8, add the following at the end thereof: 'If the life of any person is placed in jeopardy, he shall be fined not more than $20,000 or imprisoned not more than twenty years, or both.'

"On line 2, page 9, add the following at the end thereof: 'If the life of any person is placed in jeopardy, he shall be fined not more than $20,000 or imprisoned not more than twenty years, or both.'

"On line 14, page 10, insert a new subsection as follows:[1] '(g) Whenever an examiner has been appointed under this Act for any political subdivision, the Attorney General may assign representatives of the Department of Justice, including agents of the Federal Bureau of Investigation and United States Marshals, to observe any registration of voters, the conduct of any election, and the tabulation of votes at any election in such political subdivision. Such representatives shall be entitled to enter and to remain in any registration or voting place, or place where votes are tabulated. No person shall interfere with or refuse to admit to any such registration, or voting or tabulation place any representative of the Department of Justice. Any person who shall violate this provision shall be fined not more than $5,000 or imprisoned not more than five years, or both. In addition, 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 permanent or temporary injunction, restraining order or other order, enjoining violations of this subsection.'"

[1] If the earlier suggestion of a civil penalty is adopted as subsec. (g), this would, of course, become subsec. (h).

(iii) These amendments would have the effect of broadening the prohibition on intimidation to cover all registrants and voters, provide for a $500 civil penalty for victims of acts of intimidation, increase penalties for violations of the act where life is placed in jeopardy, and provide for FBI agents and U.S. marshals to observe registration, voting, and counting.

(The above constitute the substantive amendments agreed upon by the Leadership Conference on Civil Rights to strengthen the bill. A number of language and technical suggestions are being made to the Justice Department and we would appreciate an opportunity to discuss these suggestions with committee counsel.)

The CHAIRMAN. You might give us the epitome of these observations.

Mr. WILKINS. Yes.

The first suggestion was to eliminate the poll tax in all elections and our language to support that is as follows:

"On line 6, page 6, delete all of section 5(e); and on line 13, page 11, insert a new section to read as follows: 'Section 12. No State or political subdivision shall deny or deprive any person of the right to register or to vote because of his failure to pay a poll tax or any other tax or payment as a precondition of registering or voting.'"

Renumber the present sections 12 and 13.

On the second point, Mr. Chairman, that is the point applying to the Federal examiners or registrars, we recommended that the applicant be enabled to go directly to such registrar and our suggested language is:

On line 19, page 4, change the comma after the word "vote" to a period and delete the remainder of section 5(a).

That means, sir, that this amendment would have the effect of permitting an applicant for registration to go directly to the Federal examiner without first having to try out the State authorities.

Then, sir, the next recommendation was on the expanded coverage of the bill and here the committee raised some questions and asked for language, and the language covers a page of typing.

On line 19, page 3, after the word "residents" insert "(i)" and on line 20, page 3, after the words "section 3(a)" insert the following: "or (ii) of a political subdivision with respect to which the Director of the Census has certified to the Attorney General that the number of persons of any race or color who were registered to vote on November 1, 1964, was less than 25 percent of the number of all persons of such race or color of voting age residing in such subdivision."

On line 15, page 4, insert a new subsection as follows: "(c) Whenever the Attorney General receives complaints in writing from twenty or more residents of a political subdivision not covered by the provisions of section 4(a), alleging that they have been denied the right to vote under color of law by reason or race or color and he believes such complaints to be meritorious, the Attorney General shall appoint a hearing officer to hold a hearing and determine whether there exists in such political subdivision a pattern or practice of denial of the right to vote on account of race or color."

Whenever the Attorney General certifies that a hearing officer has determined that such a pattern or practice does exist in such political subdivision, the Civil Service Commission shall appoint examiners for such subdivision in accordance wth section 4(a).

The determination of the hearing officer shall be reviewable in a three-judge District Court convened in the District of Columbia in an action for declaratory judgment against the United States by the affected political subdivision or by one or more of the twenty residents making the original complaint. The findings of the hearing officer if supported by substantial evidence shall be conclusive. There shall be no stay of any action of the examiners appointed by the Civil Service Commission unless and until the said three-judge district court shall determine that the findings of the hearing officer are not supported by substantial evidence.

The CHAIRMAN. Apparently you have written a whole new bill Mr. Wilkins, or Mr. Rauh has.

Mr. WILKINS. It is not a new bill, it is a new section, sir.

The CHAIRMAN. It will make our work very complicated and extremely difficult. For example, your suggestion the language on page 19 after the word "residents", to insert the following:

or (ii) of a political subdivision with respect to which the Director of the Census has certified to the Attorney General that the number of persons of any race or color who were registered,

and so forth, there are no such statistics available. We do not have statistics like that.

Mr. WILKINS. It was our feeling, Mr. Chairman——

The CHAIRMAN: You should have known that. We have no statistics of that sort, as has been testified.

Mr. RAUH. We think such information can be obtained.

The CHAIRMAN. On doomsday. We want to get action on this, Mr. Wilkins.

Mr. RAUH. Yes, Mr. Chairman, I recognize that but let us say it presents a difficulty.

The CHAIRMAN. The difficulty is that if we wait until we get those figures it would probably take an endless length of time and then we would be charged with delaying. Our action must be direct and immediate.

Mr. WILKINS. Well, Mr. Rauh has a comment on this, also.

The CHAIRMAN. I have great respect for Mr. Rauh, but sometimes he is a stargazer, and that is a creditable term. But we must be practical.

Mr. WILKINS. Mr. Chairman, may I interject here, for just one observation.

While conceding that this may not be an easy matter and subject to some delay, the fact that we do not now have this information is because we have never requested it or made it a part of any legislative requisition. That is, nobody has bothered to compile this or to take the trouble to look it up.

Mr. ROGERS. Will the Chairman yield?

The CHAIRMAN. Yes, certainly.

Mr. ROGERS. As you recall last year or in 1963, Subcommittee No. 5 voted a strong civil rights bill which a lot of people backed away from. In that bill we provided for a census breakdown. When that was submitted to the Bureau of the Census they came up with an answer that it would take $87 million to get that information.

Now whether they are right or whether they are wrong, that is what we ran into last time. If you take what you suggest, the 25 percent number, the only statistics they have is as to probably race, color, and so on. They do not have them as to age, broken down as I understand it, in anything other than a county.

Now, it takes some time, as they pointed out, for us to get that information so that we had to back away from it. Is that your remembrance of it, Mr. Wilkins?

Mr. WILKINS. Mr. Rogers, I can appreciate this and of course $87 million is $87 million, if it costs that much.

Mr. ROGERS. I am only telling you what they told me.

Mr. WILKINS. I reiterate again that one of the stumbling blocks in getting at the evil of this disenfranchisement is the lack of precise information on it and the fact that no one has bothered to compile it or to feel that it was necessary or important.

Now, I am not pressing this as a life or death matter, you understand that. I am simply suggesting that the old excuses that we never did it or they are not available or that it will take so much time to get it together simply postpones getting really at the root of this matter.

As a matter of fact, sir, it accounts for the approach of this bill. The automatic features of this bill are in-built because it is difficult to get precise information on which to write other types of legislation. I believe that is the truth.

Mr. ROGERS. Don't misunderstand me. As far as I am concerned we are trying to write a bill that will give the people the right to vote. If we put that in, it might get into a lot of difficulty when the Attorney General makes his determination and then if he has to go to court to support his position, he is asked, "How did you arrive at the conclusion that at least 25 percent were not voting or come within the category that we put them?" Now, where is he going to get his information for stating that?

Mr. WILKINS. Mr. Rogers, you brought us into court now and I go to Mr. Rauh here who is familiar with court business.

Mr. ROGERS. Sure.

Mr. RAUH. Mr. Chairman, I would like to respond to both what you said and what Congressman Rogers said. I know you are both for as strong a bill as can conceivably be obtained. I admire you both but representing the amalgamated stargazers I have something I would like to present to you.

The CHAIRMAN. I said that was a creditable term.

Mr. RAUH. That is why I want to represent them, sir.

Mr. MCCULLOCH. Mr. Chairman, I would like to request specifically, that Mr. Wilkins and Mr. Rauh make suggestions and furnish drafts of what they had in mind so we would have it right before us.

Mr. RAUH. Mr. Chairman, on that basis we are presenting these amendments. Now they do not rewrite the bill in any way, shape, or form. They are modifications on four substantive points.

You raise the question of how we broaden the coverage. We do not touch what your bill does; we think your bill is excellent for the seven States it covers. We salute you; we urge you not to touch your bill for the seven States it covers. It is automatic, it is quick, it is good; leave it alone.

But what we are saying is that there are four other States where there is pretty well-known discrimination against Negroes. It runs downhill from Florida and Arkansas to Tennessee and Texas.

The CHAIRMAN. What does that 25 percent cover additionally?

Mr. RAUH. It will cover a number of counties in each of those four States. Now that is based on figures from the Civil Rights Commission.

We are not claiming that those figures are adequate now to trigger action of this kind, but it will not cost $87 million to find out which few counties in Tennessee, Texas, Virginia, and Arkansas are covered by the 25 percent figure. It will take a very small amount of money and this information can be obtained by the census under title VIII of last year's bill.

Mr. McCULLOCH. Now would you yield for a question, and it goes back to my colleague's remarks.

As I remember, the $87 million estimate by the Bureau of the Census would be the cost of securing this information from every State in the Union.

Mr. RAUH. Precisely.

Mr. McCULLOCH. Therefore, the cost of it would be dependent upon the territory or the political subdivisions to which it was to be applied.

Mr. RAUH. And we are only proposing this be done in a small part of four States.

Mr. ROGERS. Unfortunately, it is not limited to four States.

The CHAIRMAN. It is not limited to four States.

Mr. RAUH. Your bill is not limited to seven States but there is nobody in the United States that does not know that it is intended to apply and does apply to seven States in the South.

The CHAIRMAN. Mr. Rauh, we have not got the figures as they have not been broken down as to color or race and we do not know where this would go. You may remember that in the 1964 act we provided in section 8 one section which was to work out statistics on this matter. No appropriations have been made for it yet, they are only applying for appropriations now, and that was to cover the whole country so that I do not know how long this would take.

I assume that it is not easy to break down these figures on the basis of race or color. I am worried about the delay, that is what I am worried about; that is what you should be worried about.

Mr. McCULLOCH. Mr. Chairman, may I interrupt there? Our colleague who in large part is responsible for title VIII of the Civil Rights Act of 1964, Mr. Lindsay of New York, is not here but, Mr. Chairman, in reply to a part of this statement that you suggest, I would like to read the first sentence of title VIII which so clearly demonstrates the intent and the authority therein.

"The Secretary of Commerce shall promptly conduct a survey to compile the registration and voting statistics"—and now here is the important phrase—"in such geographic areas as may be recommended by the Civil Rights Commission."

Mr. RAUH. That is quite right.

Mr. McCULLOCH. Well, the chairman asked me whether the Civil Rights Commission had recommended that the study be made in any area. I do not know. The burden is upon them, and if they do make the recommendation I would be inclined to believe that the Congress, in view of that unbelievable vote in favor of the Civil Rights Bill of 1963–1964, would promptly provide the necessary funds to collect these statistics.

Mr. RAUH. I believe so, and never forget how small an area we need them from—only from a small part of four States.

Now let me point this out, Mr. Chairman. We have two proposals which will work as alternatives, although we would like them both in the bill. One is the 25-percent trigger and the other is for a hearing procedure. It may very well be, if you are right, that the hearing procedure would be quicker.

In other words, following a good deal of the suggestion in Congressman Lindsay's bill, we have proposed not only that the bill be automatic where the 25-percent trigger works, but that any 20 people

denied the right to vote on the ground of race or color can go to the Attorney General and then there will be a hearing to determine whether there is a pattern or practice of discrimination there. If there is such a pattern or practice of discrimination, then there will be examiners sent in.

Now if it would be quicker to proceed by hearing than by a study of the 25 percent, the same counties in these four States could be included through the hearing procedure.

It does not seem to me that we should treat these two triggers as independent things. This is a kind of joint proposal: Setting up two procedures for covering the counties in the four States left out by the administration bill as quickly as possible. Maybe the census will work faster; maybe a hearing will work faster. Whichever way you would go more quickly, you would be able to get these extra counties covered.

The CHAIRMAN. On the question of pattern or practice, would that be subject to appeal?

Mr. RAUH. Yes, but without a stay. We wrote right in here that there would be an appeal to a three-judge District Court in the District of Columbia just like you did in section 3, but we provided there would be no stay pending that appeal.

I am trying to point out that you have to cover these extra counties. We have suggested two ways of doing it. Whichever way would be the quicker would be the one that would ultimately operate. Therefore, I do not feel we are delaying things; on the contrary, we are setting up a procedure to cover places that you do not cover at all.

Mr. MCCULLOCH. Mr. Chairman, may I ask a question there? How soon, do you estimate, would it take for the three-judge court in the District of Columbia to decide the issue?

Mr. RAUH. I would think it would be very quick, sir, because the only thing the Court would be reviewing would be whether there was substantial evidence to support the decision of the hearing officer.

I would think that there was a rather simple question—to determine whether there was substantial evidence to support the decision of the hearing officer.

Mr. MCCULLOCH. Would you provide for final review in the Supreme Court of the decision of the three-judge court?

Mr. RAUH. It is not in our amendment but in my judgment the Supreme Court's jurisdiction applies automatically. We would have no objection to that being written in. Obviously there was no intention to deprive the Supreme Court of jurisdiction.

Mr. MCCULLOCH. The point I am trying to reach is the question of the delay which has made the voting provisions of the Civil Rights Act of 1957, 1960, and 1964 rather ineffective. If we have no control over the inordinate delays of some of the courts, do you have the suggestion by which we may have speedy action in accordance with the Constitution?

Mr. RAUH. I think you are doing fine. My feeling is that the administration bill is one of the most brilliant, thoughtful things that could have been done for the seven States that it covers.

I think Mr. Katzenbach ought to get a medal for his handling of those seven States. He has it automatic; we could not ask for any more for those seven States. We are trying to get a little more coverage in other areas and we cannot figure a way to make it automatic except through the 25-percent figure.

We feel that if you do not have it automatic that way, then you have got to have some form of hearing.

Mr. McCULLOCH. Let me interrupt, please sir. I was referring to this add-on title, if you want to call it that. I was not inquiring about the chairman's bill. This is a field which we have been trying to win since these hearings have begun. I was trying to get an estimate from you how quickly there would be a final decision under this approach utilizing the petitions of the 25 applicants.

Mr. RAUH. I believe that under the 25-percent trigger the figures would be available by the time the 20 people who were discriminated against appeared to complain.

The reason I say that is this: I have no doubt that, if this committee puts into the bill the provision we suggest, the Civil Rights Commission would immediately ask Commerce for the facts. In other words, by the time you have your 20 applicants ready to go to the Attorney General, I think you will have the figures. I do not believe as the chairman indicated that there would be any delay from the 25-percent trigger. I believe there will be some delay on the hearing route because a hearing takes time; but if you do not use the 25-percent trigger, I respectfully suggest you have got to have something else and the hearing route is one method of providing it.

Mr. McCULLOCH. I completely agree with you. I repeat, I was trying to get your estimate of the time schedule from the beginning of the procedure which supplements the chairman's bill until it was finally disposed of, if the question goes to the Supreme Court.

Mr. RAUH. I would say that where you use the 25-percent trigger in Tennessee, Texas, Arkansas, and Florida, it will be as quick as the 50-percent trigger presently in the bill. Where you use the hearing route, that procedure will take a year. I do not believe you ever have a hearing procedure without judicial procedures also, but we do not provide for a stay. In other words, the hearing can take, say 3 months, and the rest will be automatic.

In other words, you asked me the question how long would the procedure take? The procedure usually would take a year or more, but we do not provide for a stay after the hearing is held.

Mr. McCULLOCH. Then there will be provisional voting with its attendant problems. I say that not critically, but to get it on the record.

Mr. RAUH. It would be actual voting, Mr. McCulloch. It would be actual voting—but if the hearing officer's decision were upset, then future voting would not include these people. But it would be actual voting during the period.

Mr. ROGERS. Mr. Chairman——

Mr. McCULLOCH. If in the final review the proceeding were declared unlawful or unconstitutional from the beginning?

Mr. RAUH. If you have an election in this interim period, you have got to count the votes. If, however, you have people listed and then the hearing decision is thrown out, obviously, those registered under the decision will not be able to vote in a future election. But Congress has a right in my judgment to make a decision that it would prefer to see these people vote while this matter is being litigated than not to vote during the litigation period.

Mr. McCULLOCH. I should like to reply to that by saying I go along with you as far as saying they ought to vote but I do not believe a vote ought to be counted in the election of, well, from the President on down to the constable, if it is later determined that that vote was cast contrary to law.

Now we have, in one way or another, in almost every State of the Union provisional voting in effect right now. We had that case up in Minnesota last year where the votes were not finally counted and we have a case where they were provisional until March or April following November.

That is my point.

Mr. ROGERS. Will the gentleman yield?

The CHAIRMAN. I want to ask one or two questions here.

Would this hearing officer have a right to continue?

Mr. RAUH. I would assume that he would have; that it would be a regular hearing.

The CHAIRMAN. He would not have unless we gave it to him.

Mr. RAUH. We have no objection to putting that in.

The CHAIRMAN. Would he be subject to the Administrative Procedure Act?

Mr. RAUH. That is up to the Congress to decide. You usually put everybody under the Administrative Procedure Act, but I think that is a matter for Congress to decide. It is not a matter on which we have any strong views.

The CHAIRMAN. What is your view?

Mr. RAUH. Generally, I have not found the Administrative Procedure Act a very helpful device. I have generally found that fair rules of procedure can be provided without reference to the act, but this seems to me a minor part of the problem and it is not one I want to argue about.

What I want to argue about is you can't limit this bill to seven States.

The CHAIRMAN. I understand that but these questions are directed to you not to indicate that I am for or in favor of this thing, it is to bring out the implications of the words here.

Now here is a case, is it not, where the hearing officer would be appointed by the Attorney General; is that correct?

Mr. RAUH. Yes, sir.

The CHAIRMAN. Now, is that not tantamount to, shall we say, a prosecutor appointing the judge?

Mr. RAUH. Oh, I don't feel that you have a prosecution here. You are not putting people in jail for anything.

The CHAIRMAN. I did not say persecution, I said prosecutor.

Mr. RAUH. Well, a prosecutor puts people in jail and I do not think that is what you have here. You are trying to help people be able to vote for the future.

The CHAIRMAN. In the original bill we tried to avoid the kind of criticism which was implied in my question by setting up the powers in the Civil Service Commission because we felt the Civil Service Commission was a nonpartisan agency, and we felt that it would be immune from criticism of this sort.

Mr. RAUH. We would be perfectly willing to have the hearing officer in the Civil Service Commission. That, again, does not seem

to me to be the kind of a point that we, as civil rights advocates, would be particularly qualified to speak on.

If the Congress felt that the hearing officer would be better in the Civil Service Commission than appointed by the Attorney General, I would not want to take a position to the contrary.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. You recall, do you not, that in one of the civil rights bills we provided a method whereby the Attorney General could just go into court and file an action and upon filing that action he could go out and have registrars appointed.

Now when that was put in, great objection was voiced by those who were fearful that if examiners were appointed to receive people and register them to vote, and it finally turned out that the Attorney General could not prove his case, these people might already have voted illegally and that this might affect the election.

Now, do you envision in this instance that by not requiring him to file any action but leaving him free to make the determination and having the Civil Service Commission or himself appoint the examiners that we won't be confronted with objections that were offered to our proposal a year and a half ago?

Mr. RAUH. I do not envision that problem. I would say that if somebody came in here and suggested substituting a hearing procedure for the procedure you have for the seven States now covered by the bill, we would be in here arguing against it.

In other words, we think you have the best procedure for the seven States, the six plus North Carolina. We are saying we do not see how you can avoid doing something about the other four States; and in those four States we do not say our proposal is any perfect system. What we do say is that our proposal is the best we can do with the problem in those four States.

If we could have thought of something better, we would be here with it. This is the best we can do with the four States. This is not nearly as good as what you have done for the six States plus the 34 counties of North Carolina, but it is still better than nothing for those additional areas. It is on that point that I would stand. On some of the details that have been put to me, I think those are questions for congressional decision on which we would gladly yield.

I don't see, Congressman Rogers, that there is going to be any criticism of the Congress for using these two additional triggers for those four States. They appear to be the best that can be devised for those four States.

Mr. ROGERS. Well, we did have it in one of the bills last year but it did not get through. Now, what I am trying to look into is if we do come along with this, will we get the same objection?

Mr. RAUH. No, sir; you could not have passed H.R. 6400 last year. There was not yet the public consciousness of the voting issue which has resulted from the incidents of the last month.

As a matter of fact, we tried Federal registrar legislation in 1960 in the Senate and it was tabled by almost a 2 to 1 vote. It is the change in public consciousness that makes H.R. 6400 possible and also makes the amendments we are proposing possible. Maybe Mr. Wilkins would like to speak to this point.

Mr. ROGERS. I thank you for your suggestion. I want Mr. Wilkins to go ahead and finish his statement.

Mr. CRAMER. I would like to ask a question on this proposal. Relating to the 25 people making an application to the Attorney General claiming discrimination and the appeal to the district court for declaratory judgment in the District of Columbia, I note that you have no time limitation set for that appeal. What would be the time in which the local registrar or State attorney general could appeal?

Mr. RAUH. I would say it would be similar to appeals from administrative agencies; that is a matter of laches. For example, with the National Labor Relations Board you can appeal an order at any time as long as you have not been dilatory. It does not matter because there would be no stay in the interim.

Mr. CRAMER. The people would be voting during that period.

Mr. RAUH. That is correct, and therefore, I would assume that the State or the political subdivision would move at once—the way companies very often do under Labor Board orders.

There is no time limit in the act, but they move quickly because of the exigencies of the situation. If you want to put in a time limit, Congressman, we have no objection to that. We made this as simple as possible to present our point, but if you wanted to add a time limit on appeal we would have no objection.

Mr. CRAMER. Once the Attorney General appoints the hearing officer and then he determines that a pattern or practice exists, does that pattern or practice arise from the findings that 20 people, in fact, were discriminated against, or does it go beyond that?

Mr. RAUH. It would include that but not be so limited. You would have to have a finding of a pattern or practice of discrimination in the political subdivision.

Mr. CRAMER. Now, suppose that Congress made a finding that when in a given area, 20 people were discriminated against, that in itself should be considered to be evidence of a pattern or practice. If this were the device for creating examiners, with proper appeal, then you would have a finding made before either the hearing officer, or possibly another alternative, relating only to those 25 people. That would be the limit of the scope of that determination.

Do you see any reason why Congress could not do that if it wished to do so? That would simplify the proceeding considerably would it not?

Mr. RAUH. I have thought about that at great length and I am certainly in no position to oppose it. It is more automatic than what we have in here.

Mr. CRAMER. I am talking about automatic.

Mr. RAUH. Because it is more automatic I favor it. But you have asked me a question as a lawyer and I am going to give you an answer as a lawyer. I was worried that simply taking the 20 complainants and finding they were discriminated against might not be considered adequate proof in a large political subdivision where you might have 200,000 people registered. Some might feel that 20 complainants was not adequate to show a pattern or practice of discrimination and that is the reason I did it this way instead of the way you suggested.

If you believe that the showing of 20 people being discriminated against is adequate, I would certainly not oppose that.

Mr. CRAMER. Yes; you have the hearing officer appointed by the Attorney General. Of course you don't set down any qualifications for a hearing officer. He, in effect, makes the finding of pattern or practice, which I gather from your proposal, would then trigger, subsequently, the registration of an indefinite number of people.

Mr. RAUH. Yes, sir.

Mr. CRAMER. Prior to that time, however, the registration would be limited only to the 20 people involved.

Mr. RAUH. I didn't get the question; I am sorry, sir.

Mr. CRAMER. Prior to the actual finding of a pattern or practice by the hearing officer, you could not have registration of any persons by an examiner or a registrar.

Mr. RAUH. That is correct.

Mr. CRAMER. Following that you would have.

Mr. RAUH. Yes, sir.

Mr. CRAMER. Then having had a finding solely before a hearing officer, with the obvious right of appeals, you would then register people in large numbers who could then vote.

Do you have any constitutional doubts about this approach to the problem, in that they are actually voting, when only a hearing officer has made such a finding?

Mr. RAUH. No, I don't see any problem with that at all, sir. A hearing officer can trigger this, it seems to me, with a finding of a pattern or practice of discrimination and I do not see that you have any constitutional problem there. Of course, in the administration bill there is a provision for review and I also suppose you would get review through the challenge to the individual person.

Mr. CRAMER. That is the point.

Mr. RAUH. What I wanted to say is that you still have a review through the challenge to the individual person when he comes to register before the examiner. That is not taken away in any way, shape or form.

Mr. CRAMER. That is all I have, Mr. Chairman.

The CHAIRMAN. Mr. Brooks?

Mr. BROOKS. No questions, Mr. Chairman, at all.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. Mr. Wilkins, it is a fact that your second proposal, the hearing officer, would cover every possible political subdivision where there might be racial discrimination blocking voting, is that correct?

Mr. WILKINS. Yes, it would, sir.

Mr. CORMAN. So that although it might be a little more slow or cumbersome, it is still better.

Mr. WILKINS. Yes, indeed, it is.

Mr. CORMAN. It seemed to me that tightened up the procedure so we could make certain that we got examiners appointed in those areas where they are needed with insufficient time to get people registered and that is a much better approach.

We get back to the argument in the first proposal which is what do you do when there are only 26 percent of the people registered?

Mr. WILKINS. Yes.

Mr. CORMAN. I think that if we try to put too many different kinds of broadening in this thing that we do handicap ourselves.

Mr. WILKINS. Yes.

Mr. CORMAN. It seems to me that the second "hearing officer" is an answer if we can perfect the speed with which it would work.

Mr. WILKINS. Yes. It seemed to us, I think as Mr. Rauh indicated, we were trying to suggest ways in which this could be broadened and we did not want to omit any possibilities, but we leave it, of course, to the judgment of the Congress and the committee as to the better of the two suggestions.

Our main point is, as has been reiterated here, we want to broaden it to try to reach these other areas and the best way we will broaden it is the one we will accept and agree upon.

Mr. CORMAN. Now in that second proposal, if an examiner is appointed, would the literacy test in that political subdivision be suspended or eliminated?

Mr. RAUH. There are not any literacy tests in the four States where this would operate, sir.

Mr. CORMAN. No, but there are some States where there are literacy tests where there are more than half of the people registered to vote, are there not?

Mr. RAUH. I don't follow the question, sir.

Mr. CORMAN. Well, in a State where more than half the people are registered and they have a literacy test, then in the political subdivision you get this complaint there is racial discrimination, so you are going to appoint examiners. The State does not qualify under the automatic provisions. If you get the examiner in that political subdivision, is their literacy test waived?

Mr. RAUH. I am a practical man and our proposal would only apply practically as I see it, in four States. They don't have a literacy test. Now, theoretically, our proposal could apply in New York where there is a literacy test; theoretically 20 people in New York could come in and say they had been denied the right to vote because of race and there could be a hearing and a finding there was a pattern or practice of discrimination. There you could conceivably have a problem.

Mr. CORMAN. We have some possibilities, though, in those States which are now covered partially. For example, in North Carolina and South Carolina where some of the counties are covered now because they have a literacy test.

What do you do in a county where more than half are registered where you come in under your proposal? Do you waive the literacy test or not?

Mr. RAUH. I think the Attorney General has the power to waive it under the section where he sets up the qualifications. If you will look on page 7, line 10, I think the Attorney General has the power to deal with this matter. We did not put in an express power to take care of this as an additional amendment, but if you accept both or either of our triggers and you felt it was a practical problem, you might want to clarify section 6(b).

I personally do not feel it is necessary. I am very skeptical that you are going to have any area covered that has a literacy test that is not already covered by the administration bill.

If you do have such an area, I think it is covered by 6(b), and if you think it is not covered, I suggest we fix 6(b).

Mr. CORMAN. I think you have to recognize that in those States where they are partially triggered now by the bill, you may very well have some counties or political subdivisions and there are literacy tests there, so it is not a hypothetical question.

Mr. RAUH. We are only discussing North Carolina because that is the only partially triggered area. When I thought of this problem, I looked up the North Carolina situation to see what would be covered by the 25-percent trigger that was not covered by the 50-percent rule now in the bill. It is very hard to get this just right, but if you look at the Civil Rights Commission Report of 1961 there are fewer counties covered by the 25 percent in North Carolina than are covered by the 50 percent. You might catch one or two under the hearing procedure. But we assumed that this was not a major matter and we are trying to propose as simple an amendment as we could.

We did not deal with that problem. I believe the Attorney General can deal with it under 6(b). If there is any question, 6(b) could be clarified.

Mr. CORMAN. Have you gotten to your statement at page 6 about the use of the FBI?

Mr. WILKINS. No, we have not, yet.

Mr. CORMAN. All right.

Now we come to this problem whether or not you let people vote during this interim period when they are attempting to appeal the validity of the appointment of the examiner. If ultimately it was decided there was no justification for the appointment of an examiner, that really is not relevant to the issue of whether or not the voter is qualified.

Would you agree with that?

Mr. RAUH. Precisely, and as a matter of fact, that is a better answer than the one I gave before.

The CHAIRMAN. Mr. Lindsay?

Mr. LINDSAY. I am sorry I missed the first part of your testimony this morning, but I have read it several times.

Mr. WILKINS. I only read part of the testimony so far, Mr. Lindsay.

The CHAIRMAN. The rest you want to place in the record.

Mr. WILKINS. Very good.

Mr. LINDSAY. Well, I am still curious whether or not you think it is possible to combine your mechanisms here so that you could use one trigger to enact the whole process covering the whole country, or is it possible to just combine this proposal here in such fashion that you have a double check, one a local initiation and the other by Washington.

The 20-man test that comes locally would be one trigger and the next trigger would be simply a unilateral initiation by the Attorney General, the President, Civil Rights Commission, or other body that might be created.

Mr. RAUH. Well, sir, I think we would be very averse to trying one trigger for the whole country. The reason for that is that we believe that the trigger in the chairman's bill is superlative for what it covers. To change a line of that trigger would in our judgment be very dangerous. Therefore, we do favor the two types of trigger approach.

As to the trigger to cover the four States not now covered, I think our feeling is one of extreme flexibility. Our feeling is that these

States must be covered. We don't feel we have all the answers. We have suggested two possibilities here. If there is still a better third way, so be it. Actually, our second proposal here was written after we had seen the draft of your bill, Congressman Lindsay, and to a degree at least, it is a paraphrase, maybe oversimplified, of what you had in your bill now introduced.

I really feel that we have in the second part of our proposal, adopted a good deal of what you had in mind. We would not like to see you go back and touch the trigger for the seven States now so well covered.

Mr. LINDSAY. Thank you.

Mr. WILKINS. Mr. Chairman, you asked for the rest of it to be submitted for the record.

The CHAIRMAN. Yes.

Mr. WILKINS. I simply would like to point out that the remainder of the testimony deals with the suggested amendment on protection against intimidation and the language is submitted for the record.

May I also point out, Mr. Chairman, that the AFL-CIO authorized us to say specifically that they approve the submission of this language as outlined to the subcommittee this morning.

Further, Mr. Chairman, I think the Chairman himself has raised the question to advert to the opening statement about the tax.

I would like to say that Messrs. Tucker and Marsh, practicing attorneys in the State of Virginia, have some material here with respect to the poll tax and its operation in that State.

The CHAIRMAN. They are not connected with the NAACP, your organization?

Mr. WILKINS. Mr. Tucker is a member of our national board of directors but as I say, a better designation is a practicing attorney in the State of Virginia and therefore very familiar with the practices there.

They have some material which the committee may or may not want to hear or may want to have submitted for the record.

The CHAIRMAN. We are going to hear them.

Mr. WILKINS. Very good, sir.

Mr. CONYERS. Mr. Chairman——

The CHAIRMAN. Mr. Conyers, you are going to testify; may I ask that you withhold your questions. We must conclude these hearings shortly.

Mr. CONYERS. May I indicate my concurrence, though, Mr. Chairman?

The CHAIRMAN. I beg your pardon?

Mr. CONYERS. May I merely indicate my concurrence with these amendments and that will shorten my testimony somewhat?

Mr. CORMAN. Mr. Chairman, I just wanted to ask one question on page 6.

When you talk about the use of the FBI and the U.S. marshals as observers at the registration and voting, would we not be better off if we empowered the examiners to be the observers in those instances?

Mr. WILKINS. Mr. Corman, we made the suggestion here with the idea of providing the strongest deterrent, let us say, and the strongest guarantee of protection. I might say that the committee undoubtedly is familiar through other sources with the fact that there is great apprehension among the prospective applicants for voting over not the

legal deterrents or philosophical ones or psychological ones but the actual physical deterrents which is a very real thing in some parts of the Nation.

In answer to that and as a maximum of reassurance we wanted to provide here the presence of the FBI and the U.S. Marshals.

Now, it may be, sir, that the registrars—or the examiners, to borrow the polite and accepted term, a rose by any other name is just as sweet—it may be that the examiners will accomplish the same or, in the view of the committee, will accomplish the same.

Our choice of designation in language was simply to provide maximum reassurance.

Mr. CORMAN. That is the reason I asked because it seemed to me that what we are after here is to get at any possible miscounting. Not the matter of protecting the voter but of seeing what happens after he votes.

That is why it seems you have an examiner in every one of those places where you have a problem. You ought to be able to watch the poll watcher all through the whole proceeding. That is why I wondered which of the two things are we trying to get at?

Mr. WILKINS. We are after both of them and I revert to Mr. Rauh's earlier phrase that we are flexible in this matter. We are seeking the objective of the subcommittee and the committee and the Congress and our objectives are all the same. We are simply seeking the best channel as to the attainment of the objective.

I do think Congressman Corman, that the answer must be reiterated, we are seeking both, both what you suggested from the point of view of an honest count where the examiner might be adequate, but from the point of view of intimidation I really feel that what we put in here might be better and maybe it ought to be combined so that the honest count performance goes to the examiner as you suggest, and the anti-intimidation goes to the FBI and the marshals as we suggest, and a combination would be the best.

Mr. MCCULLOCH. Mr. Chairman, I should like to ask if Mr. Wilkins means an actual physical presence of an FBI representative or an examiner at every precinct. For instance, we will say in Mississippi, which might number 2,000 or 3,000 or 4,000; in Ohio, 15,000. We, of course, hope we would not need it. It would take on a manpower problem of tremendous importance, and following Mr. Corman's suggestion, of course, there would not be 5 percent enough marshals or deputy marshals or FBI people to handle that proposal, if you meant it literally.

Mr. WILKINS. Mr. McCulloch, the suggestion, of course, is that this may be done. It is not mandatory. I wonder if I understood the gentleman from Ohio correctly to say that, of course, they don't have any corrupt elections in Ohio. I just wanted to be sure.

Mr. MCCULLOCH. Generally speaking, we do not. Unfortunately, I guess we found some practices that were not in accordance with the best standards last fall, but generally speaking, for more than a quarter of a century there has been no proven allegations of corrupt election processes in Ohio.

Mr. WILKINS. I am very happy to have this assurance that there is maybe just a little human weakness in the State of Ohio even if occasionally at the incidence of only a quarter of a century.

The CHAIRMAN. Mr. Wilkins and Mr. Rauh, we are very grateful to you for coming and we will shortly take into deepest consideration the views which you have expressed. I want you to know particularly for practicality's sake we have 100 plus 435 independent men who are going to pass on this legislation, and a considerable number, unfortunately, of those men, are prima donnas in their viewpoints, remember that.

Mr. WILKINS. Mr. Chairman, we want to thank you for your consideration here. Our last word is that these amendments were suggested by representatives of 70 organizations and we know that the subcommittee, regardless of its intention to report out speedily a workable bill, will give these amendments thoughtful consideration and we urge them, sir, not in any spirit of dillydallying around in procedural tactics but in earnestness and sincerity.

The CHAIRMAN. Thank you very much. Thank you, Mr. Rauh. Thank you, Mr. Wilkins.

Our next witness is our distinguished Congressman from Louisiana, the Honorable Joe D. Waggonner, Jr.

STATEMENT OF HON. JOE D. WAGGONNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. WAGGONNER. Mr. Chairman, and gentlemen of the committee, I appreciate the opportunity you have given me to appear before this committee today in opposition to the proposed voting rights act.

There are, unfortunately for America, a number of people who feel that anyone who dares speak up in opposition to any measure connected with so-called civil rights, is automatically a racist, a bigot, and a hater.

I appreciate the opportunity to air my views before a body which understands that this is not necessarily true; that it is certainly not true in my case, and that there are always two sides to every question. Many different solutions are available to reasoning and reasonable men, no matter how thorny or how knotty any problem may be.

The privilege of voting is a precious one and I do not for a moment advocate or condone any practice anywhere in this Nation that would bar any qualified man from the exercise of that franchise. This is a position which is instinctive with me and one I have advocated for years, and one I advocate now.

For the purpose of emphasis and because it is the theme of what I have to say on this subject, I would like to repeat that sentence:

> The privilege of voting is a precious one and I do not for a moment advocate or condone any practice anywhere in this Nation that would bar any qualified man from the exercise of that franchise.

There are words in that sentence which cannot be changed, cannot be substituted for, cannot be omitted. They are the meat of the coconut. The words are "privilege" and "qualified."

The Constitution and any number of State and local laws in every State in the Union specifically deny that there is any right to vote. There is only a privilege to vote; a privilege which is given to some of the people of this land, but by no means to all.

For the sake of example, consider these exceptions:

The privilege is not given to children. In all States, save one, voters must be 21 years old before they can vote. So, to those under 21, there is no "right" to vote. It is a privilege they are not yet old enough to have.

The privilege is not given to the unfortunate insane. To these unfortunate souls, there is no "right" to vote, through no fault of their own.

The privilege is not given to those convicted of certain crimes. It is held that they have relinquished their privilege of deciding upon matters affecting the law abiding. To those so convicted, there is no "right" to vote.

The privilege of voting in a bond issue election is not given to those who do not own property. To the nonowner of property, there is no "right" to vote in bond issue elections.

The privilege of voting in an election in New York is not given to the residents of the other 49 States. To those of us who live in Louisiana, for instance, there is no "right" to vote in a New York election.

The privilege of voting in New York, as another example, is not given to those citizens who cannot read and write in the English language. To those who do not read and write English, no matter how many years they may have been a citizen, there is no such thing as a "right" to vote.

May I say that in my own State you need only to demonstrate ability in your mother tongue.

This list of exceptions goes on and on, gentlemen, as you well know. I think, however, that I have cited enough examples to prove the point I wanted to make; that there is no "right" to vote; only a privilege given to the qualified. It is a privilege that we have dearly won and it is as precious to me as any possession I own.

This, then, is one of the words in my statement which cannot be changed, substituted for, or omitted: the word "privilege."

The other word is "qualified." I do not believe that the unqualified should be allowed to vote.

I believe that each of the qualifications I have just listed are just, meet, and right.

Children should not be allowed to vote. The unfortunate insane should not be allowed to vote. Criminals whose citizenship has been revoked should not be allowed to vote. Non-property-owners should not be allowed to vote in bond issue elections. Louisianians should not be allowed to vote in New York. Those who do not read and write English should not be allowed to vote in that State, either, if the laws of that State say they should not.

In each of these instances, the applicants are unqualified to exercise this privilege.

And it is on this point that the Constitution and all our State and local laws now stand. It is on this point they should continue to stand. The Federal Government has no moral or legal grounds to hold otherwise.

The argument has been made before this committee time and time again that the States have the right to establish the qualifications of its voters. No reasonable man can deny this fact. To deny it is to say that article I of the Constitution does not exist.

During the floor debate in the House last year on the civil rights bill, it was conceded by the advocates of that proposal that the only responsibility resting on the States would be to administer without discrimination whatever qualifications it did prescribe.

I dare say every Member of the Congress knows that article I, section 2, clause 1 of the Constitution explicitly acknowledges the right of the States to set up their own voting qualifications, provided only that any citizen permitted to vote for the most numerous branch of a State legislature be also permitted to vote for the House of Representatives.

But, this is old hat, gentlemen. Being attorneys, you are more familiar with this proviso than I am.

The lower courts of the land know it, too; as does the Supreme Court. It has repeatedly and in recent years upheld this right of the States. As late as 1959, in a case involving the State of North Carolina, the Supreme Court decided unanimously that the States do have this right. In this particular case, the decision was unanimous, so each Justice has stated that this is his individual opinion.

Justice William O. Douglas repeats his opinion in his book, "An Almanac of Liberty," in these unqualified words:

> The privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the 15th and 19th amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate.

The point needs no further emphasis. It could not be expressed more clearly. The Constitution has not been amended since these opinions were stated.

The right to set the qualifications of its voters is reserved to the States by the Constitution, and to attempt to pass any law which would take away that privilege is clearly, obviously, and patently unconstitutional.

If there has been a concerted effort to deprive any man of his privilege of voting, what can be done about it?

The answer is plenty. And it should be done.

I do not question that there has been discrimination against some minorities where the franchise is concerned. For example, the provision that requires voters in New York to read and write English is obviously an effort by the State of New York to prevent some members of foreign minority groups from voting in that State.

We have no such discriminatory law in Louisiana, because in Louisiana there is no requirement that the applicant read and write in English. He is permitted to read and write in his mother tongue.

The President has said there is no "moral" issue involved in this bill. The President is, of course, capable of human error, and in this instance, he is in error. This bill is totally "immoral."

The bill before us, gentlemen, is rooted in discrimination, vindictiveness, and hypocrisy, and any law made from such a bill cannot deny its parentage.

Clearly, this bill is a punitive measure aimed at six Southern States: Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. It is not aimed at the other States which have eligibility tests.

This administration, the ones which have immediately preceded it,

the leaders of both major parties and the Supreme Court have all said over and over again and in every conceivable way that the 14th amendment of the Constitution guarantees equal protection of the laws to every citizen of this land.

If the 14th amendment really and truly means what the advocates of this amendment say today that it does, why was it necessary in 1920 to amend the Constitution of the United States to allow the lady folks to vote?

Clearly, this bill is designed to accomplish exactly the opposite of equal protection of the law. It will set up 1 set of standards in 6 States that do not apply in the other 44.

This discrimination, this favoritism, cannot be squared with the much-quoted 14th amendment. Nor can it be squared with section 2 of article IV which states that the "citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

This proposal, at the whim and caprice of someone in authority, has singled out those States which on the arbitrary date of November 1, 1964, happened to have registered less than 50 percent of the persons of voting age residing in the State or in any political subdivision, or in which less than 50 percent of such residents voted in the presidential election last November.

Is there supposedly some magic to the number 50? What States would have been brought under the force of this proposal, had the magic number been 60? Or 70?

Is there supposedly some magic in last November's election? Why not the presidential election of 1960? Or 1956?

If this proposal becomes law, what happens to the American tradition of a man being innocent until he is proved guilty? Under the provisions of this bill, a governmental body not only would have to prove that it was not guilty of an act of discrimination on a specific, arbitrary date, but also that of any other such act on any other date in the preceding 10 years.

This does total violence to the precept of presumed innocence. It must not be permitted.

This bill is riddled with obvious discrimination; the same discrimination that this administration and others which have preceded it have preached against and legislated against. This bill recognizes no reluctance to discriminate against these six Southern States and make them the whipping boys for the Nation.

It is an old adage, gentlemen, but two wrongs don't make a right.

Every citizen has the right to be treated alike when the franchise privilege is at question. If he meets the age, literacy, residence, or any other qualifications laid down by the State in which he resides, he has been given the privilege of voting.

It is hyprocrisy to pretend that whether 99 or 20 percent of his neighbors vote has anything to do with his individual privilege.

The entire duty of the Congress is to see to it that every man can equally exercise his privilege when he wants to and if wants to. Forced registration and forced voting are both wrong. We have no other duty. We have no duty to lay a slide rule alongside voting statistics. We have no duty to abridge the right of the States to set voter qualifications. We have no duty to enact discriminatory legislation of any kind.

It is beneath the dignity of this body. It is beneath the moral sense of this body.

It is time for reasonable men to reason together. A solution can be found to this nationwide problem that is constitutional, that treats each State in exacly the same way and that achieves what all reasonable men want: The privilege of every qualified man to vote.

What can be done to insure every qualified man the privilege of voting?

Enforce the provisions of the 15th and 19th amendments of the Constitution and the 16 Federal laws already in force. Strengthen them, if necessary. Double the penalties. Speed up the process of hearing and deciding cases. There are any number of reasonable means of enforcing these laws. There is no necessity to tear up the Constitution to enforce these laws.

We seem to be able to enforce laws against kidnaping, murder, rape, and arson without tearing up the Constitution to do it and each of these crimes must be judged as being worse than any case of voter discrimination. If we can enforce these laws, it is reasonable to believe we can enforce any other this Congress decides to enact.

Too many people, too many Members of the Congress, too many members of the clergy, and the news media, have been stampeded by the hysteria of impassioned groups of citizens. We are on the verge of enacting a law that is being decried in private, and in public as unwise legislation.

This committee must not, and this Congress must not pass a bill that is riddled with flaws, faulty reasoning, and unvarnished hate. To do so is to invite back the violent days of the Reconstruction, drive the races further apart and, in the end, fail to accomplish the goal every reasonable man can support: The privilege of every qualified man to vote.

The CHAIRMAN. Mr. Waggonner, you draw attention to New York and your remarks were well taken in that regard. As far as literacy tests in New York are concerned, I can assure you that I have spoken against that literacy test time and time again. It is very unfair that many of our citizens who are literate cannot vote because they do not speak the English language or write the English language. That is not right and we hope to correct that situation.

Now to get back to your own State of Louisiana, in the county of Bienville we have this situation in the record supplied us by the Civil Rights Commission apparently in that county with reference to the percentage of those who are registered, 89.1 percent whites registered, only 14.3 percent of nonwhites are registered.

The county of Bossier, 63 percent whites registered, only 8.7 nonwhites registered.

In Caddo County, 71 percent whites registered and 11.9 percent Negroes registered.

In the county of Claiborne, 81.5 percent of the whites are registered, only 1.9 percent nonwhites are registered.

In De Soto County, 89.1 percent whites registered; nonwhites registered, 12.6 percent.

In the county of Red River, 100 percent whites are registered, only 4.4 percent nonwhites registered.

Those counties are all in your home district, are they not?

Mr. WAGGONNER. And I have one additional, Webster, which you have not quoted.

The CHAIRMAN. Do you have any comment to make on those?

Mr. WAGGONNER. Yes, sir. Sometime ago, prior to my running for Congress, a complaint was filed in one of these parishes, the first one you referred to, Bienville Parish, that there had been voter discrimination. There had been a number of Negroes removed from the voter registration rolls in Bienville Parish. Judge Ben Dawkins, Jr., of the western district of Louisiana, went immediately in and conducted hearings about this alleged discrimination and he determined for himself that indeed, there was a pattern of discrimination and he ordered immediately that these people be restored to the rolls.

This all took place in only a matter of a few days and these people, some 500, were restored to the rolls and they were allowed to vote in an election which was underway at that time. It was an election in which I sought election to the Congress. We are very fortunate in the western district of Louisiana and the other districts of Louisiana to have eminently qualified gentlemen to serve on the bench. Judge Dawkins has in other cases in Louisiana in recent months and in recent years, following the due process of the law when complaints have been filed, gone in to determine for himself under existing Federal law whether or not a pattern of discrimination could be uncovered.

He has determined in isolated cases in Louisiana, outside my congressional district, that there has been patterns of discrimination. He has seen to it in these isolated cases that qualified applicants were registered and he has had a great deal to do in determining who was qualified by setting forth criteria which are just.

Only recently, within the last month, he has handed down a decision involving Ouachita Parish in Louisiana, a parish in north Louisiana, but outside my congressional district. Here he has said that he has not been able to uncover a pattern of discrimination, that the voting qualifications which have been prescribed by State law have been followed by the registrar without discrimination, and this is commendable.

I might point out that present law is working. People are being allowed to vote and those who are seeking registration are being registered without discrimination.

I do not deny, because the facts prove otherwise, that, in times gone by, there has been some discrimination, but, Mr. Chairman, I make this one point: That which is water under the bridge cannot be recovered. A vote lost in an election which has gone, can never be cast again. We must look to the future.

The only thing I ask this committee and this Congress to do is to see to it that whatever law is passed has equal application to every registrar in every segment of this Nation without discrimination. Any thing less would involve discrimination.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. No questions.

The CHAIRMAN. Mr. Corman?

Mr. CORMAN. One question, Mr. Chairman.

I notice in Louisiana there have been findings of pattern and practice of discrimination. As I recall, there have not been such findings in Mississippi. Is that because the people of Louisiana are worse

about the discrimination because of race or not getting evenhanded justice among the Federal judges in that part of the country?

Mr. WAGGONNER. Well, to answer that question in any way would be like answering a question whether I still whip my wife so I can't quite answer it that way.

I can speak authoritatively for only the State of Louisiana. We have men who are beyond reproach on the bench in Louisiana and where complaints are filed and patterns of discrimination are shown to exist, this discrimination is immediately erased as it should be, and present laws are working.

Mr. CORMAN. Assuming the gentleman is correct; we ought to treat everybody equally when we legislate in Washington. It would appear that there is some evidence that the people of Mississippi are just as bad as the people in Louisiana about discriminating against people because of race but they have not been able to get any remedy in Mississippi in the Federal court because of their inability to establish this.

Now, what we concern ourselves with is that as far as Mississippians are concerned, that they will get the same protection that Negro voters in Louisiana have got in their local Federal courts.

Mr. WAGGONNER. Mr. Corman, it has been my philosophy since I have been of an accountable age that too many of us do what we do, not so much because we love the Lord but because we are afraid of hell. We can write sufficient penalties into the existing provisions of the 15th amendment which will put the fear of hell in people and will bring about the enforcement of this voting privilege without discrimination. You will find that when people really know that they, as individuals, are going to bear the brunt of some discrimination, the vast majority of discrimination is going to cease.

Mr. CORMAN. Yes.

Mr. WAGGONNER. That is right, Mr. Corman. If you feel that any sort of registration law here as to the voting qualifications of a national scope is going to completely end discrimination, then you are indeed more naive than I believe you to be.

The CHAIRMAN. Mr. Cramer?

Mr. CRAMER. No questions.

The CHAIRMAN. Thank you very much, Mr. Waggonner.

Mr. CONYERS. Mr. Chairman, may I inquire since the gentleman——

The CHAIRMAN. You are not a member of the subcommittee. We have several witnesses from Virginia and we want to conclude. As I said, we are going to be brief.

Mr. CONYERS. I ask the gentleman if he agrees with the previous two gentlemen about the triggering devices that would provide relief to every section of the country.

Mr. WAGGONNER. I believe in triggering devices to implement any law where discrimination exists and the pattern is uncovered to exist, but I do not believe that you can ignore due process and start from the base that you only apply this proposed legislation to 1 State, 2 States, or 49 States. Everybody must start off on the same foot. When you start a foot race or you start a horse race, everybody starts from the same mark.

With this legislation, everybody should start from the same beginning.

Mr. CONYERS. Thank you very much.

The CHAIRMAN. Thank you very much.

Mr. WAGGONNER. Mr. Chairman, may I again express my appreciation to you for the courtesy you have extended me. I have been before your full committee and your subcommittee on many occasions, and I have always been treated in a manner that I can find no objection to, and I appreciate it, sir.

The CHAIRMAN. You reciprocated on your own part, sir.

Mr. WAGGONNER. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Honorable Richard S. Schweiker of Pennsylvania.

I hope you will be brief.

Mr. SCHWEIKER. About 10 or 12 minutes, Mr. Chairman?

The CHAIRMAN. Can you summarize your statement rather than read it all?

Mr. SCHWEIKER. Yes, sir.

STATEMENT OF HON. RICHARD S. SCHWEIKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. SCHWEIKER. Mr. Chairman, members of the subcommittee, I thank you for this opportunity to testify in strong support of civil rights legislation which would provide for the appointment of Federal voting registrars in order to protect the constitutional right to vote.

On February 17, I introduced with Congressman Lindsay and a number of our colleagues, legislation with the same aim as the administration bill, but legislation which would avoid some of the weaknesses inherent in H.R. 6400, the administration bill.

Many centuries ago, a wise Greek philosopher, Epicurus, offered a working definition of "justice" which I find an appropriate guide for our present efforts to fashion a forthright and comprehensive voting rights bill.

Speaking in the third century, Epicurus stated:

> Justice is never anything in itself, but in the dealings of men with one another in any place whatever, at any time, it is a kind of compact not to harm or be harmed.

This definition should be our guide as we work to complete an unfinished compact with all our citizens, so that their constitutional right to vote may be protected.

The compact we fashion must deal directly not only with the present "hard core" problem of massive discrimination, but also must be adequate to avoid the development of new devices and stratagems of oppression in the future.

I cite, for example, the possibility of an increased State poll tax which might be used to discriminate against the poor. If this is to be the year of the war on poverty, let us stamp out the poll tax which can keep the poor from voting in State and local elections.

The first glaring weakness of the administration measure, H.R. 6400, is its failure to protect against voter discrimination except in those few places with literacy tests where less than 50 percent of the voting age population was registered or voted last year.

It seems to me the problem of discrimination is just as deserving of our attention in the voting district where 51 percent of the voting age population registered and voted but 49 percent of the citizens were prevented from voting because of discrimination. Yet, in this hypothetical case, tragically the administration's legislation would provide no relief. Nor would it provide any relief unless a literacy test were employed, regardless of the other devices which might be used on a wide-scale basis to discriminate against voters.

Let us not permit new target areas in the "over 50 percent voter areas" or the areas where literacy tests are not in force to become new battlegrounds for violence. We must legislate prospectively to avoid future difficulties in every part of our Nation.

We should not merely patch up an evil which has been shown to exist in Selma, Ala., or other Black Belt areas of the South. I suggest most strongly that we discard any percentage figure approach and start with the grassroots—the demands of 20 deprived citizens, in any State, who make their deprivation known by sworn statements.

My bill, H.R. 5062, would place the initiative for restoring voting rights with 50 qualified citizens in a voting district who allege they have been denied the right to vote. I feel now that perhaps this number should be reduced to, say 20, or even less, if needed to protect the right to vote of even a handful of our citizens. Unlike H.R. 6400, my bill would reach areas of discrimination where more than 50 percent of those of voting age were registered and voted but where denial of voting rights could nevertheless be shown.

As Congressman Cramer has pointed out in earlier testimony, the administration bill, with its 50-percent qualification, would not reach five counties in his State in which less than 5 percent of the voting age Negroes are registered. Nor would it reach Newton County, Ark., where 78.8 percent of the whites were registered and not one Negro. If a handful of voters in Newton County want to vote, and are denied this right, they will find no remedy in the administration bill as proposed. Will these frustrated citizens demonstrate and will there be violence? I do not know. But I do know that H.R. 5062 would completely avoid this possibility of voter denial and violence.

H.R. 6400 could be amended to permit use of Federal registrars in those political subdivisions where 20 persons have filed sworn statements that they have been denied their right to vote. This would apply even though the subdivisions did not employ literacy tests and even though a majority of voting age residents were registered and voted.

Such an amendment would give the initiative to seek effective relief to those people who have been denied the right to vote in many areas not presently covered by the bill.

A second major weakness of the administration bill is its failure to provide adequate supervision of elections by the Federal registrars where needed. H.R. 5062 would provide that the Federal voting registrars would not only register voters but would also oversee elections in the affected areas. This protection from intimidation is clearly needed if the right to vote is to be protected. The necessity of having to send Federal registrars into an area to register voters should be prima facie evidence that they may be needed on election day as well if the right to vote is to be fully protected.

A further important weakness in the administration measure, H.R. 6400, is the requirement that a prospective registrant must first go before a State official to register before going to the Federal registrar or examiner. This provision should be eliminated. Under the bill an applicant may apply to the Federal examiner for listing only if he can show that his effort to register has been rejected by the State or local authorities.

However, the Attorney General may waive this requirement. If the Attorney General is to be given the discretion to waive the requirement, it would seem pointless to even include this requirement as mere window dressing.

The prospective registrant ought not to be put to the delays, the hardships, and the possible hazards of going through this unnecessary seeking out of the local registrar where open and obvious voter discrimination has already been shown.

I would further recommend strongly that the proposed legislation include elimination of the poll tax as a restriction on voting in State and local elections. Under H.R. 6400, the cumulative poll tax would be eliminated. If as a matter of legislative policy we can prohibit the collection of a poll tax which has accumulated in past years, we could as easily abolish this restriction altogether. Exaction of a poll tax as a voting test works a hardship on those who are poor and least able to afford this levy.

The ability to pay a tax should bear no relation to the ability to vote. As we are presently trying to correct the inequities caused by poverty in our cities and in our schools, we should correct the inequalities which poverty or low income may cause at the polls. The elimination of poll taxes in Federal elections would provide an adequate precedent for our action. Also, the equal protection clause of the 14th amendment would apparently prohibit a State from enforcing a law which makes the right to vote dependent on a person's ability to pay. A poll tax no matter how fairly executed, falls unequally upon those in lower income brackets. If a State were to increase this poll tax to $5 or $10 or $25, it could effectively deprive a large segment of its qualified population from voting.

We should avoid the possible development of the State poll tax as a new "device" for voting deprivation by prohibiting its use altogether. Voting, which is an absolute right, should not be characterized as a privilege to be enjoyed by those who can afford it. The right to vote has no legitimate price.

If these recommendations are taken into consideration we could present to the American people a forthright and comprehensive bill avoiding conditions which might cause future protests over denial of voting rights. It would cure present injustice where massive discrimination has been shown.

There are several glaring weaknesses inherent in H.R. 6400 as presently proposed. This inadequate legislation should be refashioned so that even a handful of voters with a meritorious claim of voter discrimination would have their rights protected. The right of all qualified persons to vote without further delay is our objective, not merely the elimination of a certain percentage of discrimination.

We should revise and strengthen this proposed legislatiton so that in years to come the 1965 Voting Rights Act may be regarded as the

closing chapter in the long history of fighting voter discrimination.

In this way we shall honor the practical definition of justice which Epicurus has offered to us many centuries ago. We shall indeed delineate and fashion a final compact on voting rights—a compact which will protect the citizens of future generations from inflicting harm or suffering harm in the streets of any city where even a mere handful of citizens wish justifiably to exercise their constsitutional right to vote.

Let this bill be a working blueprint for justice, for the protection of all our citizens, for domestic peace, and for human tranquillity.

I think the committee for the opportunity to appear.

Mr. CRAMER. Mr. Chairman, Mr. Schweiker's statement evidences very serious concern with the problem and a considerable knowledge of the bill before us and the problems involved. I think you should be congratulated for your analysis of it.

The CHAIRMAN. Thank you, sir.

Mr. ROGERS. May I inquire whether your H.R. 5062 is an exact duplicate of Mr. Lindsay's bill?

Mr. SCHWEIKER. That is right, Mr. Rogers, yes. I do make a modification today in proposing that the bill we formerly introduced be changed in the matter of lowering it from 50 to 20 persons which is different from the bill that we introduced.

The CHAIRMAN. Thank you, Mr. Schweiker.

Mr. SCHWEIKER. Thank you, Mr. Chairman.

The CHAIRMAN. The next witness is the Honorable Speedy O. Long, Representative from Louisiana.

Do you have a prepared statement, Mr. Long?

Mr. LONG. Mr. Chairman, I do have a prepared statement but I do not have sufficient copies to go around.

The CHAIRMAN. Will you summarize it rather than read it because we are trying to conclude our hearings this morning. We have several other witnesses and I would appreciate it if you would be brief.

Mr. LONG. All right, sir.

STATEMENT OF HON. SPEEDY O. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LONG. Mr. Chairman, and members of the committee, I am not here this morning to delve into the merits of H.R. 6400 but will address my remarks to whether or not Congress has the authority to enact such legislation. From the outset I wish to make it crystal clear that I do not oppose qualified persons from being eligible to vote, but that is not the issue. The issue, as I stated before, is simply whether or not Congress has the authority to enact this proposed legislation.

The situation regarding this matter is analogous to that in 1920 when amendment No. 19 of the Constitution of the United States was adopted which prohibited States from denying women the right to vote.

I realize the composition of the court and the legislature as well as the executive branch of the U.S. Government has changed since that time, but gentlemen, I submit that the Constitution of the United States has not changed and I firmly believe that Congress must follow

the same procedure in this instance that was followed in granting women the right to vote.

The 15th amendment to the Constitution is the vehicle which is being used to implement the request for this legislation. The 15th amendment to the Constitution contains but few words. It is a very simple amendment phrased in very simple language, the interpretation of which neither demands nor requires deep and profound thought. The 15th amendment contains only two sections—section 1 of the 15th amendment prohibits the U.S. Government and any State government of the United States from denying a citizen of the United States the right to vote because of his race, his color, or his previous condition of servitude. The latter condition being of no import today.

Therefore, we address ourselves to the first two conditions: race and color. The authority of Congress to legislate under the 15th amendment is merely remedial and not definitive. Congress may have the authority to provide remedies against discrimination on the basis of race or color, but I submit that Congress is not vested with the authority to prescribe qualifications prerequisite to voting.

I submit Congress has provided the appropriate remedy through our judicial system.

Now, Mr. Chairman, we should address ourselves to section 2 of amendment No. 15, since this section evidently is the section which some would have us believe that, gives Congress the authority to enact into law the bill which is under consideration here today.

Section 2 of amendment 15 states, and I quote: "The Congress shall have power to enforce this article by appropriate legislation." To me, this section states or merely grants the Congress the authority to enact legislation which would prohibit the United States or a State of these United States from denying a person the right to vote because of his race, his color, or his previous condition of servitude.

But by no means, and by no stretch of the imagination whatsoever, can we read into section 2 the authority or power of this Congress to enact legislation which would prescribe uniform voter qualifications throughout these United States, imposing a system of Federal registrars and a penalty upon those charged with administration of State law, and more specifically, to look back 10 years to ascertain whether there had been discriminatory statutes or laws enacted by a State.

Amendment No. 10 to the Constitution of the United States specifically reserves to the States such power and authority. Amendment No. 10 is very clear, its intent is very clear, its meaning is very clear, its language is very simple. It is couched in simple language so there could be no misinterpretation of its meaning, its intent, and its purpose when it states that "the powers not delegated to the United States by the Constitution nor prohibited to it by the States, are reserved to the States respectively, or to the people" means just what it says—that the Congress has only the authority which it is granted by the Constitution of the United States, and nowhere, Mr. Chairman, and I repeat, and nowhere in the entire Constitution is the Congress given the authority to prescribe voter qualifications, nor did the respective States divest themselves of this authority, but, on the other hand, reserved this same unto themselves.

If it is the desire of this Congress to establish voter qualifications via the Congress, we have one avenue open to us and one avenue only.

We have one recourse and one recourse only, and that is by amending the Constitution of the United States.

Again I submit that the same procedure must be followed in this instance that was followed in granting women the right to vote, which as you all know, was by amending the Constitution of the United States.

The Congress, the judiciary, and the executive realized and understood that an amendment to the Constitution of the United States was necessary to insure the right to vote. In 1920, all three branches of our National Government realized that the 10th amendment prohibited Congress to legislate or confer this voting right upon American women.

But furthermore and foremost, all three branches of our National Government agreed that this right has been reserved to the States in the 10th amendment, and today, Mr. Chairman, the 10th amendment reserves to the States the right to prescribe voter qualifications.

In the final analysis, Congress is being asked to usurp the right and the duty of the States by enacting a Federal voting rights law. It is another example of how the Federal Government has seized upon the historical, traditional and reserved rights of the States. It further indicates attempted removal of the Government from the people who created it.

Legislation such as the Federal voting rights bill brings us closer to a Federal police state. Support of this bill would be to tell your State legislature that it cannot pass a law of any kind with respect to voter qualifications.

Thank you, Mr. Chairman, and members of the committee.

The CHAIRMAN. Thank you, Mr. Long. Your entire statement will be placed in the record.

We have with us Representatives from the National Association for the Advancement of Colored People from Virginia. Will they step forward, please?

Mr. Tucker.

STATEMENT OF S. W. TUCKER, CHAIRMAN, LEGAL STAFF, VIRGINIA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE BRANCHES, RICHMOND, VA.

Mr. TUCKER. Thank you, Mr. Chairman. I am S. W. Tucker, and I maintain offices in Richmond. I am a resident of Greensville County, which is in Virginia's south side or black belt, so that I can speak with some assurance in reference to each.

We wanted this opportunity really to refute some of the statements that were reported here in the press by the attorney general from Virginia who protested that Virginia's system does not discriminate against Negroes.

Since coming here this morning I understand from Mr. Wilkins that the committee is interested or probably would be interested in specifically how the poll tax operates to discriminate against Negroes for registration in Virginia.

So, extemporaneously I will spend a little bit of time on some of the elements of the poll tax that occur to me right at this minute. I would like to present the refutation of the remarks of the attorney

general and the editor of the one Richmond paper before you on an earlier occasion.

With specific reference to the poll tax, I might just point to some practices that come to my attention inasmuch as I am chairman of the legal staff of the Virginia State Conference, NAACP branches.

As a matter of fact, last year I was engaged in a campaign as a candidate for the Congress from the Fourth Congressional District of Virginia, so I was very much aware of what was going on. It was my business to be aware.

There are practices in southside Virginia, insidious, you cannot reach them by legislation. To illustrate, the poll tax is required to be paid for 3 successive years and it is required to be paid 6 months prior to an election. The poll tax is $1.50 a year which with penalties and so forth amounts to about $5. If a person wants to vote this year, he pays $5 and gets that paid 6 months prior to the election.

Now, this is not an uncommon practice in southside Virginia, particularly ——

The CHAIRMAN. Can't he pay it after that 6-month period?

Mr. TUCKER. If he does not pay it 6 months prior, he cannot vote in the election or in the primary.

The CHAIRMAN. What happens if he pays it subsequently?

Mr. TUCKER. He can vote in the next year's election provided he keeps up. We are trying to encourage people to get their poll taxes paid by May 1. Anybody who does not pay his poll tax by May 1 for the 3 years next preceding, will not vote in the July primary and will not vote in the November election. That is the one way the system operates.

It is not an uncommon practice for county treasurers to volunteer to Negro taxpayers that they do not have to pay the poll tax or to say to them, "If you don't vote, you don't have to pay the poll tax." People with a little money appreciate that advice that here is a bill I don't have to pay.

Mr. ROGERS. Will the gentleman permit me to interrupt? What happened to that lawsuit where somebody sued to make everybody pay the poll tax?

Mr. TUCKER. It has been dismissed on a technicality that the complaint was not verified but we understand that it will be refiled.

Mr. ROGERS. Then everybody that has not paid their poll tax——

Mr. TUCKER. There is a bit of speculation as to what is going to be the outcome. Frankly, the people filing it, at least the press speculates they expect to lose the case but thereby prove the poll tax does not contribute appreciably to the revenue.

They expect the State to defend that compulsory collection of the poll tax would cost more than they would get in. That will establish that the poll tax is what it is designed to be, in the convention of 1902, a device to exclude as many Negroes from the electorate as was possible.

Mr. ROGERS. In that case we hope to get a final determination some place along the line short of the Supreme Court of the United States.

The CHAIRMAN. Mr. Tucker, we appreciate what you said about the payment of poll tax 6 months in advance of an election.

Mr. TUCKER. That is correct.

"The registrar, upon request of the applicant, and in advance of his making written application, shall give the applicant information as to the requirements incident to registration and advise the applicant as to the pertinent provisions of this chapter and the constitution. The registrar shall furnish the applicant copies of the applicable provisions of the Constitution and Code of Virginia: *Provided, however*, no *other* written or printed material shall be used or referred to by the applicant while making application for registration." [Emphasis added.]

And it provided in Code, secs. 24–53, as follows:

"Any registrar or assistant registrar who registers or permits the registration of any person who has not made application to register as required by and in conformity with this chapter and section 20 of the constitution may be removed from office by the electoral board of the county or city and if so removed shall be ineligible to serve as registrar anywhere in the Commonwealth of Virginia for a period of 5 years."

The Richmond News Leader (James J. Kilpatrick, editor) on May 2, 1958, expressed the legislative sentiment in these words:

"Now, that, we submit, is a perfectly fair and reasonable registration law, exactly in accord with the letter and spirit of Virginia's constitution. If a prospective registrant, holding in his hand a copy of the constitution, cannot read section 20 and comprehend its simple requirements, he has no business voting in Virginia. The law, as adopted, discriminates against no one; indeed, other provisions of the act, not quoted, provide new protection to the registrant who may believe he has been treated unfairly. And to touch the racial issue: The bill makes it easier for a Negro to register in Virginia than, say, in New York, where a literacy test is spelled out in some detail."

By the time the 1960 session convened, it had become apparent to the legislators that the 1958 amendments to the registration laws were in fact preventing white citizens from registering but the NAACP was teaching Negroes how to memorize the requirements. Hence, by chapter 288 of the acts of 1960, the blank paper requirement of code § 24–68 was deleted and replaced by a requirement that application be made "on a form which may be provided by the registration officer" and, by chapter 614 of the acts of 1960, it was proposed that section 20 of the constitution be amended to require that application be made "on a form which may be provided by the registration officer, without aid, suggestion or other memorandum." [Emphasis added.] As will be shown, the use of the underlined word "may" provided the means by which registration officers in areas heavily populated by Negroes (and in which most white citizens are registered) claimed and yet claim the right to require applications to be made on blank sheets of paper. At its 1962 session, the general assembly further amended code § 24–68 by providing that "application may be made on a form provided by the registration officer which may be" a sheet of ruled paper which is entirely blank but for a reference to and excerpts from section 20 of the constitution at the top and, at the foot, indication where the "date" and the "signature of the applicant" should be written.

In anticipation of the adoption of the proposed amendment to section 20 of the constitution, the general assembly, by chapter 422 of the acts of 1962, provisionally amended code § 24–71 to require the registrar to furnish a "form for registration" instead of the former blank sheet of paper. Notwithstanding the adoption of the constitutional amendment which made this change in the statute operative and notwithstanding the ruling of the district court in the litigation next mentioned, registrars in most of Virginia's southside counties furnish the Negro applicants the sheet of paper which, but for the constitutional provision at the top and indication of place for date and signature at the bottom, is blank.

On August 13, 1964, Negro residents of Greensville and Brunswick Counties and of the city of Petersburg brought an action against their respective registrars which was heard on September 25, 1964, on a motion for an interlocutory injunction. (*Wilks et al.* v. *Woodruff et al.*, U.S.D.C., E.D. Va., Richmond Division, C.A. 4073.) It having been shown that the registrars in Alexandria, Lynchburg, Richmond, and Henrico County provide applicants with forms which elicit the information required by the constitution and that the plaintiff Ann Jackson had made her application to the general registrar on a form substantially similar, that officer was "enjoined and restrained until further order of the court from denying Ann Jackson and all other persons similarly situated, registration as a voter on the ground that the applicant for registration has furnished his name, age, date and place of birth, residence, and occupation

at the time and for 1 year next preceding and stated whether he has previously voted, and if so, the State, county or precinct in which he voted last, upon a paper approximately 8½ by 11 inches in size, which sets forth all of the foregoing requirements with appropriate space for the answers to be supplied immediately adjacent to the requirements."

The attorney general of Virginia has indicated his purpose to appeal if after a plenary hearing the district court will adhere to its ruling of September 25, 1964. In short, the official policy of the State is to enable local registrars in their own discretion to deny registration to persons who cannot read and comply with section 20 of the constitution of Virginia without any aid, suggestion or memorandum.

We do not know and have not heard of any white person's having been denied registration for failure to make proper application. We do know that persons have been registered without being required to make any written application. We do know that in the year 1951 several Negro residents of Sussex County appealed denials of registration to the circuit court of that county. We know that then one of the registrars required the applicants to identify several incumbent State and county officials. We do know that shortly thereafter the general registrar for that county demanded of several Negroes who had been previously registered that they come to his office and make applications or suffer their names to be purged from the books. (On advice of counsel they relied upon the "conclusive" presumption of code § 24–105 that they had complied with all requirements of law, inasmuch as they had been registered for more than 6 months.)

We do know that in Virginia's southside counties, and particularly in those which have precinct rather than general registrars; for example, Mecklenburg and Brunswick, some of the registrars are too often unavailable when Negroes want to register. One such precinct registrar, who apparently had no office, required the Negro applicants to go to the back door of his home; another to the back door of the theater where he is employed. Votor registration campaign workers have had to appeal to local Commonwealth's attorneys to overcome invented excuses of unwilling registrars such as an unfounded claim that the books were closed. Sizable groups of Negro aspirants were disappointed in Mecklenburg County last fall when, for example, the registrar decided to attend a tobacco festival rather than keep an appointment to register a group or, on another occasion, to plead at 10:30 a.m. that his supply of "forms" (modified blank paper) was exhausted. On the other hand, Negro voter registration campaign workers have observed registrars give "forms" to white applicants to be filled in at home or promise to register white applicants at a more convenient time and place.

Frequently, county treasurers volunteer to Negro taxpayers that they do not have to pay the poll tax or suggest that if you do not vote you need not pay the poll tax. County treasurers are known to have refused to accept payment of poll taxes until the taxpayer makes payment of his personal property tax. Section 24–129 of the Code is generally interpreted by county treasurers as requiring an individual to personally take his poll tax payment to the treasurer's office, thus often adding the loss of a day's employment to the price of voting.

Innumerable other subtle practices, difficult to reach by litigation, serve the openly declared purpose of the constitutional convention of 1901–02 to end what then was called Negro domination but what was merely the promise of the 15th amendment.

Dated March 31, 1965.

S. W. TUCKER,
Chairman of the Legal Staff of the
Virginia State Conference of NAACP Branches.

STATE OF VIRGINIA,
City of Richmond, to wit:

This day personally appeared before me, the undersigned notary public in and for the city of Richmond in the State of Virginia, S. W. Tucker, who, being first duly sworn, made oath that the matters and things contained in the foregoing statement in refutation of Virginia's denial of discrimination in voter registration are true to the best of his knowledge, information, and belief.

Given under my hand this 31st day of March 1965.

My commission expires August 28, 1965.

EVALYN W. SHAED, *Notary Public.*

The CHAIRMAN. Thank you very much for coming. We are sorry to put you to an inconvenience.

Mr. Conyers.

STATEMENT OF HON. JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. CONYERS. Mr. Chairman, and members of the committee, I apologize to the gentleman whose testimony was cut off; I am sure that it will be given full consideration by this committee.

The first few pages of my remarks, Mr. Chairman, which I will not read but very briefly summarize, are devoted to expressing my appreciation to the chairman and the subcommitte for permitting me to sit in with the subcommittee to hear and question the witnesses. I very much appreciate this opportunity to fully participate in the hearings.

I think the chairman and the subcommittee appreciate my overriding concern in what I consider to be perhaps the most important piece of legislation with which I personally will ever be concerned since it will affect the rights and freedoms of every person in America.

So I am grateful not only to testify but to have been able to have asked questions and interrogate as freely as if I were a member of this particular subcommittee.

Mr. Chairman, I think that my feelings on this matter have become well known to the subcommittee in the course of the testimony on the bills, so I will briefly summarize my prepared statement. I think that the proposed voting rights bill is a tremendous step forward. The President has called for Federal guarantees of every American's right to vote as a result of the overwhelming mandate of the American people. We are attempting to translate his eloquence into meaningful, real, and finally effective legislation.

I think that H.R. 6400 is certainly a very great step forward in that direction.

I join with a number of other members of the committee and Members of Congress who feel very strongly that we can reasonably strengthen this bill and yet avoid the problem that has concerned some that we might overload the bill and not be able to get it through the Congress.

Mr. Chairman, I very respectfully hope that the President's determination and the feelings that flow throughout the Nation, and certainly throughout the Congress, will allow us to carefully and deliberately add on legislative amendments that will make this bill fully effective.

Of course my remarks will be in the record; so I will just briefly mention those parts of it that I think are extremely important.

First, I want to mention two points, mentioned today by the leadership conference spokesman and previousy by the labor representatives, that we need to extend the coverage of this bill so that it will have some meaning to the thousands upon thousands of Americans who are not within the purview of the original administration bill formula.

And, of course, we must deal with the problem of the poll tax. I share the opinion of many people that the poll tax can legally be stricken from the laws of our land even in State and local elections.

I have asked Profs. Jeanus B. Parks, Jr., and Herbert O. Reid, Sr., of the Howard University Law School and a very select com-

mittee of constitutional law professors, to submit to this committee, if it will meet with the approval of the chairman, a very studied document on the question of how we can get rid of the poll tax, in this legislation.

I would like the chairman's permission to submit this document in the very next few days.

The CHAIRMAN. You have that permission.

(Document as furnished follows:)

MEMORANDUM IN SUPPORT OF POWER OF CONGRESS TO ABOLISH THE POLL TAX AS A PREREQUISITE FOR VOTING IN STATE ELECTIONS

[Prepared by Herbert O. Reid, professor of law, and Jeanus B. Parks, Jr., associate professor of law. Submitted for a select committee of the faculty of the Howard University School of Law]

I. INTRODUCTION

Even though ratification of the 24th amendment marked the culmination of activity, dating back to 1939, to eliminate the poll tax prerequisite as a qualifying condition upon voting in Federal elections, the poll tax prerequisite as a qualifying condition for voting in State elections remains both as an actuality and as a portend of "things to come."

The select committee has authorized the writers to excerpt where necessary materials from their article in preparation, "One Hundred Years to Nowhere: The Odyssey of Negro Suffrage," and respond to the Honorable John Conyers' request by the preparation and submission of this "Memorandum in Support of Power of Congress To Abolish the Poll Tax as a Prerequisite for Voting in State Elections."

II. THE NEED FOR FEDERAL LEGISLATION

Recent developments to abolish the poll tax by action of the National Government predate the Second World War, but the major emphasis and activity have occurred since the Second World War. Even though every session of Congress since 1939 has had before it some measure designed to eliminate the poll tax as a qualification for voting, in either National or State elections,[1] official governmental support of national action did not develop until after the Second World War.

In 1947, the Advisory Committee on Civil Rights, appointed by President Truman to survey civil rights problems, recommended in its report that the poll tax payment for national elections be abolished.[2] Adopting the report of the Committee, the President requested of Congress legislation providing for a more adequate safeguard of civil rights, specifying the right to vote as one phase of the total civil rights picture.[3] Congressional response to the civil rights program of President Truman was slight, and affirmative efforts initiated in support thereof were blocked by the united efforts of southern spokesmen.[4] In April 1949, four bills were introduced in the Senate, which were regarded as the administration's proposals to implement the recommendations of the President's Committee on Civil Rights.[5]

Congressional action which followed was minimal, with no significant gains toward the passage of civil rights measures. The House has passed five anti-poll-tax bills since 1939. The Senate has passed two constitutional amendments related thereo.[6]

In 1957, the first in the present series of Civil Rights Acts was passed by Congress, the thrust of which was the guarantee and enforcement of voting rights.[7] The principle feature of this act was the authorization given to the Federal Government to bring civil injunctive suits to end discrimination in voting practices. Three years later, the Congress enacted the Civil Rights Act

[1] See Ogden, "Poll Tax in the South," 241 (1958).
[2] See Reid, "Efforts To Eliminate Legally Enforced Segregation Through Federal, State, and Local Legislation," XX Journal of Negro Education 436 (1951).
[3] President's message to the 81st Cong. on the state of the Union, 91 Congressional Record 927, 928–929 (1948).
[4] See note 1, supra.
[5] See note 2, supra.
[6] See 2 U.S. Code Cong. and Ad. News 4034 (1962).
[7] Civil Rights Act of 1957, 71 Stat. 634.

of 1960,[8] which strengthened portions of the 1957 act and provided for the appointment of Federal referees to accelerate registration upon a court finding of a pattern or practice of racial discrimination.

Again, Congress deemed it necessary to amend the early acts by the Civil Rights Act of 1964.[9] While the 1964 act contained a number of other important national sanctions, sections again were designed to expedite voting rights litigation. These several acts were in response to increased national demand to safeguard and protect voting rights on one hand, and on the other hand, to the resulting failure of each legislative effort to achieve its purpose.

Finally, on January 23, 1964, the poll tax was abolished as a prerequisite to the right to vote in Federal elections with the ratification of the 24th amendment to the Constitution.

One deficiency, which the several acts since 1957 were not intended to cover, was the poll tax prerequisite to voting. Thus, today after the passage of three Civil Rights Acts and one constitutional amendment, the poll tax as a prerequisite to voting remains as an obstacle to the full and free exercise of the franchise.

Testimony is abundant that the poll tax provisions, as well as the administration of this device, are important contributing factors in the total picture of racial disfranchisement.

"To what extent are these differences in formal voting requirements related to differences in registration rates, controlling for social and economic structure? The answer is given in table 7. The three States with both literacy tests and poll taxes have, on the average, actual registration rates which are 10.3 percentage points below the predicted value. The six States with either poll taxes or literacy tests have Negro registration rates which, on the average, are about what one would expect. The two States with neither poll taxes nor literacy tests have, on the average, about 19.2 percentage points more Negroes registered than one would expect on the basis of their social and economic characteristics. If we were able to take into account the way these requirements are variously administered by different officials within each State, this factor would undoubtedly prove to be more important than table 7 indicates. Voter requirements, then, do seem to have an important effect on Negro registration over and above the admittedly large impact of social and economic structure." [10]

Burke Marshall, former Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, "Federal Protection of Negro Voting Rights," 27 Law and Contemporary Problems 455, 464 (1962), observed that:

"Five States now require the payment of poll taxes as a prerequisite to voting, although not to registration. By now the tax itself is a negligible, biracial deterrent to voting. However, local officials occasionally manipulate the requirements so as to disfranchise Negroes.

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

The problems occasioned by imposition and manipulation of the poll tax serve to aggrevate and intensify the degredation and disfranchisement of many poor people, the hard core of whom are Negroes. House of Representatives Report No. 1641, 88th Congress, 2d session (1964) lists nine States in the Appalachian region, five of which are poll tax States. Oddly enough in the Appalachian region 15.3 million people were found to be substantially below the national average economically. Racially, poverty has worked its mischief for many, many decades and in many, many ways.[11]

Of necessity issue must be taken with Mr. Marshall and those who join with him in concluding that "by now the tax itself is a negligible, biracial deterrent to voting."

This committee has heard abundant evidence as to the effectiveness of the poll tax as a device to disfranchise Negroes and whites. Surely, the protection of the 14th and 15th amendments, as the Supreme Court suggested in *Baker* v. *Carr*, 369 U.S. 186 (1962), are not rendered nugatory because whites are being discriminated against in the same manner in which Negroes are.[12]

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[8] Civil Rights Act of 1960, 74 Stat. 86.
[9] Civil Rights Act of 1964, 78 Stat. 241.
[10] Matthews and Prothro, "Negro Voter Registration in the South," in Sindler, "Change in the Contemporary South," 199, 139–140 (1963).
[11] Cf. House of Representatives Rept. No. 1458, 88th Cong., 2d sess. (1964).
[12] As was said in *James* v. *Almond*, 170 F. Supp. 331, 339 (E.D. Va. 1959) "equality of treatment is not achieved through indiscriminate imposition of inequalities."

Recently, the Fifth Circuit Court of Appeals in *United States* v. *Dogan*, 314 F. 2d 767, 772 (1963), in an action under 429 (U.S.C.A. 1971(a) for relief against alleged discrimination because of race in acceptance of payments of poll taxes, concluded that:

"A careful scrutiny of the evidence adduced in the trial court discloses that beyond question racial discrimination was being practiced, even up to the last day of the taking of evidence on the hearing of the motion for preliminary injunction."

The Department of Justice in the *Dogan* case included a prayer in its complaint which sought to equalize the payment procedures.

This suit demonstrates the importance of the poll tax device as an effective handicap to the exercise of the franchise, as well as the ineffectiveness of the judicial process to prevent frustration of the Constitution by use of this device.[13]

There is an implicit error in assigning priorities of importance to the various devices which are used, or which have been used, to disfranchise, or in concluding that to prevent the States from employing one device or another will insure the right of suffrage. The histories of suffrage in the several states, and particularly the history of suffrage and the Negro, conclusively demonstrate an interrelation of several devices, and the employment of different and even novel devices, if, for any reason, devices presently being employed become ineffective to accomplish the purpose of disfranchisement of the Negro.[14]

In the words of President Johnson in his recent message to Congress concerning this bill:

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

"Every device of which human ingenuity is capable has been used to deny this right. The Negro citizen may go to register only to be told that the day is wrong, or the hour is late, or the official in charge is absent.

"And if he persists, and if he manages to present himself to the registrar, he may be disqualified because he did not spell out his middle name or because he abbreviated a word on the application.

"And if he manages to fill out an application he is given a test. The registrar is the sole judge of whether he passes this test. He may be asked to recite the entire Constitution or explain the most complex provisions of State law and even a college degree cannot be used to prove that he can read and write.

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

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

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

The present use of the poll tax device, as well as the reasonable expectation of its more general employment, brings this device into the category referred to by the Supreme Court in *Lane* v. *Wilson*, 307 U.S. 268, 275, 59 S. Ct. 872, 83 L.Ed. 1281:

"The amendment (15th) nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race."

Clearly the poll tax device is (in the words of President Johnson) one of the "restrictions to voting in all elections—Federal, State, and local—which have been used to deny Negroes the right to vote," and, hence, part of the subject matter relative to the right to vote commended to this Congress for appropriate legislation.

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[13] In *United States* v. *Dogan*, 317 F. 2d 767 (1963), the complaint was filed Nov. 17, 1961; the motion for preliminary injunction was noticed for hearing for Dec. 13, 1961, on which date hearing was had on defendant's several motions to strike; hearing on motion for preliminary injunction was reset for Dec. 20, 1961; lower court handed down its opinion on Jan. 19, 1962. On appeal, the case was reversed and remanded, mandate to issue forthwith on Jan. 26, 1963. On Feb. 5, 1963, motion of appellee was filed to consider recall of mandate. Feb. 8, 1963, appellee withdrew the above motion, instead, to consider the motion for rehearing en banc. Feb. 10, 1963, rehearing denied.

[14] See McGuvney, "The American Suffrage Medley" (1949); Ogden, "Poll Tax in the South" (1958).

III. THE POWER OF CONGRESS AND THE FRANCHISE

To focus upon the constitutional powers of Congress in relation to the franchise, it is necessary to "revisit" our legal history of the suffrage to properly analyze both the congressional and judicial developments upon which the present content and substance of the right to vote depend for its meaning and protection. Such a reexamination is a necessary predicate for a proper legal analysis of the power and duty of Congress in the protection of the right to vote. The writers intend to include in this synthesis relevant recent judicial, legislative, and administrative action, which influence the present content and meaning of the right to vote, as well as the power and duty of Congress to protect this right.

During the past decade, while Congress has been dealing with this problem, the proposed remedies have proven ineffective because of two apparent errors. First, a failure to properly appreciate the total commitment to deny the effective exercise of the right to vote, as well as the strategems, past, present, and future, employed, or expected to be employed, to frustrate this right. Second, a failure to properly recognize and articulate the character and nature of the right to vote.

Congress, by an act of 1867,[15] granted Negro suffrage. Three years later, the 15th amendment forbade the denial of voting rights to any citizen by either the Federal or State Governments because of race, etc.

"Since 1877, when the troops were withdrawn, the Southern States have successfully managed to evade, circumvent, and render largely innocuous the provisions of the 15th amendment. At first they did it by Ku Klux methods, intimidating the Negro into abstention from the polls. But there developed among the white population of the South a feeling that these rough-handed methods could not go on forever and that the actual disfranchisement of the Negro ought to be "legalized." How to do this, and still keep from colliding with the Federal authorities, has given them some trouble; but they have managed it. The artifices which they have used to disfranchise the Negro are interesting, and a few of them ought to be briefly described, if only for the purpose of showing how the law of the land gives way before a strong public sentiment."[16]

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

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

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

" 'I expect the examination with which the black man will be confronted to be inspired by the same spirit that inspires every man upon this floor and in the convention. I do not expect an impartial administration of this clause.'

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

" 'We have not drafted the exact constitution that we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins * * *. What care I whether the test we have put be a new or an old one? What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the Negro from voting, and isn't that what we came here for?' "[17]

This is part of the historical development which has led to the erection of America's caste system as it affects Negroes.* **

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[15] Munro, "The Government of the United States," 109 (4th ed. 1937).
[16] Ibid.
[17] P. 30–32.
*Survey of constitutional changes in 17 States as pertains to suffrage requirements, 1776 to 1902.
**Preliminary survey of State poll tax provisions.

A combination of economic factors within the period 1820–40 turned the South's structure into the form of a caste system as we know it today. This system is based upon the racist doctrine that Negroes must be separated from and subordinated to whites in every form of human intercourse. Southerners were led to believe that its caste system was not only necessary but within Christian dogma; hence, good, proper, and essential to all other institutions, such as the family, church, government, and the economy. The attendant separation of the caste system, it is argued, is essential to prevent the social and biological integration of the races, which would lead to the downfall of civilization. This position is best demonstrated by the following quotation from a Virginia court:

"The purity of public morals, the moral and physical development of both races, and the highest advancement of our cherished southern civilization under which two distinct races are to work out and accomplish the destiny to which the Almighty has assigned them on this continent, all require that they should be kept separate and distinct and that connections and alliances so unnatural that God and nature seem to forbid them, should be prohibited by positive law, and be subject to no evasion." [18]

The so-called school segregation cases decided by the Supreme Court in 1954 [19] posed both a threat to the racial caste system and a response to preserve it at all cost. Nearly 11 years have elapsed since the Supreme Court, by its unanimous opinion, outlawed segregation in publicly supported education. A year later came the Court's implementation decree.[20] Because of an absence of responsible leadership, nationally and locally, leadership was assumed by intransigents and bitter-end segregationists until a crisis in constitutional government required the National Government to send troops into Little Rock to uphold what had been unquestioned since the Civil War, the supremacy of Federal authority. While this particular constitutional crisis may be safely past, and "massive resistance," "interposition," and "repudiation" have proved of unquestioned futility. Nevertheless, the tide gates thus unleashed of defiance and disrespect for law and order have crystallized a total commitment comprised of a number of States and local governmental officials, as well as substantial numbers of the population, that the free and untrammeled "right to vote" shall not be permitted in sections of this Republic.

After the 1954–55 decisions, the southern resistance to change intensified.[21] Additional efforts were directed to protect the racial purity of the ballot. Several methods or combinations of methods were employed. In Louisiana, 10,000 to 11,000 Negro voters were purged from registration rolls in 12 parishes.[22] Slowdowns, refusals, threats, and tests received new currency.[23]

The compromise to white supremacy to which Negro suffrage was sacrificed,[24] has not yet been repudiated, but our National Government's worldwide leadership on the issue of "self determination" [25] has had its beneficial repercussion here at home on the matter of Negro suffrage.

Attorney General Katzenbach, appearing before this committee on Thursday, March 18, 1965, summarized as follows:

"The lesson is plain. The three present statutes have had only minimal effect. They have been too slow.

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[18] *Kinney* v. *Commonwealth*, 30 Grat. 858, 860, 32 Am. Rep. 690, 699, Va. (1878).
[19] *Brown* v. *Board of Education*, 347 U.S. 483, 98 L. Ed. 873, 74 S. Ct. 686 (1954); *Bolling* v. *Sharpe*, 347 U.S. 497, 98 L. Ed. 884, 74 S Ct. 693 (1954).
[20] *Brown* v. *Board of Education*, 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083 (1955).
[21] Price, "The Negro and the Ballot in the South" (1959).
[22] Ibid.
[23] Ibid.
[24] "533 Senate Joint Resolutions," No. I, p. 7, State of New Jersey (1905).
"This legislature, feeling conscious of the support of the largest majority of the people that has ever given expression to the public will, declare that the said proposed amendment being designed to confer, or to compel the States to confer the sovereign right of the elective franchise upon a race which has never given the slightest evidence, at any time, or in any quarter of the globe, of its capacity for self-government, and erect an impracticable standard of suffrage, which will render the right valueless to any portion of the people, was intended to overthrow the system of self-government under which the people of United States have for 80 years enjoyed their liberties, and is unfit, from its origin, its object, and its matter, to be incorporated with the fundamental life of a free people."
[25] See "OAS Official Documents, Eighth Meeting, January 1962," where, as a result of the Charter of the Organization of American States, the governments of the American states agreed to free elections and unrestricted suffrage, and reiterated their adherence to the principles of self-determination.

"Thus, we have come to Congress three times in the past 8 years to ask for legislation to fulfill the promise our country made in the 15th amendment 95 years ago, the promise of the ballot.

"Three times since 1956, the Congress has responded. Three times it has adopted the alternative of litigation, of seeking solutions in our judicial system. But three times since 1956, we have seen that alternative tarnished by evasion, obstruction, delay, and disrespect.

"The alternative, in short, has already been tried and found wanting. 'The time of justice,' the President said on Monday, 'has now come.' " [26]

With background of the problem, an examination of the character and nature of the constitutional guarantee of the right to vote is in order. Significant clarifications and elucidations of the character and nature of the right to vote are contained in the so-called reapportionment cases.

In a forerunner to those cases, Mr. Justice Frankfurter in *Gomillion* v. *Lightfoot*,[27] observed:

"* * * Legislative control of municipalities, no less than other State power, lies within the scope of relevant limitations imposed by the U.S. Constitution.

"* * * such power, extensive though it is, is met and overcome by the 15th amendment to the Constitution of the United States, which forbids a State from passing any law which deprives a citizen of his vote because of his race."

The concept of political equality in the voting booth contained in the 15th amendment extends to all phases of State elections.[28]

Mr. Justice Black, speaking for the Supreme Court in *Wesberry* v. *Sanders*,[29] said,

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right."

In *Anderson* v. *Martin*,[30] where a Louisiana statute requiring the compulsory designation of the race of a candidate for State office, the Court invalidated the statute, observing that which a State may not do by express statutory authority, cannot be done by indirection.

United States v. *Dogan*, supra, holds that the constitutional protection of the right to vote applies not only to the physical act of voting but to the entire process, including the payment of poll taxes where payment is a condition precedent to the right to vote, and including matters of registration where registration is required in advance.[31]

The courts have made it abundantly clear that both the 14th and 15th amendments recognize and protect rights and immunities as to the free exercise of the franchise which are dependent upon the Constitution of the United States and hence can be protected by the Congress. Under standard constitutional interpretations, Congress has the power to enact necessary legislation to remove obstructions to the fulfillment of the intent and purposes of these amendments.[32]

Ordinarily, when a State exercises power wholly within the domain of State interest, it is insulated from Federal judicial review. But such insulation is not carried over when State power is used as an instrument for circumventing a federally protected right.[33]

In *Oklahoma* v. *Civil Service Commission*,[34] the Supreme Court stated:

"While the United States is not concerned with, and has no power to regulate, local political activities as such of State officials, it does have power to fix the terms upon which its money allotments to States shall be disbursed.

"The 10th amendment does not forbid the exercise of this power in the way that Congress has proceeded in this case. As pointed out in *United States* v. *Darby* (312 U.S. 100, 124), the 10th amendment has been consistently construed

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[26] Statement by Attorney General Nicholas deB. Katzenbach before the House Judiciary Committee on the proposed Voting Rights Acts of 1965, Mar. 18, 1965, p. 4.

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[28] See *Gray* v. *Sanders*, 372 U.S. 368, 88 S. Ct. 80 9 L. Ed. 821 (1963), citing with approval *Terry* v. *Adams*, 345 U.S. 461, 73 S. Ct. 809, 97 L Ed. 1152 (1953).

[29] *Wesberry* v. *Sanders*, 376 U.S. 1, 17–18, 84 S. Ct. 526, 11 L. Ed. 2d 48 (1964).

[30] *Anderson* v. *Martin*, 375 U.S. 399, 84 S. Ct. 454, 11 L. Ed. 2d 430 (1964).

[31] See note 13, supra.

[32] See *De Walt* v. *Bartley*, 146 Pa. 529, 540, 24 A. 185 (1892); *Bowe* v. *Secretary of the Commonwealth*, 320 Mass. 230 (1946), 69 N.E. 2d 115.

[33] See note 27, supra.

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'as not depriving the National Government of authority to resort to all means for the exercise of a granted power which are appropriate and plainly adapted to the permitted end.' The end sought by Congress through the Hatch Act is better public service by requiring those who administer funds for national needs to abstain from active political partisanship. So even though the action taken by Congress does have effect upon certain activities within the State, it has never been thought that such effect made the Federal act invalid. As nothing in this record shows any attempt to suspend Mr. Paris from this duties as a member of the State highway commission, we are not called upon to deal with the assertion of Oklahoma that a State officer may be suspended by a Federal court if section 12 is valid. There is an adequate separability clause. No penalty was imposed upon the State. A hearing was had, conformable to section 12, and the conclusion was reached that Mr. Paris' active participation in politics justified his removal from membership on the highway commission. Oklahoma chose not to remove him. We do not see any violation of the State's sovereignty in the hearing or order. Oklahoma adopted the 'simple expedient' of not yielding to what she urges is Federal coercion. Compare *Massachusetts* v. *Mellon* (262 U.S. 447, 482). The offer of benefits to a State by the United States dependent upon cooperation by the State with Federal plans, assumedly for the general welfare, is not unusual."

The *Oklahoma* case established the propositions that if the Congress desires to exercise its powers to protect the rights guaranteed by the Federal Constitution, it may do so. In addition, there are many methods of regulation available to achieve the necessary goals, even though up to now they are unexplored in terms of their application to this field.

In addition, the writers wish to suggest to you the legal opinion shared by many, that by the ratification of section 2 of the 14th amendment, a national uniform standard of suffrage was adopted. Therefore, the 14th amendment presents Congress several immediate alternatives.

Congress might pass legislation declaring the 14th amendment standard as that standard which shall be employed in executing its mandate under section 2 of the 14th amendment. Congress might adopt that provision as the appropriate standard by which qualifications for voting shall be determined, and promote the use of such a standard in furtherance of the public policy of the United States by any and all methods by which Congress may execute its powers as to those matters over which it has jurisdiction. The conclusion would obtain though Congress is exercising its powers to enforce the protections against the denial of rights guaranteed, and even though it is exercising powers in areas where the several States may be concurrently exercising proper State interest.

IV. THE POWER OF CONGRESS TO ABOLISH THE POLL TAX IN STATE ELECTIONS

The importance of the poll tax device as a technique for the denial of the right to vote is shown by the fact that the proposed bill, H.R. 6400, in section 5(e) addresses itself to the poll tax problem. It is there provided that in the event of a section 3(a) determination, and where additionally there is a 4(a) determination, and Federal examiners are appointed, then, and only then, will 5(e) operate. The section provides:

"(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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."

However, whether following the approach of H.R. 6400, the poll tax device should be treated like the literacy test in section 3, or whether the more direct method of eliminating the poll tax as a prerequisite for voting in State elections, raises the more precise question of the power of Congress to abolish the poll tax in State elections.

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The previous discussion on congressional power is applicable here. There appears to be a number of alternative and concurrent powers which the Congress may call upon to rest its authority to abolish the poll tax prerequisite in State elections.

Where more than one power is reposed in the Federal Government it may choose to exercise some or all of it to achieve constitutional ends.[35] Congress may, within appropriate constitutional limitations, declare the public interest, define the specific evil, and establish a mode of dealing with it.[36] It may act to protect citizens of the United States concerning public safety, public health, morality, peace and quiet, law and order.[37]

Constitutionally, under article IV, section 4, the United States owes a duty to every State to guarantee a republican form of government. It would seem that the command of article IV, section 4 may be executed by the congressional declaration of the elemental factors constituting a republican form of government. As pointed out in the *Debs* case, supra, where there is a constitutional function to be carried out, the United States may utilize all the powers at its disposal, or any method or combinations to achieve the ends of government.

The fact that Congress has not seen fit to exercise its full power in these matters neither determines a lack of power nor constitutes a forfeiture. However, until the Congress acts, the subject matter may be regulated by the States unless expressly forbidden to them.[38]

"Certainly the Government of the United States is a limited government. With us, this idea of limitation spreads through every form of administration—general, State, and municipal—and rests on the great distinguishing principle of the recognition of the rights of man. The ancient republics absorbed the individual in the state—prescribed his religion and controlled his activity. The American system rests on the assertion of the equal right of every man to life, liberty, and the pursuit of happiness, to freedom of conscience, to the culture and exercise of all his faculties. As a consequence, the State government is limited—as to the General Government in the interest of union, as to the citizen in the interest of freedom." [39]

With the cases holding that Congress may regulate at each stage of the electoral process,[40] it would seem in the light of the policy implicit in the 24th amendment, as well as the multitude of social science material and statistical data amassed by both government and private sources as to the character, nature, and use of the poll tax as a device to disfranchise Negroes,[41] Congress determination that under present day circumstances an imposition of any such tax as a prerequisite to the right to vote is arbitrary, serves no valid state purpose, but does inhibit the national public policy and burdens the effectiveness of many Federal programs.

If after such a finding Congress should outlaw the poll tax as a prerequisite for voting, it would appear to be a valid exercise of congressional power.

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[35] Cf. *In re Debs*, 158 U.S. 564, 39 L. Ed. 1092, 15 S. Ct. 900 (1895).
[36] *Berman* v. *Parker*, 348 U.S. 26, 75 S. Ct. 98, 99 L. Ed. 27 (1954).
[37] Ibid.
[38] See *United States* v. *The New Bedford Bridge*, v *Wood*, sec. M. 40, 15 Fed. Cas. 91, 10 Law Rep. 127 (C.C. Mass. 1847).
[39] Johnson, Andrew, first annual message, Dec. 4, 1865.
[40] See notes 13 and 28, *supra*.
[41] See H. Rept. 1821, 87th Cong., 2d sess. 3, 5 (1962).

Survey of constitutional changes in 17 States as pertains to suffrage requirements, 1776–1902 [1]

ALABAMA

1819	1865	1867	1875	1901
Male, white, 21 and over. Citizen. State resident for 1 year preceding election. 3 months in county, city, or town where voting. No soldier, seaman, or marine may vote. May vote only in county, city, or town where reside.	Added to 1819 provision: No person convicted of bribery, forgery, perjury, or other high crime or misdemeanor may vote.	Every male citizen or naturalized or who has declared intention to become citizen. 21 or over. 6 months residence in State preceding election and 6 months in county. No military.	Every male citizen and every male of foreign birth who has legally declared his intention to become citizen. Age 21, 1 year residence in State. 3 months' residence in county. 30 days in precinct, district, or ward. No military. Not eligible if have been convicted of crime punishable by imprisonment in penitentiary.	No disabilities. If those of foreign birth fail to become citizen lose right to vote. 2 year's State residence, 2 years in county, 3 months in ward or precinct. Must be registered. Poll taxes must be paid by 1st of February preceding election. Eligible to register if have served in a war; lawful descendant of one who served; of good character. No idiots or insane persons or ones convicted of crime.

ARKANSAS

1836	1864	1868	1874	
Free white male citizen. 21 years, citizen of State 6 months. No military.	Free white male. State citizen 6 months. 21. No military may vote in time of peace.	Male citizen, naturalized, or has legally become citizen. 21. State resident 6 months. Resident of county. No military may acquire residence by being stationed in State. May not vote if gave oath of allegiance to U.S. Government during rebellion, or gave bonds to U.S. Government; if convicted of crime punishable by imprisonment, or bribery; idiots or insane; if disqualified in State from which came.	12 months resident; 6 months in county; 1 month in ward or precinct. No idiot or insane person. Convicted of crime. No military stationed in State.	Amendment to 1874 (1893–95). Must exhibit poll tax receipt or other evidence of payment.

Source: Thorpe, "American Charters, Constitutions and Organic Laws" (7 vols., GPO, 1909).

Survey of constitutional changes in 17 States as pertains to suffrage requirements, 1776-1902—Continued

DELAWARE

1792	1831	1897
Free white male. 21. State resident 2 years. Paid State or county tax.	Free white male. 22. State resident 1 year; 1 month in county. Paid county tax. Between 21 and 22 may vote without having paid tax. No military stationed in State. No idiot or insane person, or pauper, or person convicted of felony.	Male 21. Citizen of State. Resident for 1 year; 3 months resident of county; 30 days in district. Registered must be able to read constitution and write his name, unless physically unable to comply. No military. No idiot, insane, panper, convicted of felony.

FLORIDA

1838	1865	1868	1885	Amendment 1894
Free white male, 21. State resident, 2 years; 6 months in county. Enrolled in military. No military unless qualified elector of State.	Same	Every male citizen or has declared intention to become a citizen. 1 year resident in State; 6 months in county. No person under guardianship or insane. No one convicted of felony. Educational qualifications to be enacted by legislature.	Additions: Must take oath. Legislature has power to make payment of capitation tax prerequisite for voting.	Naturalized citizens must produce certificate of naturalization.

GEORGIA

1777	1789	1798	1865	1868	1877
Male white 21. Possessed in his own right 10 pounds' value and liable to pay tax in State or being of any mechanic trade. Resident for 6 months.	Must have paid tax in preceding year.	Citizens and inhabitants of State. Must have paid all taxes required of them.	Free white citizen. Resident for 2 years in State; 6 months in district or county.	Male citizen, naturalized, or one who has legally declared intention to become citizen. 6 months in State; 30 days in county. Paid all taxes. No military. Must take oath.	Resident in State, 1 year. No one convicted of crime punishable by imprisonment. Idiots and insane persons.

KENTUCKY

1792	Add: 1799	Add: 1850	Add: 1890
Free male citizens. State resident 2 years or county 1 year.	Every free male except Negroes, mulattoes, and Indians.	Every free white male citizen; 60 days in precinct.	Every male. No one convicted of treason, felony or bribery or high misdemeanor. Idiots or insame persons. No military only stationed in State.

LOUISIANA

1812	1845	1852	1864	1868	1879	1898
Free white male citizen, 21. Resident of county for 1 year. Must have paid State tax within last 6 months.	2-year residence. 1 year in parish where wishes to vote. No military, pauper, person under interdiction, nor convicted of crime punishable by hard labor.	Resident for 1 year, 6 months in parish.	3 months in parish.	Same	Every male citizen, or one who has declared intention to become one. 6 months in parish; 30 days in ward or precinct.	State resident, 2 years; parish, 1 year; precinct, 6 months. Must be able to read and write; must demonstrate ability, unless physically disabled. No one less than 60 years old may vote unless poll tax paid.

MARYLAND

1776	1851	1864	1867
All freemen above 21, having freehold of 50 acres of land in county, 1 year residence, and property in State valued at 30 pounds.	Free white male. 6 months' residence in county.	No one convicted of crime, unless pardoned by Governor. No lunatic. No enemy of United States.	Same.

MISSISSIPPI

1832	1868	1890
Free white male citizen. 21. 1 year residence in State. 4 months in county.	No idiots and insane persons and Indians not taxed. 6 months in State, 1 month in county. No one convicted of crime.	2 years in State, 1 year in election district. All taxes paid. Minister entitled to vote after 6 months in district if in charge of an organized church and meets other requirements. Poll tax. Must be registered.

Survey of constitutional changes in 17 States as pertains to suffrage requirements, 1776–1902—Continued

MISSOURI

1820	1861	1865	Amendment to 1865	1875
White male citizen. 21 years. 1 year in State, 3 months in county, no military.	Must take oath....	No one who has ever been in armed hostility to United States or aided anyone in hostility. Registration.	Every male who has declared intention to become citizen. 60 days in county. No criminal conviction.	No one kept at any poorhouse or asylum at public expense. No military.

NORTH CAROLINA

1776	1868	1876
Freemen. 21. Residents of State 1 year possessing freehold of 50 acres for 6 months before election day.	Naturalized citizen, also 30 days in county. Registration oath. May not vote if deny existence of God; guilty of crime.	2 years in State, 6 months in county, 4 months in precinct. Must be able to read and write any section of constitution.

OKLAHOMA

Enabling Act of 1906	
All males over 21, resident for 6 months, delegates to form State.....	Not a State until after period.

SOUTH CAROLINA

1790	Amendment to 1790	1865		
Free white man, 21. Citizen. Resident of State for 2 years and possessing freehold of 50 acres or a town lot. Resident of district for 6 months. Must have paid taxes.	Excepted paupers and noncommissioned officers and private soldiers.	No military. May vote if have declared intention of becoming citizen legally. May disqualify those guilty of crime.	Every male citizen. No distinction as to race, color, or former condition. 1 year resident of State. 60 days in county. No one in almshouse or asylum, criminal or idiot.	2-year State residence, 1 year in county, 4 months in precinct. Poll tax must be paid 6 months before any election. Ministers of organized church and public school teachers may vote after 6 months' residence. Registration. Must be able to read, understand, and explain any section in State constitution.

TENNESSEE

1796	1834	1870
Every freeman, 21, possessing freehold in county where he votes. 6 months in county.	Every free white man. Citizen of United States. No person disqualified because of color, if by laws of State he is a competent witness in a court of justice against a white man. All free men of color exempt from paying poll tax. No criminals.	Every male resident of State 1 year. Paid poll tax.

TEXAS

1845 (not yet State)	1866	1868	1876
Every free male, 21. Citizen of United States. Must be citizen of Texas when congress adopts constitution. 1 year in Texas, 6 months in district. Indians not taxed. Africans and descendants of Africans excepted. No military.	Same constitutional provisions as 1845..	Indians not taxed excepted.....	Not allowed to vote: idiots, lunatics, paupers, those convicted of felony, military, foreigners who have legally declared intention of becoming citizens may vote. Taxes paid.

VIRGINIA

1776	1830	1850	1864	1870	1902
All men, having sufficient evidence of permanent common interest with, and attachment to community.	Every white male citizen of State who could vote under previous constitution and those who possess freehold, tenancy at will, or sufferance valued at $25, or tenancy in common or joint tenancy, reversion or remainder. No idiots, paupers, or military noncommissioned.	Resident of State for 2 years, 1 year in county. No criminals.	State resident 1 year, 6 months in county. Paid all taxes. Must take oath.	3 months in county. No one who has fought in duel or sent or accepted challenge to a duel. Capitation tax (amendment 1876).	State resident 2 years, county 1 year, precinct 30 days. Paid State poll tax. Registration property owner. Able to write and fill out his own application.

Survey of constitutional changes in 17 States as pertains to suffrage requirements, 1776–1902—Continued

WEST VIRGINIA

1861–63	Amendment to 1861–63	1872
Male white citizen. No minors, idiots, paupers, criminals. State resident 1 year, county 30 days.	No one who since June 1861 gave voluntary aid or assistance to rebellion against United States unless he later volunteered into U.S. military and was honorably discharged.	Male citizen, 60 days in county. No military.

Preliminary Survey of State Poll Tax Provisions

ALABAMA

Authority.—Age, 21–45; amount $1.50. The tax must be paid in the county in which the person paying legally resides, when the tax is due. The taxpayer must be a resident of the State. Sex, male and female.

Citation.—Title 51, section 237–248, Alabama constitution; article VIII, section 194, amendments 194½, XC, CIX.

Purposes.—Shall be applied in aid of school funds in the counties that levied and collected.

Exemption.—Person totally disabled from gainful employment whose property doesn't exceed $500. Every officer, enlisted man in the National Guard on active duty.

Payment and Collection.—Poll tax receipts with blanks for name, color, sex, address, precinct, or ward and year and date of payment. Time: After 1st day of February and before 1st day of the next October. The tax collector has no authority to receive taxes. Separate accounts by races.

Special exemption.—Persons who honorably served in the military between January 1, 1917, and November 11, 1918.

Limitation on tax collector.—A tax collector cannot receive taxes after 1st day of February before the 1st day of next October,[1] although he has misinformed a taxpayer as to the amount of poll tax.

ARKANSAS

Authority.—Age, over 21; amount, $1; sex, male and female. Payment must be made to the county collector, or his deputy, by the person named, or by husband, wife, son, daughter, sister, brother, father, or mother.

Citation.—Arkansas article XIV, section 3, amendment 40, section 1.

Purposes.—For support of common schools.

Payment and collection.—Tuesday, October 2, up to Wednesday including October 1, of the succeeding year.

Residence requirements.—12 months in the State, 6 months in the county, 1 month in the precinct, town, or ward.

DELAWARE

Authority.—Age, every citizen over 21. Legislature to provide for levying and collecting capitation tax from every citizen 21 and up; to be uniform throughout.

Citation.—Delaware article VIII, section 5.

Purposes.—Limited to county in which collected.

FLORIDA

Authority.—Legislature may provide for levying special capitation tax not to exceed $1 a year.

Citation.—Florida article IX, section 5.

Purposes.—To go into school fund, and be applied exclusively to common school purposes. To be used for county and municipal purposes.

Exemption.—National Guard on active duty.

KENTUCKY

Authority.—Every adult male person. The legislative body of each city of the second to sixth class may levy a poll tax not exceeding $1.50. The due date of the tax shall be advertised by publication.

Citation.—Kentucky section 180.

Purposes.—Use for city purposes.

Exemptions.—Citizens over 65 and totally disabled service men.

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[1] Code of Alabama, title 51, sec. 243.

MAINE

Authority.—Public expenses shall be assessed on polls. Amount, $3. Age, over 21; every male inhabitant.
Citation.—Maine article IX, section 7.
Purposes.—For the protection which the government gives to a person and to property.
Payment and collection.—The poll tax shall be accessed on each taxable person in the place where he is an inhabitant on the 1st day of each April.
Residence requirements.—Must be an inhabitant.
Special Exemptions.—Satisfaction of the poll tax is a prerequisite to granting of motor vehicle license and registration.

MASSACHUSETTS

Authority.—Legislature may tax inhabitants of, and person resident in, the State; to be proportional and reasonable.
Citation.—Massachusetts article XXVIII, section 14.
Payment and collection.—Poll taxes shall be due and payable at the expiration of 30 days from the date upon which the notice is issued by the collector.

MISSISSIPPI

Authority.—Amount, $2, but county supervisors may raise to $3. Age, 21 to 60.
Citation.—Mississippi article XII, section 243.
Purposes.—Limited to aid of common schools.
Exemption.—Deaf and dumb and those maimed by loss of hand or foot.
Payment and collection.—Tax to be lien only upon taxable property and no criminal proceedings to be allowed to enforce collection.
Limitation on voters.—No person shall be permitted to vote in any primary election unless they have paid their poll tax annually on or before the 1st day of February of the year. Such poll tax is due for the 2 years prior to the time such person offers to vote.[2] Every voter must have in his possession vote poll receipts for the 2 preceding years.

NEVADA

Authority.—Amount, $3; age, 21 to 60; each male resident.
Citation.—Nevada article II, section 7.
Purposes.—For maintenance and betterment of public roads.
Exemption.—Uncivilized American Indians. Any person who has paid poll tax in any other State.
Residence requirements.—Must be in the State for a period exceeding 10 days.

NEW HAMPSHIRE

Authority.—Amount, $2. Age, 21 to 70.
Citation.—New Hampshire Part II, article 6.
Purpose.—For public charges of government.
Exemption.—Paupers, insane persons. The widow of any veteran who served in any war.
Payment and collection.—Payable to the collection on demand without previous notice.

NORTH CAROLINA

Authority.—Amount, $2. Age, 21 to 50; male persons.
Citation.—North Carolina article V, section I.
Purposes.—To be applied to education and support of poor but not more than 25 percent in any one year for support of poor.
Exemption.—World War veterans, indigent persons.
Payment and collection.—Payable first Monday of October.

[2] 3160 Mississippi Code, 1042.

NORTH DAKOTA

Authority.—Not more than $1. Males, age 21 to 50.
Citation.—North Dakota article XI, section 180.
Purposes.—Per capita school tax.
Exemption.—Paupers, idiots, insane persons, and Indians. National Guard, volunteer and firemen.
Residence requirements.—90 days within the State.

OKLAHOMA

Authority.—Amount not to exceed $1. Age, 21 to 60, male. Legislature may provide penalty for nonpayment.
Citation.—Oklahoma article X, section 18.

SOUTH CAROLINA

Authority.—Amount, $1. Age, 21 to 60 years.
Citation.—South Carolina article XI, section 6.
Purposes.—To be applied to school purposes in district where collected.
Exemption.—Those incapable of earning a support from being maimed or from any other cause.
Penalty.—Nonpayment of poll tax is a misdemeanor punished by a fine not to exceed $10 or not more than 20 days hard labor.[3]

TEXAS

Authority.—Age, 21 to 60; amount, $1. The legislature may impose per capita tax (Ida VII 2; Texas VIII).
Citation.—Texas article VIII, section I; article VII, section 3.
Purpose.—For public free schools.

VIRGINIA

Authority.—Amount, $1.50. Age, over 21 years.
Citation.—Virginia article XIII, section 173.
Purposes.—$1 to be applied exclusively to public free school; remaining 50 cents to be returned and paid by State to treasury of county or city in which collected for appropriation by local authorities to such county or city purposes as they shall determine.
Payment and collection.—Treasurer of each county and city must file a list of persons who have paid poll tax.

WEST VIRGINIA

Authority.—Amount, $1. Age, 21; every male person.
Citation.—West Virginia constitution, article X, section 2.
Purpose.—To be annually appropriated to support of free schools.

WYOMING

Authority.—Amount, $2. Age 21 to 50 years.
Citation.—Wyoming constitution, article XV, section 5.
Purpose.—County poll tax to be applied to county assessors any time during the year.
Payment and collection.—Payable at the time of assessment, and collected by the county assessors any time during the year.

[3] 65–160, South Carolina Code.

[S. Rept. 1662, 77th Cong., 2d sess.]

AMENDING AN ACT TO PREVENT PERNICIOUS POLITICAL ACTIVITIES

OCTOBER 27, 1942.—Ordered to be printed

Mr. NORRIS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1024]

The Committee on the Judiciary, to whom was referred H.R. 1024, an act to prevent pernicious political activities, begs leave to report thereon as follows:

At the same time the committee had under consideration H.R. 1024, the committee also had under consideration S. 1280, a bill concerning the qualification of voters or electors within the meaning of section 2, article I, of the Constitution, making unlawful the requirement of the payment of a poll tax as a prerequisite for voting in a primary or other election for national offices.

These two bills have the same object in view, to wit: Making unlawful the requirement for the payment of a poll tax as a prerequisite to vote in a primary, or other, election, for national offices.

Your committee recommends the passage of H.R. 1024 when amended as follows:

First. Amend the title so it will read "An act making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national offices."

Second. The committee recommends that S. 1280 be amended as follows:

1. Strike out the preamble.
2. On page 2, after line 4, insert the word "other".
3. On the same page, line 9, after the word "or" insert "other".
4. In line 10, strike out the words "of section 2 of article 1".
5. On the same page, in line 12, after the word "and" where it first appears in said line inserting the word "other".
6. On the same page, in line 17 after the word "or" insert the word "other".
7. On page 3, in line 3, after the word "or" insert the word "other".
8. On the same page, line 6 after the word "or" and preceding the word "election" insert the word "other".
9. On the same page, line 9, after the word "or" insert the word "other".
10. On the same page, line 14, after the word "or" and preceding the word "election" insert the word "other".
11. On the same page, line 23, after the word "or" insert the word "other".

The committee recommends that H.R. 1024 be further amended by striking out all after the enacting clause and inserting S. 1280 as thus amended. In this form your committee recommends the passage of H.R. 1024.

Practically the only question involved in this legislation is the constitutionality of the proposed legislation. The committee has reached the conclusion that the proposed legislation is constitutional and should therefore be enacted into law. Those who believe the proposed law is unconstitutional rely upon section 2, article I, of the Constitution which reads as follows:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

The qualification of a voter is generally believed to have something to do with the capacity of a voter. We think it will be admitted by all that no State, or State legislature, would have the constitutional authority to disqualify a voter otherwise qualified to vote, by setting up a pretended "qualification" that in fact has nothing whatever to do with the real qualification of the voter. No one can claim that the provision of the Federal Constitution above quoted would give a legislature the right to say that no one should be entitled to vote unless, for instance, he had red hair, or had attained the age of 100 years, or any other artificial pretended qualification which, in fact had nothing to do with the capacity or real qualification of the voter.

The evil that the legislation seeks to correct is in effect that in taking advantage of the constitutional provision regarding qualifications, the States have no right to set up a perfectly arbitrary and meaningless pretended qualification

which, in fact, is no qualification whatever and is only a pretended qualification by which large numbers of citizens are prohibited from voting simply because they are poor. Can it be said, in view of the civilization of the present day that a man's poverty has anything to do with his qualification to vote? Can it be claimed that a man is incapacitated from voting simply because he is not able to pay the fee which is required of him when he goes to vote? In other words, when States have prevented citizens from voting simply because they are not able to pay the amount of money which is stipulated shall be paid, can such a course be said to have anything to do with the real qualifications of the voter? Is it not a plain attempt to take advantage of this provision of the Constitution and prevent citizens from voting by setting up a pretended qualification which, in fact, is no qualification at all?

We believe there is no doubt but that the prerequisite of the payment of a poll tax in order to entitle a citizen to vote has nothing whatever to do with the qualifications of the voter, and that this method of disfranchising citizens is merely an artificial attempt to use the language of the Constitution, giving the State power to set up qualifications, by using other artificial means and methods which in fact have no relation whatever to qualifications.

However, the constitutionality in our opinion does not depend alone upon the language of the Constitution above quoted. There are other provisions in the Constitution and amendments to the Constitution to which we desire to call attention.

Section 4 of article I of the original Constitution reads as follows:

"The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

The subcommittee to which this proposed legislation was referred has held rather extended hearings and has listened to very able and competent constitutional lawyers in the discussion of the constitutionality of the proposed legislation. These two provisions of the Constitution above quoted have been discussed at great length and with great ability by some of the ablest constitutional lawyers in the country.

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

The requiring of a citizen to pay a poll tax before he can vote is in effect the requiring of the payment of money to exercise the highest "qualification" of citizenship. It is in effect taxing a Federal function. The most sacred and highest of all Federal functions is the right to vote. It is not within the province of a State, or its legislature, to fix a fee or tax which a voter must pay in order to vote and try, in this way, to come within the Federal Constitution by calling this a qualification.

In the *Yarbrough* case decided in 110 U.S. 651, the Supreme Court of the United States said:

"The right to vote for Members of Congress is fundamentally based upon the Constitution of the United States, and was not intended to be left within the exclusive control of the State."

Supreme Court Justice Miller in that case said:

"But it is not correct to say that the right to vote for a Member of Congress does not depend upon the Constitution of the United States."

In the *Classic* case, decided in 1941, Justice Stone of the Supreme Court said:

"The right of the people to choose, whatever its appropriate constitutional limitations, where in other respects it is defined, and the mode of its exercise is prescribed by State action in conformity to the Constitution, is a right established and guaranteed by the Constitution."

Justice Stone said further:

"While in a loose sense, the right to vote for Representatives in Congress is sometimes spoken of as a right derived from the State * * * this statement is true only in the sense that the States are authorized by the Constitution to legislate on the subject as provided by section 2 of article I, to the extent that Congress has not restricted State action by the exercise of its powers to regulate elections under section 4 and its more general power under article I, section 8, clause 18, of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'"

One might add that, since voting is one of the fundamental governmental rights, the right to tax this fundamental privilege by a State would be giving to the State the power to destroy the Federal Government. No State can tax any Federal function. This is a proposition which will have to be admitted by all and, if this Federal function—the right to vote—can be taxed by a State, then the State has a right to destroy this Federal function which is, after all, the foundation of any government. As a matter of self-preservation, the Congress in order to save the Federal Government from possible destruction, must have the right to prevent any State authority from destroying this cornerstone of the Government itself.

The right to vote for Members of Congress is a right, as the Supreme Court has said, granted under the Constitution of the United States and, therefore, any law, constitutional or statutory, of a State which taxes this fundamental privilege is contrary to the provisions of the Federal Constitution. It could be said, of course, if these poll-tax laws are unconstitutional, they could be taken to the Supreme Court and there challenged directly and that a law of Congress is therefore unnecessary to protect this constitutional right. This is undoubtedly correct but it does not follow that, when the Congress of the United States has had brought to its attention these poll-tax laws by which millions of our citizens are in effect deprived of their right to vote, that it would not be the duty of Congress itself to pass the necessary legislation to nullify such unconstitutional State laws. Most of these people are deprived of their right to vote by these poll-tax laws which are a method of taxation. As a rule they are poor people and are unable to vote because they are poor. The very fact that it is this class of people whose rights are being taken away makes it clear that they could not rely upon their constitutional rights of carrying their cases to the Supreme Court of the United States. The expense would be absolutely prohibitive and it is therefore the duty of Congress to protect these millions of citizens in their most sacred right as citizens—the right to vote.

We think a careful examination of the so-called poll tax constitutional and statutory provisions, and an examination particularly of the constitutional conventions by which these amendments became a part of the State laws, will convince any disinterested person that the object of these State constitutional conventions, from which emanated mainly the poll-tax laws, were moved entirely and exclusively by a desire to exclude the Negro from voting. They attempted to do this in a constitutional way but, in order to follow such a course, they deemed it necessary to even prohibit the white voter the same as they did the colored voter and hence they devised the poll-tax method which applied to white and colored alike. In other words, the poll-tax laws were prohibitive to all people, regardless of color, who were poor and unable to pay the poll tax.

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

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

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

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

There is no doubt but what Senator Glass stated the real object the convention had in view. The fact that his remarks were received with great applause indicates that his fellow members of that convention agreed with him and that

the real object they had in view, and which they believed they could accomplish, was disfranchising "140,000 ignorant Negro voters."

Under the circumstances, can there be any doubt when perhaps the greatest leader of all stated what the object was and what was expected to be accomplished by the so-called poll-tax laws? If we concede that this was the object of the law, then we admit it is unconstitutional because, if this was the effect of the law, it in fact made an artificial qualification which, in itself, is illegal and unconstitutional, in order to come in under the qualification clause of section 2, article I, of the Constitution.

It ought to be borne in mind also that many, if not all, of these constitutional amendments in the poll-tax States are in direct conflict with the statutes under which these States were readmitted to the Union under the act of Congress of June 26, 1870 (16 Stat., p. 62). The provision which refers to Virginia reads as follows:

"The Constitution of Virginia shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote, who are entitled to vote by the constitution herein recognized, except as punishment for such crimes as are now felonies at common law, whereof they have been duly convicted under laws, equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters."

It therefore follows that these State poll tax constitutional amendments were in direct violation of this statute and therefore absolutely unconstitutional.

It seems perfectly plain that the object of this poll-tax provision in the State constitution was not to prevent discrimination among the citizens but to definitely provide for a discrimination by which hundreds of thousands of citizens were taxed for the privilege of voting and that, therefore, under section 2 of article I of the Constitution, it seems plain that such a provision in the State constitution, or State law, was simply a subterfuge to accomplish other aims by resorting to the so-called "qualification" clause in section 2 of article I of the Constitution. It is likewise equally plain that at the end of the War between the States, when these States were readmitted to the Union, they were readmitted under a statute of Congress which provided explicitly that the constitutions of the States "shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote."

It is therefore plain, under all the circumstances, that the so-called poll-tax laws of the State bringing about such a disqualification to its citizens in the exercising of suffrage is in clear violation of the laws of Congress in addition to being a violation of the Constitution of the United States. It is a clear violation of the agreement made by the State, when it was readmitted, that it should not provide for such discriminatory amendments to the State constitutions. It follows therefore that the so-called poll-tax laws, bringing about the disfranchising of its citizens in the exercise of suffrage, are a clear violation of the laws of Congress in addition to being a violation of the Constitution of the United States.

Those who believe the proposed legislation is unconstitutional rely on the statement of a historic fact that, when the Constitution was adopted, all of the original States had property or tax qualifications. This ignores entirely the testimony of scholars which clearly demonstrates why that fact alone does not prove the right of Congress today to forbid such requirements for voting in Federal elections. It seems to us that this regulation is subject to the criticism which Mr. Justice Holmes leveled against the use of history when he said:

"It is revolting to have no better reason for a rule of law than that it is laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since and the rule persists from blind imitation of the past." (Holmes: The Path of the Law, in Collection Papers, p. 187.)

We think also Justice Holmes was right when, in discussing the situation in *Missouri* v. *Holland* (252 U.S. 416, 433), he said:

"It (the Constitution) must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago."

The constitutional provision relied upon to strike down this legislation as unconstitutional must be considered with other constitutional provisions:

In section 4, article IV, of the Constitution of the United States, it is provided:

"The United States shall guarantee to every State in this Union a republican form of Government."

What does this mean in the light of the present-day civilization? Can we have a republican form of government in any State if, within that State, a large portion and perhaps a majority of the citizens residing therein are denied the right to participate in governmental affairs because they are poor? We submit that this would be the result if under section 2, article I, of the Constitution, the proposed law is held to be unconstitutional. The most sacred right in our republican form of government is the right to vote. It is fundamental that that right should not be denied unless there are valid constitutional reasons therefor. It must be exercised freely by freemen. If it is not, then we do not have a republican form of government. If we tax this fundamental right, we are taxing a Federal privilege. We might just as well permit the States to tax Federal post offices throughout the United States.

Under the guise of a pretended qualification this provision of the Constitution, we believe, has been nullified every time a State has denied the right to vote to any of its citizens because they do not have the money to pay the State the fee set up as a pretended "qualification." We think that this fact has been fully demonstrated by requiring the payment of a poll tax for the right to vote.

It is conceded, we think, even by those who believe the proposed law is unconstitutional that, while the poll tax is comparatively small in amount, if any poll tax at all can be enforced so as to prohibit voting by those who do not have the fee, the principle involved would permit the State to fix a fee much higher than is usually fixed now, and it is not at all unlikely that, in carrying out the real provisions of the poll-tax laws, this amount could be increased so that the poll tax might be fixed at $10, $50, $100, or even greater. The constitutional right to fix any poll-tax fee concedes the right to fix that fee at any amount desired.

Section 1 of the 14th amendment to the Constitution of the United States reads as follows:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

It is quite clear that the so-called poll-tax laws do abridge the privileges and immunities of the citizens of the United States. If citizens of the United States are required to pay a poll tax it is clearly an abridgment of their privileges and immunities.

It is said that section 2 provides an exclusive remedy for a violation of section 1 of the 14th amendment to the Constitution. Section 2 refers to the apportionment among the several States of Represenatives in Congress and provides for the reduction in the number of such Representatives whenever the right to vote is denied. We do not think this remedy is an exclusive one. Section 1 of the 14th amendment to the Constitution is positive in its terms and says that no State shall make or enforce any law which is an abridgment of the privileges and immunities of citizens of the United States.

The sponsors of the poll-tax laws do not admit that they have prevented anyone from voting. In fact these laws do not, on their face, directly prohibit any citizen from voting. The effect is brought about by the levying of a poll tax and providing that the citizen must pay this poll tax in order to vote. While he is not denied the right to vote, he is taxed for this privilege and, in case of poverty, this results in a denial of the privilege of voting and thus directly interferes with the citizen's right to participate in governmental affairs. Section 1 of the 14th amendment to the Constitution says that this shall not be done and these laws therefore come in direct conflict with section 1 of the 14th amendment.

The 14th amendment to the Constitution has other sections referring to the right to hold office by a Senator or Representative in Congress and with reference to electors for President and Vice President. Section 4 of this amendment refers to the public debt of the United States and prohibits the United states or any State from assuming or paying any debt or obligation incurred in aid of insurrection or rebellion against the United States. Section 2, as above stated, refers to the apportionment of Representatives among the several States.

There is no more reason why section 2 should modify section 1 than there is that section 3 or section 4 should be considered in connection with section 1.

It is quite clear that the so-called poll-tax laws do abridge the privileges and immunities of citizens of the United States. If any citizen of the United States is deprived of the privilege of voting by any of these poll-tax laws, it seems a clear abridgment of the privileges of citizens of the United States. One of the

greatest privileges, and a fundamental one, of every citizen of the United States is the right to vote. If he is deprived of this right, he is denied the right to participate in governmental affairs. Such a citizen becomes an outcast. He is subject to all the laws of the State. His citizenship is admitted and the burdens which rest upon him are the same as rest upon all other citizens. He can be drafted into the Army and be compelled to face the foe and give up his life to protect the lives of his fellow citizens. Yet he is deprived of the most sacred privilege of all—the right to vote. It is quite evident that all these poll-tax laws are in direct violation of section 1 of the 14th amendment to the Constitution as well as being in violation of other constitutional and Federal laws heretofore referred to.

The CHAIRMAN. At this point, the Chair wishes to announce that the record will be kept open for 5 days following today's meeting for insertions in the record and for corrections; 5 days.

Mr. CONYERS. Thank you.

Gentlemen, the thing that concerns me most, in addition to these matters already discussed, is the question of the intimidation, coercion, and physical violence that characterizes the conditions surrounding voting rights in the South. I am hopeful that we will do all that we possibly can in this area. Finally, Mr. Chairman, let me reiterate my feeling that we have responsibility to draft fully effective voting rights legislation because it is not just a legal question but it is a moral question that we have been called upon to resolve. The course of American history will be decided not only by what happens in the law libraries here but what is in the hearts and minds of the Members of this Congress.

Thank you very, very much, Mr. Chairman, for this opportunity. I will submit my statement for the record.

(Statement referred to follows:)

STATEMENT OF CONGRESSMAN JOHN CONYERS, JR., FIRST DISTRICT, MICHIGAN

APRIL 1, 1965.

Chairman Celler and members of the subcommittee, I deeply appreciate the courtesy and consideration extended to me by this subcommittee and by our honored and distinguished chairman. I am doubly indebted, Mr. Chairman, for you have permitted me not only to question witnesses, but also to testify myself.

I feel that this is the most important bill I shall ever be privileged to work on. What we do in the Judiciary Committee could guarantee, for the first time in American history, the right of all Americans to fully and fairly participate in the political process, and give true meaning to the 15th amendment which was finally ratified exactly 95 years ago as of Tuesday.

I am very much aware that the members of this subcommittee have had more experience than I in the technical and difficult area of drafting good legislation that will avoid constitutional pitfalls. Therefore, I make my remarks this morning in a spirit of humility and cooperation and with the deep hope that I may help to further the "dignity of man and the destiny of democracy" of which President Johnson spoke so eloquently on March 15.

BILL MUST BE STRENGTHENED

I am very concerned that this bill must be strengthened if we are to meet our responsibility to deal with the moral and political crisis facing this country. Congress passed civil rights legislation in 1957, 1960, and 1964 designed to guarantee the right to vote. Yet, millions of Americans are still denied the right to vote by means both blatant and devious. Unless we pass a voting rights bill this year which will quickly and finally secure the vote to all Americans regardless of race, I fear the increased feelings of discontent may reach epidemic proportions.

I have heard and am aware of statements that have been made by some that they did not support the inclusion in this bill of further protections of the right to vote, because they feared this would "weigh down" the bill and

result in its defeat. I must honestly admit to a very different concern. After three unsuccessful attempts, if our fourth try at drafting voting rights legislation is not successful, I fear that we risk creating a feeling of cynicism and frustration among many American citizens with regard to the effectiveness of justice in our democracy.

President Johnson's speech was the most explicit and the most far-reaching one ever made by an American President concerning the right to vote. The overwhelming national support given that speech demonstrated that it reflected the sentiments and mood of the great majority of the American people. We have seen thousands of American citizens from all walks of life and backgrounds journey to the South in the last few weeks to make personal witness of their determination to achieve equal rights for all Americans. In the last few days, I have been receiving telegrams and letters from all over the country on this subject, as I know my colleagues have, from not only leaders of labor unions, civil rights groups, and each of the major religious denominations in Michigan, but from prominent Americans all over this country, calling for speedy and effective enforcement of the equal right of all Americans to vote. These telegrams demonstrate the overwhelming support from all over the country for improvements in the bill by leaders of labor, civil rights, and religious groups.

The great majority of our colleagues will approve the strongest bill necessary to finally guarantee the right to vote, because they know such a measure is vitally needed, long overdue, and has the complete support of the country. The American people have repeatedly shown that they fully support President Johnson's determination that we "must overcome the crippling legacy of bigotry and injustice. And we shall overcome."

Mr. Chairman, I would like to discuss the various amendments which I strongly support.

MORE EFFECTIVE SAFEGUARDS AGAINST VIOLENCE AND INTIMIDATION

Frankly my greatest concern about this bill is that it may result in a recurrence of the terror, violence, and economic reprisals which were so effective in the South during Reconstruction as a means of subverting the legislation passed after the Civil War to protect the rights of Negroes. The history of the South has repeatedly shown that legal techniques are used to maintain a racially discriminatory society, but that when that social order is significantly challenged extra-legal techniques are used to protect the system against change. State and local governments in the various areas where Negroes are disfranchised have shown that they are either unwilling or unable to guarantee law and order. We must have more effective Federal safeguards against violence and intimidation.

I fully support and applaud the President's plan to quickly submit legislation to this Congress which will combat the uses of violence and intimidation against Negroes and other groups by such organizations as the Ku Klux Klan. But certainly Congress cannot provide Negro Americans with expanded opportunities to gain their right to vote without, at the very same time, providing safeguards against the violence and intimidation which have usually accompanied the efforts of Southern Negroes to gain their equal rights.

I fully support the leadership conference on civil right's proposed amendments which would broaden the protections against violence and intimidation to cover all persons trying to vote, whether or not under the specific provisions of this act, and to increase the penalties for acts of intimidation and violence when a human life is placed in jeopardy. I also strongly support safeguards for people attempting to inform and assist people in the exercise of their rights to register and vote.

In order to provide full and effective enforcement of this act, we should authorize civil actions to be brought, both by the injured party and by the Attorney General on behalf of the injured party. In cases of suits for money damages against governmental officials, the political subdivision should be jointly liable, so that the suits are both economically meaningful and are brought against the responsible authorities.

We should authorize the Attorney General to assign the FBI agents and U.S. marshals to observe the entire process; registration, voting, and counting of the ballots. When local officials refuse or are unable to enforce the laws, the only true and effective guarantee of any voting rights bill we pass is the presence of such Federal law enforcement officials.

We must protect not only the voter but also the Federal examiners and hearing officers. I propose that we include these new Federal officers under the provisions of title 18, United States Code, section 1114, so that the same penalties for interference, intimidation, assault, or murder should apply as is now the case with not only Federal judges, U.S. attorneys, FBI agents and U.S. marshals, but also with the field officers of the National Park Service and the Bureau of Land Management.

It is because I feel that in many areas it will be a very difficult and dangerous thing to be a voting examiner, that I am so concerned that we not require that the examiner be a resident of the local area. In many places it may be extremely difficult to find a local person who will be willing to serve as an examiner. If there is such a person he would inevitably be subject to the most extreme forms of social and economic pressures against both himself and his family.

VOTING QUALIFICATION

I support the provisions of the Case-Douglas bill which specifically itemize the types of State voting qualification that will be administered by the Federal voting examiners. The bill we are now considering would suspend literacy tests and other devices, but what of the many other restrictions on the franchise which were designed and are being used to deny Negroes the right to vote. Let me cite some of the reasons people are denied the right to vote in some of our States: Louisiana—any person convicted of a second misdemeanor and sentenced to more than 3 months or any person when convicted of even his first misdemeanor if he is sentenced to more than 6 months. Alabama, vagrancy: None of these restrictions would seem to come under the definition of "tests and devices" which are suspended in those States under section 3(a) of H.R. 6400. Presumably mass arrests for vagrancy would result in the inability of even a Federal examiner to register such people.

RIGHT TO RUN FOR OFFICE

If we are to secure the right to vote which is defined in this act as "all action necessary to make a vote effective," then we must protect the validity and fairness of the entire political process, including participation in political parties and running for office. A vote is meaningless unless there are significant choices on the ballot. Protecting the right to vote without assuring that Negroes could run for office would certainly be a mockery. If Alabama could keep President Johnson off the ballot, it might be much easier to prevent a Negro candidate from filing for any office.

VOIDING OF ELECTIONS WHERE THE RIGHT TO VOTE IS STILL DENIED

Section 9(e) does not fully meet the problem with respect to any person voting or attempting to vote under authority of this act. As George Meany, president of the AFL–CIO, jointed out, the Landrum-Griffin Act provides that union elections are declared void and new elections are held under the supervision of the Department of Labor if the courts find that there have been violations of Federal law which may have affected the outcome of the election. I support an amendment to section 9(e) which would also provide for the holding of new elections under the direct supervision of the Federal court where 50 or more persons were denied the right to vote. Such a provision is contained in the Lindsay bill, H.R. 4552.

EXTEND BILL TO COVER AREAS WHERE NEGROES ARE DENIED THE VOTE

I want to associate myself completely with the proposals that examiners will be appointed in any political subdivision where less than 25 percent of the Negro citizens are registered to vote or where on complaint of 20 individuals, the Department of Justice determines that a pattern exists of denying the right to vote on account of race. The Congress must not be put in the untenable position of providing safeguards against denials of the right to vote in only certain selected areas of the country. Racial discrimination is an evil which we must work to eliminate wherever it is found.

ELIMINATE REQUIREMENT OF APPLYING FIRST TO LOCAL VOTING REGISTRARS

This bill is aimed at the area that the President described as having "systematic and ingenious discrimination." Under this bill determinations will first be made of those areas where the right to vote has continuously been

denied because of race. Then the Attorney General must find that the appointment of examiners in those areas is necessary to enforce the guarantees of the 15th amendment. What is the sense of first determining that the local officials still refuse to conform with the intent of present Federal law and then requiring Negroes to apply for registration to those local officials and be refused before we provide the remedy of a Federal examiner? I strongly urge an amendment to section 5(a) which will allow a citizen to apply directly to a Federal voting examiner without any preliminary step.

ABOLISH THE POLL TAX

How ironic it would be for us to draft a new Federal law to assure that Negroes can be registered and then have them met by the Federal examiner with the request that they pay $1 or $2 or $3 for the right to vote under our provisions of new and effective guarantees of the right to vote. As stated in an official report of the Senate Judiciary Committee in 1942 (77th Cong., 2d sess., S. Rept. 1662), "the object of these State constitutional conventions from which emanated mainly the poll tax laws, were moved entirely and exclusively by a desire to exclude the Negro from voting." As the report further states the effect was also to restrict the rights of many whites to vote, but this was considered to be an unfortunate but necessary result of excluding Negroes from the franchise. Mr. Chairman, this Senate committee report of more than 20 years ago so well demonstrates that poll taxes are in violation of the Constitution, particularly the 15th amendment, that I ask that the report be printed in the record immediately following my testimony.

Of course, the poll tax has been and is being applied discriminatorily to deprive Negroes of the right to vote. Even if the poll tax was applied in a nondiscriminatory manner, it would still violate the 15th amendment, since Negroes as a group are almost half as well off financially as are the rest of the population. A poll tax continues into the future the effects of past unconstitutional State action in discriminating against Negroes in educational and economic opportunities which has resulted in their current economic status.

CONCLUSION

We should be responsive to President Johnson's request for suggestions of "ways and means to strengthen this law and to make it effective." President Johnson has well described our very difficult job, but also our great responsibility, when he described the problems of guaranteeing the right to vote: "Every device of which human ingenuity is capable has been used to deny this right."

We cannot be satisfied with anything less than a bill that completely fulfills the promise of President Johnson's March 15 speech to once and for all guarantee that "Every American must have an equal right to vote. There is no reason which can excuse the denial of that right." All America awaits our translation of the President's eloquent words into the last voting rights bill we will ever need to pass. We must not default on that promise.

We are here today concerned with more than just a legal question: this is also a moral question that we have been called upon to resolve. The course of American history will be decided not just by what happens in the law libraries, but by what takes place in the hearts and minds of men and women in the Congress of the United States.

The CHAIRMAN. Thank you, Congressman.

The Chair wishes to place in the record the following statements: the statement of Rev. Andrew Fowler, director of the Washington Bureau of the National Fraternal Council of Churches; the statement of Walter P. Reuther, president of the United Automobile Workers; the statement of the Honorable James Roosevelt, of California; the statement of Mildred E. Brush, chairman of the Minority Rights Committee of Westchester, Mount Kisco, N.Y.; the statement of the distinguished member of our own committee, Representative Basil L. Whitener, of North Carolina; and the statement of Representative Jack Edwards, of Alabama.

(Statements referred to follow:)

STATEMENT BY REV. ANDREW FOWLER, DIRECTOR OF THE WASHINGTON BUREAU OF THE NATIONAL FRATERNAL COUNCIL OF CHURCHES, U.S.A., INC.

MARCH 1965.

Mr. Chairman and members of the committee, the National Fraternal Council of Churches, representing more than 8 million members, urge the committee to report favorably the President's bill guaranteeing voting rights as a minimum. It is now clear to all that without the passage of the bill people will be continuously deprived of their basic right to vote. Further, the officers of the Fraternal Council of Churches hope that the administration's bill can be strengthened to guarantee the right to vote to all citizens without reservaiton because of race, creed, or color. We, therefore, reaffirm our conviction that a law must be passed to outmode the poll tax in all levels of our Government. The poll tax is as inconsistent with the ideals of the Christian church in a county or State vote as it is in a vote for Federal officials. We have contended again and again as we do now that:

1. The poll tax is contrary to the ideals of the Christian church, inconsistent with the spirit of democracy and the Constitution of the United States guaranteeing a free ballot, as it withholds the privilege of voting from those unable to pay, preventing Christian expression in civic affairs of the community, county, State, and Nation.

2. The effect of the poll tax has been to disfranchise poor people both white and Negro, lowering the dignity of man and creating a corrupting influence to the extent that political machines may control elections by buying poll tax receipts for a few hundred votes.

3. The free use of the ballot is more than a protest against existing conditions or a desire, or just a desire, to correct evils, but also is a constructive effort to give expression to Christian ideals and convictions in the vital affairs of civic and national life.

4. The Christian church believes in the fatherhod of God and the brotherhood of man, and loyalty to this belief demands that we use the ballot as one of the channels to make this belief a living reality in the world today.

Finally, we believe the law should be so inclusive as to provide some form of protection for the voter before and after elections that reprisals may not be taken against him.

STATEMENT OF WALTER P. REUTHER, PRESIDENT, UNITED AUTOMOBILE WORKERS, AFL–CIO: PRESIDENT, INDUSTRIAL UNION DEPARTMENT, AFL–CIO

MARCH 31, 1965.

It is with mixed feelings of hope for the future and regret for the past that we express the support of the United Automobile Workers and the Industrial Union Department for the pending administration legislation (H.R. 6400) to give life to the 15th amendment to the Constitution. Today we have high hopes that at last the 15th amendment will become a reality for our millions of Negro fellow citizens too long denied their voting birthright. Our million and a half members of the U.A.W. and our 6 million members of the Industrial Union Department are proud that we have been and that we remain in the forefront of the movement to win equal justice under law for every American, regardless of his color, religion, or national origin.

But it is also with sorrow that we must acknowledge how long our great constitutional principles of liberty, equality, and suffrage for Negro Americans have been empty promises, which the American people have suffered to go by default generation after generation. The 15th amendment enacted almost a century ago, states that Congress shall have "power to enforce" by appropriate legislation the guarantee that the right of citizens to vote "shall not be denied * * * on account of race, color, or previous condition of servitude." It is a tragic irony of American history and politics that following the Civil War, Congress passed legislation to enforce the 15th amendment, but that after the Hayes-Tilden Compromise of 1876 which promised an end to Reconstruction, all the effective laws were repealed and the great emancipation amendments relegated to empty promises.

Nor can we find much cheer in the fact that three times within a decade—first in 1957, then in 1960 and again in 1964—Congress extensively examined voting discrimination against Negro Americans and enacted laws intended to secure, but inadequate to secure, 15th amendment rights. Nor was the Congress unaware of the scope of the power the administration now urges it to employ. It will be recalled that in 1960 such great champions of equal rights as Senators Humphrey, Hart, Javits, and others, fought unsuccessfully for congressional

establishment of Federal registrars to achieve speedy and fair registration of the masses of Negro Americans in the South who were disfranchised then and remain disfranchised today.

We are now a century after Emancipation and the freedom amendments to the Constitution and almost 200 years after the citizens of Boston established the great principle of the citizen taxpayer's right to representation by officials of his own choosing—the first principle of a democratic society. The voting rights law now to be enacted must accordingly be so complete and effective that it will universally enforce the 15th amendment, and make its promise a reality for every citizen in next year's national elections. That is what the pending bill can and must achieve.

First and foremost, the bill provides for Federal registration officials to achieve the enrollment of disfranchised Negro citizens. Certainly, with great masses of Negro citizens still systematically denied the right to register and vote, and when the piecemeal processes of litigation have proved so slow and ineffective, expeditious registration by Federal officials has become a remedial necessity. After all, if an election is held and the citizen is denied the right to vote therein, he has lost that constitutional privilege forever when the polls close.

It is with the knowledge that delay means defeat for the Negro voter that southern officials have used every means to delay the registration of Negro citizens. When suits have been filed, State registrars have resigned for months and years to prevent enrolling Negro voters. In some cases they have opened the polls only briefly and sporadically, or indulged in "slowdowns," with the result that Negro citizens have had to stand in line for days just to get into a registrar's office. Once in the office, they have been subjected to discriminatory registration standards, to loaded "literacy" tests, and to outright discrimination in the administration of registration requirements. Efforts to correct this situation in the courts have proved inadequate, because the defending officials have known that judicial delay in registration could mean defeat of registration. Thus in successive elections since 1957 the clear congressional intent of the 1957, 1960 and 1964 Civil Rights Acts has been defeated. Here, we submit, is the record that compels appointment of Federal officials who, employing legitimate State voter qualifications, will register voters for Federal, State, and local elections without further discrimination or delay.

The second great principle of the pending legislation is the abolition of literacy and other tests in States where they have been utilized as methods of discrimination to disfranchise Negro voters. Certainly, here too is a minimum measure necessary to enforce the 15th amendment. For the record is crystal clear that in certain Southern States, when it comes to voting rights, "literate" is a euphemism for "white,' and "illiterate" means "colored." Moreover, it is a hollow irony that the very States which continue to deny the vote to Negroes on the literacy pretense, are the ones whose entire population is consistently shown to be the least literate among our 50 States, and that these are the very States which have denied their Negro citizens an adequate public education through a system of segregated and inferior public schools. Thus we have the white Mississippi Legislature operating an inferior and illegally segregated public school system for Negro children, and then turning around and saying to these same wronged citizens "You are not educated enough to decide who shall govern you." In short, "literacy" is used as the device for perpetuating white supremacy rule and defeating the guarantee of the 15th amendment.

H.R. 6400 is a good bill because it deals forthrightly with the problem of literacy and other tests and because it meets the need for a Federal registration system. It goes a long way toward the goals of the UAW and IUD. It goes a long way toward the goals so eloquently expressed by President Lyndon B. Johnson in his historic address to Congress on Monday, March 15. But it does not go the whole way. Good as the bill is, it very definitely needs strengthening.

The UAW and IUD are part of the Leadership Conference on Civil Rights. We subscribe wholeheartedly to the proposals of the Leadership Conference (presented by Roy Wilkins, chairman, on March 24) to strengthen the bill in at least the following respects:

"(1) The total elimination of the poll tax as a restriction on voting in State and local elections as well as in Federal elections.

"(2) The elimination of the requirement in the bill that a prospective registrant must first go before the State official to attempt to register before going

to the Federal registrar or examiner. The prospective registrant ought not to be put to the delays, the hardships, and the indignity of attempting to satisfy hostile State officials before he can come to the Federal registrar.

"(3) Extended coverage of the registrar or examiner provisions of the bill, so that persons who have been wrongfully denied the right to vote, regardless of their geographical location, will have the benefits of these provisions of the legislation.

"(4) Further and maximum protection of registrants and voters both those who will be registered under the bill and those already registered, and prospective registrants, from all economic and physical intimidation and coercion. In extending such protection, the Federal Government should use the full range of its powers, criminal, civil, and economic, to protect the citizens from the beginning of registration process until his vote has been cast and counted."

The prompt enactment of the pending legislation should achieve great and worthy national purposes. First, it will secure to millions of Negro citizens the equality of participation in the democratic process which is their constitutional liberty. Second, Negro suffrage in the South will serve to restore the moral fiber of the South and of the Nation, by ending the debasing political and social apartheid system. The power of the vote will help to replace the bitterly divided dual societies with a working alliance between the leadership of the responsible Negro and white communities—an alliance for the achievement of common understandings and solutions. Finally, the great image of America as the land of liberty and equality which has been so badly tarnished in recent years will be restored to its former position. At a time when the people in the underdeveloped nations are searching for the relevant social economic revolution to promote their human aspirations, it is vital that the Nation born in dedication to liberty and equal rights speak to them with a clear conscience. With the voice of a clear conscience restored, not Communist or totalitarian demagogues but those who point the way to the democratic ideal will provide the pattern for the peoples whose own declarations of independence are being written in the 20th century. Enactment of this legislation will thus be a vital symbol of our rededication to the great first principles of liberty and equality, for which Americans have given their lives at Bunker Hill and Gettysburg, at Philadelphia, Miss., and on the road from Selma to Montgomery, Ala.

STATEMENT OF HON. JAMES ROOSEVELT, OF CALIFORNIA

MARCH 30, 1965.

Mr. Chairman, members of the committee, thank you very much for granting me this opportunity to offer testimony in support of H.R. 6400, to enforce the 15th amendment to the Constitution of the United States. My endorsement of this important legislation has been indicated through introduction of an identical bill, H.R. 6500.

Mr. Chairman, the events in Alabama during the past few weeks have served to awaken the conscience of America. We have been witness to a historic fight in which death and lawlessness have come to our fellow Americans who have but peacefully demonstrated their determination to obtain for our Negro citizens the fundamental right to vote as stated in the 15th amendment to the Constitution: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The bill now under consideration by this committee is the "appropriate legislation envisioned in section 2 of amendment 15.

To register and vote is a privilege to be exercised and enjoyed by all Americans. When one group is denied the freedom to exercise this right, we deny all Americans. This denial cuts deep at the roots of our great democracy, for at the heart of the success of any democracy lies the right of the citizenry to freely express itself at the polls. When any group within the society is denied the rights guaranteed it, democracy itself is in jeopardy.

We have known for some time that there were many within our country who were disenfranchised because of the color of their skin, and we have tried through peaceful demonstration and protest to restore this right to them. We have spoken of many solutions. However, words and thoughts will no longer do to win the battle for equality. We must now take positive action to end the breakdown in local law which has taken place in some of our States. Steps must be taken by this Congress to insure every man regardless of the color of his skin

the privilege of casting his vote. We cannot bury our heads in the sand, and we cannot look on this as the struggle of others. As the President stated in his message to the Congress, "there is no Negro problem, there is no southern problem, there is no northern problem. There is only an American problem." And we must meet that problem as a unified Congress and a unified America.

This great struggle for human liberty is one which must be borne by all of us. And while the road ahead may be a long one, with each step we serve to strengthen and reinforce the bonds of democracy.

May I take this opportunity to applaud the fine members of this committee who have worked diligently for long days and nights in consideration of this bill. The tireless work of the committee members and staff is to be commended.

Mr. Chairman, members of the committee, I add my voice to the appeal for your early and favorable report on H.R. 6400.

STATEMENT BY MINORITY RIGHTS COMMITTEE OF WESTCHESTER, MOUNT KISCO, N.Y.

The members of this committee come from the ranks of the hard-pressed, long-suffering segment of the American public who love this country, respect its laws, work hard to pay outrageous taxes. We are productive and, as a rule, we are temperate. These remarks will not be temperate.

Mr. Chairman, how low is the Government of the United States going to crawl before the mobs of the world? This Government is on its knees in every continent. Will it crawl on its belly here at home?

The so-called civil rights movement, the vanguard of the looters' revolution, has gotten out of hand with the tolerance and encouragement of the President, of Congress, of the Supreme Court, and the Attorney General. We believe that there has been enough of it and that it must be stopped forthwith. The Communists have stated it quite clearly. We quote the Worker of March 18.

"Those who forecast, or hoped for, a decline in the freedom fight after passage of the civil rights law, including President Johnson, failed to understand the nature of the goals of the civil rights revolution."

Our responsible leadership must understand that a bloody revolution has been begun which is neither social nor peaceful. No legislation will diminish it as long as it is pandered to as we shall show.

Where in the Constitution are citizens of the 50 States authorized to invade a sovereign State to address the Governor of that State and force that Governor to accept invasion by Federal armed troops to protect the invaders? What possible right have the citizens of New York, Michigan, California, and Alaska to go to Alabama demanding immediate action on matters being adjudicated in the courts? What kind of example is this for our youngsters in the Nation's schools already getting the message and staging their own violence, abetted by agents of the looters? Will someone please tell us?

What right has Martin Luther King, or any other citizen, to stand up and declare defiance of the courts, address the President personally to demand and get instant legislation tailored to his liking? Will somebody please tell us, sir?

What possible right, under the Constitution, have Representatives to Congress, employed to represent Westchester County, New York State, to join other Congressmen in urging the President of the United States to invade with armed troops and, by inference, to overthrow the lawfully constituted government of a sister State, or 2 percent of the United States? Will someone please tell us?

The office of Mr. Nicholas deB. Katzenbach, Attorney General of the United States, was invaded by the mob. According to press accounts, the Attorney General maintained the dignity of his high office by literally getting on his knees to talk with them on their lie-in level. In a "friendly, picnic-type mood" Chief U.S. Marshal James J. P. McShane had lunches sent up to them. In New York City Mr. Katzenbach's marshals were attacked and beaten by a flying wedge of nonviolent demonstrators; but there were no arrests. Will someone tell us why?

Mr. Chairman, there is a most serious matter before your committee which seems to have been laid aside in deference to the demands of Mr. King through the office of the Chief Executive. That grave matter has to do with the right and responsibility of 190 million Americans to determine for themselves how they shall be governed. We refer, of course, to the *Reynolds* v. *Sims* mobocracy decision by members of the Supreme Court.

Congress spent many months last year drafting and passing the Civil Rights Act of 1964. In that are are more "rights" than any segment of the population can take advantage of in a lifetime. There has not even been time to implement

that recent act. The fact that the voters righters will not wait for development of results of that legislation suggests that their motives are other than claimed. Regardless of that, it would seem that for the present Congress has spent more than enough time on the "rights" of 20 million. The question of reversing or nullifying the one-man, one-vote decisions involves 190 million people, including the "civil righters," and must by seniority have priority at this time.

Fifty sovereign States are being kept waiting. All the people in them are being kept waiting while Congress, representing the 50 States and the 190 million people meekly accepts the demands of Martin Luther King and lets them wait. Can anyone tell us why?

The 88th House of Representatives acted properly within the power delegated to Congress by the States to regulate or to except in matters pertaining to the jurisdiction of the Supreme Court under article 3 of the Constitution when it passed the Tuck bill. The Senate balked and filibustered. It did not act.

This committee contends that under the laws of contract, in this case the Constitution, an agent, which the Supreme Court is, created by the contract may only act as an agent (Court) within the powers delegated in the contract. As upheld in over 80 decisions of the Supreme Court itself, attempted acts by agents outside the powers delegated are not acts but are null and void.

Mr. Chairman, this matter directly involves the life or death of this Republic. The 89th Congress now has before it the pleas of the States for relief by the amending process and/or constitutional convention. We believe that neither of these long processes are necessary and that, if it wanted to, Congress could immediately reconsider the Tuck bill or similar legislation. This is the most crucial issue ever to come before Congress. It should have been and now should be resolved before consideration of any other matter. Therefore, we ask that you put aside the demands of Martin Luther King and discharge your sworn duty to "support this Constitution" and defend this Nation from enemies within and without.

If this is not done in the immediate future, either by exercising the power delegated to Congress in article 3 of the Constitution or by proposing an amendment acceptable to the States with all due speed, this committee will be forced to join the many who will ". . . Dare Call It Treason."

For God and country,

MILDRED E. BRUSH,
Chairman.

STATEMENT OF BASIL L. WHITENER, REPRESENTATIVE OF NORTH CAROLINA

APRIL 1, 1965.

Mr. Chairman and members of the subcommittee:

I welcome the opportunity to state some of my views with reference to H.R. 6400, which was introduced by the chairman of this committee on March 17, 1965.

In my judgment this proposed legislation constitutes a naked assault upon established constitutional principles and provisions. This is true, notwithstanding its title which states that it is "to enforce the 15th amendment to the Constitution of the United States."

At the outset, I hasten to take my stand with those who defend the right of every qualified voter in the United States to cast his ballot and have it counted. No one can jusify a position supporting the denial of such rights if he believes in the plain language of the Constitution (15th amendment, 19th amendment).

The proposed legislation goes far beyond constitutional authority of the Federal Government. For that reason H.R. 6400 will not have my support.

The latest constitutional decision by the American people on the question of who determines the qualifications of voters is found in the 17th amendment, which became effective in 1913. This is the amendment which provides for the direct election of U.S. Senators. It carries forward the language found in article I of the U.S. Constitution to the effect that "the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State legislatures." This is a clear statement that nothing in the Constitution, or the several amendments thereto, has divested the several States of the right to fix the qualifications of voters.

H.R. 6400 would, in effect, seek to eliminate basic, necessary, and proper qualifications required of citizens to vote by the several States in all elections. Thus, if it is enacted into law, it will strike down the right of the States and local governments to determine who shall vote in non-Federal, as well as in

Federal, elections. This, I believe, is not a proper constitutional effort of the Federal Government.

This would be accomplished by providing in section 3 (a) of the bill that in any State or political subdivision where a qualification test is required and the Director of the Census determines that less than 50 percent of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 percent of such persons voted in the presidential election of November 1964, the Federal authorities could then take over local elections.

The unfairness of this proposition is immediately apparent when one gives it the slightest consideration. An example of the unfair result that might be experienced will be seen in North Carolina where the are extensive military operations and the military personnel and their dependents are credited for census purposes to the local communities and to the State. A major portion of the military personnel and their dependents would not be eligible to vote in North Carolina but would be considered in the formula provided by section 3(a) of the bill.

The same condition exists in the States of Kansas, Missouri, and Oklahoma, where there are large military installations which increase the census population figures. When considered against registration and voting in the 1964 presidential election we find that less than 50 percent of the adult population enumerated in the 1960 census were registered and voting at that time.

Furthermore, under the provisions of the bill an entirely different application of its principles would be found if in some of those named States there were no voter qualification tests applied while in other there were such tests.

Another example of defect in the legislation is that in a State where there are no literacy or qualification tests there could be rank discrimination against voters without any intervention of the Federal authorities if more than 50 percent of the voters of that State were registered and voted in the presidential election of November 1964. This is an untenable situation if we are to have uniformity of the Federal law between the several States.

Before concluding I would like to vigorously protest the language contained in section 3 (c) of the bill. The requirement that a political subdivision or State, which falls within the absurd formula outlined in subsection (a) and (b) of section 3, bring a declaratory judgment action against the United States in the District of Columbia is unworthy of a second thought by members of this committee.

To require that all such actions be filed in the District of Columbia before a three-judge district court places an unfair burden upon the States and local governments and casts a reflection upon Federal courts throughout the Nation by inferring that they are incapable of fairly handling this type of litigation.

It gives the impression that the Congress of the United States and the administration are setting up a kangaroo court situation for the purpose of adjudicating certain actions between the Federal Government and State and local governments because some Government officials do not have confidence in our several local Federal judges. This subsection is shocking in its content. It is unworthy of support by any person who believes in evenhanded justice.

Mr. Chairman, there are many other valid contentions that I could make against this bill. I will forgo them at this time since as a member of the full Committee on the Judiciary I will have an opportunity when we come to write up the bill to point out those contentions. At that time I believe that the full committee will give judicious consideration to the suggestions of our colleagues on the committee. At that time we can either defeat this bill or write up one which will be consistent with constitutional principles and standards of fairplay.

In the meanwhile I urge that your subcommittee not favorably report H.R. 6400 to the full committee in its present form since I know that its basic defects are readily apparent to each member of this subcommittee.

If, after consideration by the subcommittee and the full committee, this legislation is brought to the floor of the House for debate, I will undertake at that time to encourage the House of Representatives to vote it down.

STATEMENT OF HON. JACK EDWARDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

APRIL 1, 1965.

Mr. Chairman, I want to thank the committee for this opportunity to present my views with regard to H.R. 6400 and the general subject of voting rights legislation.

As we all know, the subject has been one of real concern to the Congress for several years; and justly so, since it involves one of the most fundamental concepts of our democratic system of government.

The 15th amendment to the Constitution guarantees to every American citizen the right to cast a ballot. This right is basic to representative government. I believe in this right of every qualified citizen to register and also to cast a vote on election day. Anything less than a full and equal opportunity to vote by all qualified citizens presents our country with a problem which must be corrected.

And I want to make it very clear, Mr. Chairman, that I join with other citizens from all parts of the country in regretting the violence which has broken out in recent weeks over this issue. It has been a tragic series of events, not only for Alabama, not only for the South, but for the United States. I know that we all concur in the need to bring an end to violence, and to bring men of good faith together in the interests of advancing harmony and progress.

We, in Alabama, also regret that the issue has been presented to the Nation in a vastly oversimplified manner based on incomplete information. We would ask that events in Alabama be judged on the basis of demonstrated facts, and according to the same standards used to judge events elsewhere. With this kind of approach, concerned persons everywhere will reach conclusions reflecting a realistic combination of understanding and indignation.

For example, if law enforcement officers in Washington, D.C., or Rochester, N.Y., find it necessary to forcefully eject demonstrators from public buildings and streets in the interests of community order, then perhaps it is conceivable that law enforcement officers in Southern States can act in similar ways to maintain law and order in their own communities without bringing down the wrath of the Nation. Alabama citizens are also concerned with order in their communities. And these are sentiments which I believe we hold in common with other respectable people throughout the Nation.

All of us will agree that the key to the American right of peaceful demonstration and protest is responsibility. Reasonable men assume that a demonstration by individuals acting responsibly is to be honored. But how easy it is to lose sight of the distinction between responsibility and irresponsibility when we are far from the scene. And how quickly the distinction becomes clear when one's own freedom to move through a hallway or along Pennsylvania Avenue in Washington is affected.

And, if I may add, gentlemen, how easy it is for citizens around the country to divert their attention from unsavory social and economic and political conditions in their own cities and towns in order to join in what has evidently become the popular activity of pointing an indignant finger at an easy target.

Without question, many of the individuals engaging in demonstrations in Alabama have been motivated by a sincere desire to see voting rights extended to all citizens. Unfortunately, others have sought to becloud the facts so as to exploit the good intentions of many other Americans for their own purposes, to encourage the setting of a double standard of values, and to arouse emotion both in Alabama and elsewhere.

What are some of the facts which have been effectively submerged?

1. On February 4, 1965, in Mobile, Federal District Judge Daniel H. Thomas issued an order, acting under the civil rights laws of 1960 and 1964, requiring the board of registrars in Dallas County, Ala., where Selma is located, to receive and register all persons who submitted applications.

Further, he ordered that if the requested registrations could not be completed by July 1965, the Federal voting referee would receive and process applications.

I want to submit, Mr. Chairman, that the officials of Dallas County, though not pleased with the order, were going about the business of complying with it. Further, they were taking pains to let the country know of the actions they were taking and planned to take. But this real evidence of progress toward expansion of voting rights made no difference to the professional demonstrators. The agitation work was begun, and senseless violence erupted, even though the avowed goal of the demonstrators had already been achieved through the courts.

2. In Alabama, we do not have the oversimplified voting participation pattern that some would have the Nation believe. We have approximately 115,000 Negroes registered to vote in the State, more than 20 percent of the vote cast in the 1960 presidential election.

In other words, today's objective in Alabama is not a complete reversal of direction. Rather, we have made some good beginnings, and we have been

moving ahead. The intrusion of demonstrations, carrying with them the heated emotions of both extremes, has served not to aid progress in Alabama, but to retard it.

3. Just 5 years ago, on March 18, 1960, there was a proposal made in the U.S. Senate to enact legislation establishing Federal voting registrars to serve as enrollment officers in cases where voting registration discrimination existed against a particular race or class. That proposal, offered as an amendment by Senator Douglas of Illinois, was weaker than H.R. 6400 in that the machinery for Federal voting registration would be set in motion by the complaints of 50 persons instead of only 20 as in the current proposal.

The amendment was defeated on a vote of 53 to 24 when Senator Dirksen of Illinois and the then Senator Lyndon Johnson of Texas opposed it, along with others who raised constitutional questions. Among those voting against it were Senator Fulbright of Arkansas and the present majority leader of the other body, Senator Mansfield of Montana.

Surely the reasons which these distinguished gentlemen had for opposing a system of Federal registrars in 1960 cannot have changed so drastically that now in 1965 the same gentlemen and others will allow themselves to be swept along in the tide of emotional popular feeling created in part by demonstrators for a goal which has already been reached.

In 1960 the Congress acted in this matter as a coequal branch of Government, as it should. It felt itself capable of giving thoughtful consideration and intelligent evaluation to a serious legislative proposal.

In 1965 are we in the Congress to enthusiastically abrogate our responsibility as a coequal branch of Government? Are we prepared to cast away our legitimate function as an effectively independent National Legislature as the result of widespread emotional turbulence? Have we relegated ourselves to the status of a rubberstamp?

Or do we feel that we are a responsible body capable of evaluating conditions and facts, and then taking deliberative action to provide sound legislation with a view to orderly progress? We are a coequal branch of Government made up of elected representatives of the people and charged with the lawmaking function. Perhaps the real question today is whether we understand that function and are willing to exhibit courage to fulfill it, or whether we have failed our responsibility.

Mr. Chairman, in order to fulfill our constitutional responsibility at the National Legislature, we should consider very carefully the bill that the President has recommended to us despite his urging that we enact it against an early deadline and with no compromise.

The bill would, in general, eliminate literacy tests in any State or county where less than 50 percent of those of voting age were registered or voting in the presidential election of 1964.

Let us consider for a moment the question of literacy tests. The Supreme Court has on several occasions defended the right of States to establish literacy tests as a voter qualification. As recently as 1959, in the *Lassiter* case from North Carolina, the Court said:

"The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show."

The Attorney General has indicated that the President's proposal would not flatly abolish literacy tests. But it certainly would outlaw them for a period of 10 years in the few States and counties affected by the bill. We should consider whether or not the country is prepared to set aside constitutional provisions for a temporary period of whatever duration.

Literacy tests themselves are not evidence of discrimination. The application of them can be. And so corrective legislation should not be aimed at literacy tests unless we are ready to prohibit them everywhere in the country, and unless we disregard constitutional principles.

With regard to other deficiencies of the bill, the Honorable Howard H. Callaway, of Georgia, presented testimony to this committee on March 20. I want to associate myself with his remarks. Mr. Callaway ably demonstrated the problem which is presented in attempting to segregate States where the 1964 presidential vote or registration was more than 50 percent of the persons of voting age from those States where the vote or registration was less than 50 percent.

He pointed out the factors other than discrimination which may lead to a low voting percentage in a general election or to a low registration. He dem-

onstrated that in States with a history of political domination by one party, the vote may be greater in primary elections than in general elections, or the registration may be low because of the lack of contested elections. And he showed that substantial numbers of persons of voting age may not register to vote for reasons having nothing to do with discrimination: transients, noncitizens, military personnel, or persons who simply want nothing to do with voting for personal reasons.

And he brought out the vast opportunity this bill would provide for a politically oriented Attorney General to apply provisions of the bill for partisan political gain.

The bill gives the Attorney General power to appoint Federal examiners simply on the basis of "his own judgment." And it prescribes no tests or rules for selection of the examiners and specifies no methods of operation. It gives the examiner power to register voters as he sees fit.

There is nothing in the bill to prevent an Attorney General from appointing a county political party chairman as voting registrar with power to register or refuse to register voters as he wishes. This would be an extraordinary authority.

How can we justify the feeling that punitive Federal action must be taken against States which record a voting registration or participation of less than 50 percent while we pay no heed to places where the percentage might be 51 or 60 percent? Surely in the light of cool analysis some months in the future this arbitrary proposal will appear to be artificial and contrived to many who may not see it now. How soon would the Congress again be called on to enact new voting legislation all over again?

And if this kind of action can be taken against a few selected States, then it appears that some other punitive action can be taken against some other group of States for some other apparently worthy objective. But we should consider that a central government with this kind of authority can proceed another time with less regard to the real or suggested merits of the objective, and with less regard to an informed popular will.

This is how the National Socialist movement of the Germany of the 1930's was brought to prominence: Greater government authority on a wave of emotional fever followed by the loss of individual political expression. The stage preceding acquisition of absolute power by Adolf Hitler was the period during which the national legislature allowed itself to be intimidated by executive authority into putting its stamp of approval on measures eliminating the potence of representative government. Today's popular demand for centralization of power is tomorrow's dictatorship.

If we now are to approve voting rights legislation we should do so in the light of cool analysis and reason, not on the basis of emotion. We should not put the Federal Government in the position of dictating a State's voting laws on the basis of arbitrary percentages in an arbitrarily selected selection.

What we should do is retain State authority to determine its voter qualifications in accord with the Constitution, but assure that each State's qualifications are applied without discrimination to all individuals regardless of race, color, religion, or national origin.

I wonder if many Members of Congress today do not fear within themselves that many persons feel so strongly in favor of a voting rights law that just any voting rights law will do without regard to its real merits. I have the distinct impression that it takes courage today in a Northern State to publicly declare oneself in favor of taking a close look at the President's bill or to suggest that there may be improvements that can be made. In that connection, I want to make note here of some of the comments we have seen recently in nationally respected newspapers.

1. Arthur Krock in the New York Times, March 16, 1965:

"The administration's bill * * * would reverse precedents deeply embedded in the constitutional and political history of the United States. And care must be taken lest the backswing prove too wide for the conscience of the Supreme Court and the obligation of Members of Congress to the people of the several States."

2. Arthur Krock in the New York Times, March 22, 1965:

"The more time that is allowed to point out the flagrant constitutional and procedural flaws in the draft submitted by the administration, the more plainly these flaws will be exposed."

3. Richard Wilson in the Washington Evening Star, March 24, 1965:

"The question that the advocates of the (President's) new voting rights bill have as yet failed to answer adequately is this: Why should literacy tests as a

qualification for voting be perfectly all right in 45 of the 50 States, but invalid in the other 5? This is another example of the devious legislative tactics in the Johnson administration to achieve results by legal circumlocution. Literacy requirements have validity both in reason and in law. It makes sense that a voter should have at least an elementary ability to read and write the language of the country in which he resides. It hardly needs to be argued, also, that a Federal law should apply equally to the citizens of all States. The strange, awkward and unequal nature of this new legislation shows how wrong it is to try to legislate on such complicated matters in an atmosphere of violence-provoking public demonstrations. The Johnson administration was rushed into the presentation of a law that has so many obvious flaws that it can immediately be challenged in the courts."

4. John Chamberlain in the Washington Post, March 25, 1965:

"The law should be limited to sending in registrars to provide evenhanded justice in enforcing any given State's own election standards. The Federal Government has no right to substitute standards of its own. What impresses honest and decent southerners about all this is that it (the President's proposal) actually denies equal protection of the law under the pretense of providing this protection. It penalizes the just along with the unjust. So let's have a Federal law that will guarantee fair enforcement of local election laws without telling States what their own standards shall be."

5. James Kilpatrick in the Washington Evening Star, March 25, 1965:

"This is a bad bill; bad in ways that need to be understood if something precious is to be preserved. This precious something is a system of government obedient to a written Constitution. If the Congress sacrifices this high principle to the pressures of a turbulent hour, the Congress may succeed in redressing some palpable wrongs, but a fearful price will be paid in the loss of ancient values. The bill undertakes to prohibit in these States the imposition of those very qualifications, when used without discrimination, that the Supreme Court repeatedly has approved."

6. David Lawrence in the Washington Evening Star, March 25, 1965:

"The 15th amendment to the Constitution * * * now is being construed as giving to Congress the power to control the whole election process by passing a few laws. This could mean the removal of all qualifications for voting except those that happen to suit the party in power. Never in American history has so much power been concentrated in the Federal Government which is now virtually directed by the one man who occupies the highest office in the land."

Finally, Mr. Vermont Royster in the Wall Street Journal for March 25, 1965, writes of the mood in Congress for hasty action on the bill--a mood set by ultimatums for this committee to complete its work by a certain date.

He writes: "In such a mood, who but a brave man could stand up and say, 'Wait. Let us see what we are doing before we do it.' Who but a brave man could ask now about constitutionality or propriety or the wisdom of the means to a wise end. What weighs heavily on the mind is that men in Congress should have doubts and fear to speak them."

Mr. Chairman, in my judgment, Congress has the choice today of acting in a responsible fashion, or allowing itself to be propelled into an irresponsible act. I join with many others in hoping that our choice will be the former. Thank you, again, for permitting me to present my views.

The CHAIRMAN. The Chair wishes to thank the members of the subcommittee and other members of the committee for their close attentive interest in the bill which is before us. I repeat that the record will be closed in 5 days.

Mr. CRAMER. Mr. Chairman, may I ask a question? Do I understand that it is the plan of the Chair to start executive sessions on the bill on Tuesday of next week?

The CHAIRMAN. Tuesday, Wednesday, and Thursday of next week we will meet.

Mr. CRAMER. Do I understand, then, that the printed copy of the hearings will not be available with the 5-day extension for the consideration at that time?

The CHAIRMAN. Probably not.

The meeting will now adjourn.

(Whereupon, at 12:03 p.m., Thursday, April 1, 1965, the subcommittee adjourned.)

(Additional statements supplied for inclusion in the record:)

STATEMENT OF HON. JEFFERY COHELAN, U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, I strongly support this legislation which I have joined you in sponsoring. This bill provides important assurances that American democratic principles will be equated with American democratic practices; that the right to vote, which is the cornerstone of American democracy, will not be unjustly denied to any citizen. The full exercise of this right has been too long delayed and the moral conscience of the Nation, shocked, humiliated, and aroused by the recent events in Alabama, demands that it be delayed no longer.

One hundred and seventy-nine years ago our Founding Fathers boldly declared that: "All Men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness." They cited grievances similar in many respects to those that our Negro neighbors experience today in Alabama, Mississippi, and other areas of our country: "In every stage of these oppressions we have petitioned for redress in the most humble term; our repeated petitions have been answered only by repeated injury."

Ten years later they acted to secure these promises and to redress these injuries. In establishing the Constitution of the United States they stated it was done to: "Secure the blessings of liberty to ourselves and our posterity." And who can challenge, who can doubt, who can deny that they meant all and not some Americans?

Ninety-five years ago, after a costly and bloody Civil War, these basic rights were once again reaffirmed and the special significance of voting rights was spelled out. The 15th amendment made clear that the right to vote was not to be "denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

But the 15th amendment did more than that. It spelled out the responsibility of Congress, through appropriate legislation, to secure that right, and that is what we are meeting about; that is what this bill is all about.

Neither the Constitution of the United States nor any other document establishes a category of second-class citizenship. Yet the disparity between our great ideals and our actual deeds is still painfully evident.

Two months ago, along with 14 of our colleagues, I made a factfinding trip to Selma. Our experiences revealed beyond any doubt that Negroes in Selma and across Alabama's Black Belt were systematically and effectively being denied their legitimate and constitutional rights as citizens to register and vote.

The statistics alone made this fact abundantly clear.

In Dallas County, where Selma is located, the population is 57 percent Negro, yet less than 1 percent of the eligible Negroes are registered to vote.

In neighboring Wilcox County, Negroes represent 78 percent of the population, yet not one has ever voted.

Adjoining Lowndes County is 81 percent Negro, but not one has ever voted there either.

And these are not isolated cases as the March 1965 Report on Registration and Voting by the Commission on Civil Rights has documented.

But more striking than the figures were the circumstances and conditions of the denials. For not only is voting registration limited to only 2 days a month in Alabama, but after suffering the frustrations and indignities of standing in intolerably long lines, of being shunted into alleys, of being beaten, bruised, and arrested, the tests and the forms are commonly administered in such a way that many who are qualified and all too few who are able, are finally accepted at all. It is a disgrace and a blot on American democracy—on a government of and by and for free people.

Mr. Chairman, I have sponsored this bill and I support it, but I also believe it can be improved. Discrimination in voting is not limited to Alabama, South Carolina, and Georgia; to Mississippi, Louisiana, and Virginia. The reports of the Commission on Civil Rights and our own experiences make clear that in many other areas—in counties of Tennessee, Florida, Texas, and Arkansas, for example—discriminatory practices continue to exist. Certainly if the deprivation of voting rights warrants this legislation, and I fervently believe that it

does, then the law should be broad enough to strike it down wherever it may thrive and prosper.

Mr. Chairman, I urge that your committee report this bill and press for its enactment without delay. The time has come, and is in fact long past due, when the just and proper activities which have been enjoyed by most Americans for nearly two centuries should be fully shared in by all our fellow citizens. This bill is not only a matter of moral right. It is an expression of our clear yet unmet constitutional responsibility.

TESTIMONY OF HON. JACOB H. GILBERT, OF NEW YORK

Mr. Chairman, I am pleased to supplement my testimony before the committee on March 23 on the voting rights bill. At that time, I asked the committee to consider an amendment to the voting rights bill to eliminate the literacy test as a requirement for voting where the person has completed the sixth grade in a public or private school in the United States, District of Columbia, or the Commonwealth of Puerto Rico, as proposed in my bill, H.R. 4249, introduced on February 3 of this year, and proposed by me in the past Congress.

As I have stated, I would like to have my literacy test bill incorporated in the voting rights bill, but if this cannot be done, I hope the committee will consider my bill separately.

The voting rights bill as now written invalidates literacy tests and certain other voting qualifications in States and political subdivisions where less than 50 percent of the residents of voting age were registered or voted in November 1964. New York State administers a literacy test but votes more than 50 percent of its population and, therefore, would be exempt from the bill as now written.

Thus, the literacy test has become an insuperable obstacle in the exercise of voting rights on the part of thousands of New Yorkers of Puerto Rican origin. I realize the voting rights bill we are considering is chiefly concerned with the several Southern States where a majority of the eligible voters have been denied the right to vote—those States which provoked the necessity for this legislation by their failure to fulfill their responsibility to guarantee their citizens the right to vote.

But I have long opposed the disenfranchisement of Puerto Ricans on the sole ground that they cannot read or write English. As long as Spanish is the official language—accepted and recognized in business and education—of the jurisdiction in which they were raised, Puerto Ricans should not be kept from voting because they are not literate in English.

I would like to see the bill changed to include my proposal to provide needed Federal safeguards for voting rights of Spanish-speaking native Americans. As I told the committee in my previous testimony, my proposal would make a sixth-grade education de facto proof of literacy as long as the education was acquired "in any State or territory, in the District of Columbia, or the Commonwealth of Puerto Rico."

I have attended the hearings each day and participated actively both as a member of this committee and as a witness giving testimony. My own voting rights bill, H.R. 4427, introduced on February 4, 1965, is very similar to the administration bill, H.R. 6400. Both proposals are designed to deal with the use of unfair tests and other devices and the discriminatory administration of these and other registration requirements.

There are deprivations of the right to vote other than discriminatory tests and devices, and I refer to fear of intimidation and coercion—beatings, arrests, loss of jobs, loss of credit, threats to families, and other forms of pressure. We have shocking evidence that many Negroes who have managed to register have failed to vote simply out of fear. I ask that this provision (sec. 7) of the bill be broadened and strengthened. I offer no specific formula or solution, but adequate provision should be made in this legislation to remove this widespread abridgement of the right to vote.

Mr. Chairman, the poll tax is another abridgment of human rights which has been used and still is used to deprive persons of the right to vote. My voting rights bill, section 6, would abolish the requirement of the poll tax as a qualification to vote in any election. I believe this proposal to be constitutional and I have requested the Attorney General to give me his views in this regard. I urge that the bill include a provision to abolish the poll tax in all elections.

I hope our committee will report out a bill which will protect all citizens or groups of citizens who are impeded by barriers to the right to vote—whether those barriers be discriminatory literacy tests, payment of a poll tax, or fear of intimidation.

I take this opportunity to commend our President, the Attorney General, Dr. Martin Luther King, and other civil rights leaders, for their actions in the recent racial crises. And I also want to commend our distinguished chairman for his prompt action in scheduling hearings on voting rights legislation and for the outstanding way the hearings have been conducted. We have held hearings mornings and evenings. The committee is correct in hearing all authorities and looking carefully into every phase of this important legislation so that we might report out a bill that will be meaningful and lasting.

STATEMENT OF CONGRESSMAN WILLIAM T. CAHILL, REPUBLICAN, OF NEW JERSEY, IN SUPPORT OF STRONG AND EFFECTIVE VOTING RIGHTS LEGISLATION

For a hundred years, the Constitution of the United States has guaranteed full and complete voting rights to all citizens without regard of race or color. The grant of this right was made as a fulfillment of America's democratic heritage.

Yet, the lapse of 100 years has brought the Negro citizen, in many areas of our country, little nearer to the enjoyment of this right and the sharing of this heritage. As Father Theodore M. Hesburgh, president of Notre Dame University, recently stated before this subcommittee: "Many American citizens have been denied their most basic right of citizenship, the right to vote."

Three times, since 1957, Congress has enacted voting rights legislation. Each time, these efforts have met with almost complete frustration. The reason for continuing frustration lies in the approach taken by the legislation and by the ingenuity of State and local officials in devising means to circumvent the action taken pursuant to the legislation to eliminate discrimination in voting.

In each of the three civil rights acts, primary reliance has been placed on judicial proceedings. This has resulted in heavy manpower and resources of the Federal Government being tied up for years in an effort to prove that a particular county or State has engaged in voter discrimination. Yet, as soon as one legal action has been concluded, a new one has had to be commenced in the same area to enforce a previous decision or to attack a new roadblock which a State or local subdivision has thrown up to restrict voting rights of Negro citizens.

By way of example, the Department of Justice, since 1960, has instituted 16 lawsuits in the State of Mississippi against local registrars. After 5 years of effort, only three final decrees have been obtained and not more than a few thousand Negroes have been registered. At this date, only 6 percent of the Negroes in the State of Mississippi are registered to vote.

We are presently witnessing brutality, oppression, physical intimidation, and other means of massive resistance to Negro efforts to register and vote in Dallas County, Ala., where the city of Selma is the county seat. A voting suit was filed in Dallas County by the Department of Justice in 1961. Yet, after the lapse of 4 years and the institution of five additional lawsuits, we see that Negroes are no nearer to the realization of their constitutional rights. While 70 percent of eligible white citizens are registered to vote in Dallas County, only 2 percent of the Negro citizens have been enfranchised.

These examples are dramatic. But they are only a few of the many, many instances throughout the country where Negroes are being held in the vise of second-class citizenship. Under existing laws, this condition will continue to exist so long as it is possible to circumvent effective enforcement of the law. Many schemes are used to avoid the law. For example, local registration officials may process only one or two applicants a day and may remain open only 1 or 2 days a month. These same officials may apply literacy tests and other voter qualifications in a discriminatory manner. A white citizen, for example, will be given an easy provision of the Federal or State constitution to interpret and will be found qualified even if he gives questionable interpretations or commits gross spelling errors. A Negro citizen, on the other hand, will be given a difficult provision of the constitution to interpret and will be turned down for the commission of minor errors or merely because the registrar does not like the answer supplied. These same local officials, who are frequently joined by gangs of white toughs, at times may resort to physical intimidation and force in order to discourage Negroes from applying for registration or from

entering a polling place. Finally, as pointed out above, even if a case reaches the courts, the legal procedure established under the law is so cumbersome that years may elapse before a final order is issued. And, this assumes the trial of the case before a judge who is committed to the complete enforcement of the law—a fact, unfortunately, which is not always the case. By the time a suit is brought to completion, State and local officials have devised many new ways of circumventing the law.

The time has come, then, to enact strong, effective legislation which will do the job once and for all. The Supreme Court has announced the principle of "one man one vote" in the context of reapportionment of State legislators and congressional districts. How much more important it is that we guarantee to each citizen the right to vote and guarantee it now.

In 1959, 1961, and 1963 the Civil Rights Commission has recommended the appointment of Federal registrars and the elimination of literacy tests to all persons having sixth grade educations. If these recommendations had been enacted into law, I believe we would not be faced with the trampling of citizens' constitutional rights as we are today.

On February 23, 1965, I introduced a comprehensive voting rights bill, H.R. 5276, which incorporates the recommendations of the Civil Rights Commission, which provides the machinery for overcoming the lengthy delays of judicial proceedings, which nullifies the opportunity of local officials to promote delay and practice discrimination, and which effectively penalizes those who seek to rely upon coercion and intimidation to prevent citizens from registering and voting.

Under my bill, whenever 50 or more persons have been found to have been deprived or denied the right to register or to vote on the ground of race or color in any State or political subdivision, there shall be established a pattern or practice of discrimination. Upon making this finding, a court shall immediately appoint Federal registrars who shall register all persons within the State or political subdivision who appear before them. If the court fails to make the finding of a pattern or practice within 40 days, the President of the United States shall have the authority to appoint Federal registrars if he receives statements from 50 persons that they have been denied the right to vote. These Federal registrars shall be required to apply State voting qualifications in determining whether those persons, appearing before them, are qualified to vote. But the registrars shall disregard poll tax requirements and shall not apply literacy tests to those persons possessing sixth grade educations.

My bill also provides that Federal registrars shall issue certificates of registration to all persons found by them to be qualified; and also to oversee all elections in order to determine whether those persons, who have been registered, are permitted to vote and have their votes counted.

Finally, through the authority to oversee elections, Federal registrars shall notify the court and the Attorney General as to those persons who have been illegally denied the right to vote. If 50 or more persons within a State or political subdivision have been so denied, the court shall void the election.

Approximately a month after I introduced my bill, the administration introduced its voting rights bill, H.R. 6400. In many ways this is a good bill. As in my bill, it provides for the appointment of Federal registrars—referred to as examiners—and establishes the machinery for circumventing lengthy delays which may be imposed by local officials and the courts. In addition, it abolishes the use of literacy tests in a few States and authorizes the Federal registrars to collect current poll tax receipts in behalf of State officials.

As commendable as the administration bill is, however, I do not believe it is sufficiently broad or effective in its present form. As I pointed out above, let us do the job completely at this time and let us do it once and for all.

Whereas, the administration bill provides for the appointment of Federal registrars in a few "hard core" States which are known to practice discrimination, it totally ignores the needs and rights of citizens in many other States. Thus, while this bill would have effect in Mississippi, Georgia, Louisiana, Alabama, Virginia, South Carolina, and parts of North Carolina, it leaves completely untouched areas of voter discrimination in Texas, Arkansas, Florida, Maryland, Tennessee, Kentucky, parts of North Carolina, and areas of New York City, for that matter.

Similarly, while the administration bill eliminates literacy tests in some States, it permits such tests to be administered in other States where discrimination exists and also permits States, not now employing such tests, to put them into effect even though discrimination already exists in such States.

At the same time, however, the administration bill is so drafted that it applies to States where discrimination has never been found to exist—such as Alaska and Maine—and also applies to areas of States which have made an honest and effective effort to abolish discrimination.

Other provisions of the administration's bill could be cited which are of questionable nature. But, I have said enough, I believe, to point up the need for carefully amending that bill so that it will do the job and do it now.

A nation, to be free, dynamic, and prosperous, must have the full and dedicated support of all its citizens. America cannot hope to achieve and secure these goals if it continues to permit large numbers of its citizens to be denied the most fundamental badge of citizenship—the right to vote. We ask the Negro to fight and die for his country. We ask him to pay taxes and accept the many other obligations of citizenship. The least we can do, in return, is to guarantee him the inalienable right to vote.

STATEMENT BY CONGRESSMAN DON EDWARDS OF CALIFORNIA

I thank my distinguished chairman, Mr. Celler, for providing this opportunity to explain my views of the voting rights legislation now before us.

As you know, I introduced H.R. 6322, which is identical to the bipartisan Voting Rights Act of 1965, introduced by Senators Douglas and Case and eight other Senators. After the magnificent speech of the President on March 15, and observing his sure hand in dealing with the crisis in Selma, I am strongly tempted to endorse H.R. 6400 outright and forgo any suggested amendments in the interest of speed. But we must remember what the President said on March 15. President Johnson said he welcomed suggestions and had no doubt, "I will get some on ways and means to strengthen the law and to make it effective."

I am convinced that while the President wants this subcommittee to act with the utmost dispatch in presenting to the House of Representatives a strong civil rights bill, he also wants this subcommittee to turn out the very best bill it can. He wants a bill that once and for all will end the need for the Congress having to enact voting rights legislation. In that spirit I would ask that the members of Subcommittee No. 5 seriously consider adopting some of the features of H.R. 6322.

1. ELIMINATE THE POLL TAX

Mr. Chairman, the time has come to eliminate the poll tax. It currently is law in State and local elections in four States, including the leading massive resistance States, Alabama and Mississippi. Ability to pay should not be required in order to exercise the most basic democratic right. It is quite evident that for the first time the problem seems to be not with finding the votes to eliminate the poll tax but to find an appropriate and constitutional means to enact legislation that a majority of the Congress wants.

Title III of H.R. 6322 provides the statutory means to eliminate the poll tax under the 14th and 15th amendments.

Mr. Chairman, I respectfully must disagree with Attorney General Katzenbach's policy reason for failure to endorse elimination of the poll tax. As I understand the Attorney General's position it is that if the poll tax provision is declared unconstitutional, Negroes and others would lose their right to vote if they had failed to pay the poll tax.

The commandment for the 14th and 15th amendments is to enact legislation that is appropriate to meeting the problem of racial discrimination. I do not know of anyone who engages in thoughtful prediction who believes that the Supreme Court, which for so long has led in setting the proper constitutional standard for the 14th and 15th amendments, would engage in an attempt to substitute its will for that of the Congress and overturn the attempt to eliminate the poll tax. This is especially so since elimination of the poll tax is not only based on both the 14th and 15th amendments, but is based on a congressional finding of the poll tax's discriminatory use and effect.

Those who suggest that we end poll taxes by a separate statute are, I submit Mr. Chairman, highly unrealistic. A separate statute does not get around the constitutional problem that the Attorney General has raised. The same problem will be faced by a separate statute. Although the relationship of discrimination and poll taxes, I believe, has been well established at the hearings, let me indicate some additional relationships between discrimination and poll taxes.

The poll tax is a burden on poor people and the overwhelming majority of Negroes are poor. It has an obvious discriminatory effect because of past and

present discrimination against Negroes and has resulted in placing Negroes at a great disadvantage. Dramatic data is presented by President Johnson in his 1964 Economic Report to the Congress.

Equal opportunity

Forty-four percent of nonwhite families are poor. Deficiencies of education and health and continuing job discrimination depress the earnings of Negroes, and other nonwhites, throughout their lives.

Only 40 percent of nonwhites—compared to 70 percent of whites—complete high school.

Infant mortality is nearly twice as high, maternal mortality four times as high, for nonwhites.

The life expectancy of a nonwhite man at age 20 is nearly 5 years shorter than for his white contemporary, and shorter than the average life expectancy reported in some 40 foreign countries.

Unemployment rates for nonwhites are generally double those of whites.

We must only look at some of the recently enacted legislation which indicates that Congress has taken notice of such discrimination. The Civil Rights Act of 1964 included a provision to encourage school integration (title IV) and an Equal Employment Opportunity Commission (title VII). The Economic Opportunity Act of 1964 aimed at eliminating many of the disadvantages that accrued to the Negro population. And indeed, on March 26 the House voted to support the Elementary and Secondary Education Act of 1965, which is geared to eliminating such educational disadvantages which often affect our Negro population. I am not suggesting that these pieces of legislation solely affect the Negro population, but in good measure they do.

Elimination of the poll tax is but a logical step forward in the total goal of full equality and full voting rights.

2. NEED FOR BROADER COVERAGE

The administration's proposal should effectively result in registering and voting large numbers of Negroes in the hard core southern areas. The proposal's effectiveness will ultimately rest on the certainty with which it will be applied. But racial discrimination in voting is not limited just to the hard core areas. It exists elsewhere in the South. Therefore, the formula proposed in H.R. 6400 should be expanded to include section 201 (a) and (b) of H.R. 6322.

The text of the proposals are as follows:

"Sec. 201. (a) The President shall, within ninety days after the enactment of this Act, establish an office of Federal registrar for any voting district, if the President determines that the total number of persons of any race or color who were registered to vote in the November 1964 election in such voting district for the purpose of electing any candidate for the office of President is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

"(b) In addition, the President shall establish an office of Federal registrar for any voting district at any time thereafter that the total number of persons of any race or color who are registered to vote in any succeeding general election is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district."

Mr. Chairman, I believe that these additional provisions will implement Federal policy in voting districts not affected by H.R. 6400 where discrimination is a pattern and practice.

While reliable data for such counties is not currently available, under title VIII of the Civil Rights Act of 1964, the Secretary of Commerce has authority to conduct surveys "to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960." Acquiring the data is quite feasible.

3. ELIMINATE NEED TO USE STATE REGISTRAR FIRST

The administration proposal currently requires the prospective registrant to first visit the State registrar. This requirement should be eliminated. The

purpose of the Federal examiner system is to eliminate a long record of abuses and denials of the right to register and vote by State and local officials. In short, given this history of violence, intimidation and coercion, the prospective registrant ought not to be put to the delays, the hardships, the indignities of attempting to satisfy hostile State officials before he comes to the Federal examiner.

4. PREVENTING INTIMIDATION

Section 7 of H.R. 6400 should be broadened, I believe, to include persons who are aiding other persons in the exercise of their voting rights. As this section now reads, there is no prohibition against intimidation, threatening or coercing any person who assists another, whether by calling meetings urging people to vote, or any of the many things which are common in getting people to go to the polls. In my view such interference with their rights should be prohibited as well.

Civil penalties should be enforced against those who violate section 7 and the penalty collected on behalf of the affected individual.

Section 9 of H.R. 6400, providing for criminal penalties should be amended to provide for a fine of not more than $20,000 or imprisonment for not more than 20 years, or both, where a life has been put in jeopardy.

5. PREVENTING FUTURE DISCRIMINATORY ELECTION LAWS

Section 8 of H.R. 6400 would be made more effective, in my view, by a simple change in wording. The present wording aims only at "qualifications or procedures for voting." I would urge the committee to delete these words starting on line 25 of page 7 and substitute therefor the following language: "enact any election law or ordinance different than those in force and effect on November 1, 1964," and so forth. A similar deletion would be made in line 6 on page 8 of the words "qualifications or procedures" and substituting therefor the words "law or ordinance." This suggestion is made to preclude other devices which might be used to discriminate, such as changing the boundaries of voting districts or qualifications for holding office.

CONCLUSION

Mr. Chairman, let me just restate that while H.R. 6400 is a good bill, I believe that the substance of my suggested improvements will help assure that once this Congress enacts the Voting Rights Act of 1965 it will not be necessary to enact further voting rights legislation. By meeting the standard of the 15th amendment the Congress will have enacted legislation that will assure all Americans the right to vote.

STATEMENT OF HON. L. H. FOUNTAIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman and members of the committee, H.R. 6400 is described as "A bill to enforce the 15th amendment to the Constitution." The 15th amendment provides, of course, that the right of citizens to vote "shall not be denied or abridged * * * on account of race, color or previous condition of servitude."

The purpose of the 15th amendment is to prevent discrimination on account of race or color in the exercise of voting rights. Undoubtedly, such discrimination has existed in the past and may still exist today in some limited areas.

If H.R. 6400 proposed the use of clearly constitutional methods to meet demonstrated abuses in a fair and impartial manner, it would merit sympathetic consideration. But H.R. 6400 does not do this. Instead, it proposes the establishment of arbitrary and discriminatory restrictions upon areas which have not only been proved guilty of practices which violate the 15th amendment, but have not even been accused of such practices.

Many States, including North Carolina, prescribe literacy tests for voters. The North Carolina test simply requires that a votor be able to read and write a few sentences from the State constitution. The constitutionality of this requirement has been specifically upheld by the U.S. Supreme Court.

So far as I know, no evidence has been presented—or even any allegations made—that North Carolina registrars are administering the literacy test in a discriminatory manner. On the contrary, information provided to me by county election boards in my district clearly demonstrates that the literacy test is not being used to prevent or discourage registration of qualified persons.

In Lenoir County, for example, only 10 Negroes failed the literacy test in 1964, while 942 Negroes passed. Three white persons also failed the literacy test in that county. The chairman of the Lenoir County Board of Elections, Mr. F. E. Wallace, Jr., and two prominent Negro citizens of Lenoir County have furnished affidavits attesting to the lack of discrimination in voter registration there, and I am including these affidavits as a part of my statement.

In Wilson County during 1964, only 6 Negroes failed the literacy test while 919 passed. Two white persons also failed the test, and three more white persons declined to take the test after stating that they could not read.

In Greene County, 5 Negroes failed the literacy test during 1964 and 87 passed; 7 white persons failed, while 140 passed.

The discriminatory and unfair nature of H.R. 6400 can be seen from the fact that it proposes outlawing literacy tests not throughout the United States or even throughout North Carolina, but only in 34 selected counties. These counties would not be selected on the basis of evidence of violations of the 15th amendment or even on the basis of allegations of such violations. Instead they would be selected through an arbitrary mathematical formula based on the percentage of citizens voting, without regard to whether or not discriminatory practices were involved in any way. After being selected on the basis of such an arbitrary formula, the counties chosen would—in effect—be presumed guilty of discrimination until they proved their innocence.

H.R. 6400 has been advertised as a measure designed to eliminate discrimination. On the contrary, it would arbitrarily discriminate against areas in North Carolina where discriminatory voting practices do not exist and are not even charged.

I do not believe the Supreme Court would uphold the constitutionality of H.R. 6400, as presently written. I hope this committee will not approve it.

AFFIDAVIT

NORTH CAROLINA,
Lenoir County:

F. E. Wallace, Jr., being duly sworn, deposes and says:

(1) That he is the chairman of the Lenoir County, N.C., Board of Elections, and has held that position since the 7th of April 1956. That the board has direct control of all elections conducted in the county of Lenoir and appoints and supervises all registrars of elections.

(2) That in the spring of 1958, a new looseleaf and permanent registration system was installed in Lenoir County and has been kept current and is today used as the registration system for all elections in the county, including city elections. That during the new registration in 1958, the new books then showed 12,363 registered in Lenoir County. The heaviest concentration of Negro population is located within the city of Kinston, which city is within the county of Lenoir. During the 1958 registration 1,168 Negro registrations went into the books and 4,368 of all other races. Of these figures votes were cast by 931 Negro electors and 3,534 electors of all other races in the 1958 election. During October 1962 a purge of the registration was conducted under the State law and names of those who had removed from the county or deceased were, after notice, challenged and removed. This reduced our registration by 3,178 names and only a few were later found to be erroneously removed, and they were allowed to vote upon appearance at the polling place and proper presentation to the election officials. By this method the Lenoir County registration has been kept up to date and we substantially eliminated the possibility of illegal voting of deceased or absent persons. During the entire registration from 1958 to date, we estimate that less than 25 persons have been turned down on the basis of literacy although many who are illiterate undoubtedly have not applied. By the end of registration for the November 1964 election, our books showed 18,469 persons registered in the county. Of this number 3,492 were Negro and 14,977 were of other races. In the November 1964 election, 13,353 persons voted in this county. The county of Lenoir has a potential voting population of 29,533 who are over 21 years of age (including persons confined to institutions). These figures show that we have 62.5 percent of the voting age registered and that 72.3 percent of the registered voters went to the polls and voted in November 1964. A reasonable purge at any given time could reduce the percenetage of persons registered, but would be necessary to keep the registration books current.

(3) We welcome any investigation of the foregoing facts. In view of our record and the record of many other counties of this State, it will be unjust to

impose on our election officials and people any Federal control, and especially those based on presumptions derived from some arbitrary formula and without even the fundamental requirements of fact finding.

(4) This county administers a brief and completely fair literacy test. This test is applied to every person presenting themselves for registration. The same basis for passage is used for all persons and to my knowledge there has been no attempt at any time to discriminate against anyone because of race, color, creed, or any cause. All tests are administered with the sole aim of determining only the basic requirements of literacy. Registration is not refused for errors in spelling or for poor handwriting, and each applicant is passed if he or she displays to the registrar the basic ability to write a simple and short section of the State constitution in the English language. There is attached to this affidavit and made a part hereof a sample of the test form used in Lenoir County. The only variance from this form is a change from time to time in the section of the constitution utilized.

(5) I have asked Mrs. Alice P. Hannibal and Mr. George B. Lane, two of our best known, most active, and respected Negro citizens to give a brief statement of their views on the registration procedures in our county. Their affidavits speak for themselves and are attached hereto and made a part hereof by reference.

(6) The right to vote is truly a privilege to be carefully guarded. Of equal importance is the integrity of the ballot itself. To open the ballot to complete illiteracy and to allow registration without any requirement of moral character will destroy public confidence and ultimately our democratic processes.

Neither the Federal nor the State Government has any need or right to enact laws relating to whether or not a man or a percentage of men vote so long as the equal and free opportunity to register and vote exists.

The proposed Federal bill will open the door to election abuse. It will encourage the retaining and use of deceased and disqualified voters on the registration books. Under the guise of illiteracy, votes will be sold and controlled.

This proposed Federal bill constitutes a revolution in American law. If passed and upheld it will have far-reaching consequences in our rights as citizens, and collectively as States. Thereafter, Government can, for any cause or presumption, reach deeper into the fundamental privileges of individuals and the historical rights of the States and their subdivisions until its fingers reach and still the heart of individual liberty and endeavor. Then the dignity and initiative of the individual will be destroyed and with it this Nation.

It is hoped that Congress will not adopt this proposed legislation. The bill is purely punitive and inspired by emotion and unjustified drama. It should shock the conscience of Congress. It would and it will enrage the greater American public when they have time to realize its ramifications.

(7) The information and facts contained in this affidavit are true to the best of the affiant's knowledge, and the affiant would state the same if under oath and testifying.

This 1st day of April 1965.

F. E. WALLACE, Jr.

Sworn to and subscribed before me this 1st day of April 1965.

NELL R. CARTER,
Notary Public.

My commission expires June 5, 1965.

AFFIDAVIT

NORTH CAROLINA,
Lenoir County:

Alice P. Hannibal, being first duly sworn, deposes and says:

1. That she is a resident of Lenoir County, N.C., and is the wife of Dr. John J. Hannibal, M.D.

2. That during the past ten (10) years or more, she has taken an active part in local politics and has served as an elected member of the City Council of the City of Kinston.

3. That she takes an active part in working with the citizens of the community in becoming registered to vote and has personally observed the registration of voters during all of the registration periods in Lenoir County for at least the past six (6) years.

4. That the registration officials of Lenoir County, N.C., have, in her opinion, administered the registration requirements in a fair and impartial

manner and have not discriminated against any person or group because of race or other cause.

5. That in administering the literacy test used, the Lenoir County registration officials have applied a very simple requirement of writing a short and easy section of the State constitution in the English language. To take the test each applicant is furnished with the section of the constitution to be written. This section furnished is printed in large type for easy reading. That the registration officials have allowed those taking the test to use sufficient time and have not disqualified applicants because of minor errors.

This 1st day of April 1965.

ALICE P. HANNIBAL.

Sworn to and subscribed before me this 1st day of April 1965.

THELMA NOE RAINS,
Notary Public.

My commission expires: September 16, 1966.

AFFIDAVIT

NORTH CAROLINA

Lenoir County:

George B. Lane, being duly sworn, deposes and says:

1. That he has been a lifetime resident of Lenoir County, N.C., and lives within the city of Kinston within that county.

2. That he is president of Lane's Funeral Home, Inc., and has held that position for more than 15 years.

3. That he is familiar with the registration and voting procedures used in Lenoir County, N.C., having been interested in elections and having observed these procedures from time to time.

4. That he has never heard of any attempt by registration officials to refuse, delay, or discriminate in the registration of voters due to race or creed, or for any other cause. That in his opinion the registration of voters and conduct of elections have been openly and fairly administered.

This 1st day of April 1965.

GEORGE B. LANE.

Sworn to and subscribed before me this 1st day of April 1965.

THELMA NOE RAINS,
Notary Public.

My commission expires: September 16, 1966.

TESTIMONY BY CONGRESSMAN JAMES T. BROYHILL, OF NORTH CAROLINA

Mr. Chairman and members of the Judiciary Committee, I am grateful for the opportunity to comment upon the voting rights bill which is under consideration at this time. In it are involved a complex array of issues.

This is legislation that has as its stated purpose the assurance of voting rights for Americans who allegedly are being denied such rights because of race or color. If such rights are denied, there can be no question that the provisions of the 15th amendment of the Constitution of the United States is being violated. This amendment specifically states that "the Congress shall have the power to enforce this article by appropriate legislation."

In an effort to discharge that responsibility, the Congress has already formulated laws for this specific purpose. However, through failure to enforce these laws or because of their imperfections, or because of unusual delays in the judicial process, we are now told that a new law is needed. Certainly, it is true that until some equitable process is provided for the resolution of the grievances we hear today, the Nation will continue to be plagued by charges of unfairness, by violence, and by strife. The question has arisen in a highly charged and emotional atmosphere and there is no doubt that legislation in some form will be passed. However, there is a heavy responsibility upon this Congress that the issue be met with intellectual honesty and with calm judgment.

Certainly, the right to vote is the basic and essential right and responsibility of citizens in any democratic society. We cherish that concept and in its enhancement we can trace the historical processes of this Nation. The question is not, shall there be legislation, but what kind of legislation shall it be?

The President has submitted a bill to the Congress urging that the administration bill be passed without delay. Unfortunately, it is implied that there is

no need to analyze its provisions in any great detail and that alternatives are both inappropriate and unnecessary. If alternatives are offered, the implication is that they are intended to delay and frustrate the need for a new law. Frankly, I feel strongly that the proposals made by the President need very serious study. I feel that alternatives to the many complex, punitive, and essentially discriminatory provisions in this bill are essential to an effective and fair solution of the issue. I hope that this committee will agree.

At the heart of the White House's bill is a sweeping Federal attack upon legitimate rights and responsibilities of the States to determine voter qualifications and to operate the machinery of elections. There are grave doubts as to the constitutionality of this aspect of the President's proposal. However reasonable and valid the State voter qualifications laws might be, these State laws are pushed aside if the State is singled out by the formula used in the President's bill. It appears that this formula is arbitrarily fashioned to include some of those Southern States where denial of voting rights is most often charged.

We have been advised by the President that this issue is not a sectional problem, yet his bill is a tortured contrivance leaving no doubt that it is sectional legislation and intended to be just that.

Certainly, State voter qualifications must be fairly conceived and imposed without regard to race or color. However, the President's bill wipes away the right of certain States to impose voter qualifications at all. With this, penalties for past sins, real and imagined, could be imposed regardless of any genuine future effort on the part of the offending State to comply both with the letter and the spirit of the law.

Unfortunately, we see here mechanisms proposed which I firmly believe fail to meet the problem this country is facing as we follow a philosophy that the end justifies the means.

In my own State of North Carolina, a literacy test is one of the qualifications for voting. Article VI of the State constitution requires that "Every person presenting himself for registration must be able to read and write any section of the constitution of North Carolina in the English language. It shall be the duty of each registrar to administer the provisions of this section."

It is a reasonable requirement, applied not for the purpose of disinfranchising any racial group. The bill now under consideration casts doubt upon all tests of literacy although the U.S. Supreme Court has consistently upheld such tests when they are fairly administered as falling within the constitutional prerogatives of the States.

Actually, legislation dealing with denial of voting rights should not be limited to any geographical area. Neither the 15th amendment nor article I of the Constitution that grants States authority to determine voting qualifications are intended to apply in some areas and not in others. Racial discrimination as a factor in determining who may vote and who may not is as wrong in one State as it is in another. Certainly, any bill should recognize this basic fact and apply to all States equally, without regard to voting histories, percentages of participation in elections, or any other assumptions which may or may not be supported by fact.

Barring 100 Americans the right to vote because of their racial background is just as wrong as the denial of 100,000. The legal and ethical considerations should be the same in spite of the numbers involved.

It is my earnest hope that this committee will agree and that it will make major revisions in this proposed bill.

In my opinion, what is needed is legislation that will assure a quick and effective appeal process for those who believe that they have been denied the right to register and vote solely because of their race or color. Any such bill, I believe, should apply equally to 50 States and not just to 6.

Legislation should be drawn which would encourage any State or voting district to assure that the legitimate voting rights of its citizens are assured and that these rights are available to all who wish to participate in the process of elections. Use of Federal power should be limited to situations where it is found beyond reasonable doubt that the practice of discrimination is being pursued. Fairly conceived and administered voting qualification requirements of the State should be impartially recognized and respected.

Literacy as a qualification for voting should be recognized as a reasonable and proper requirement in any voting rights legislation that Congress enacts. Safeguards such as that which allows for the presumption of literacy based upon proof of completion of 6 years of education in an accredited school are already on a part of our voting rights laws. These safeguards offer a proper solution, in my

opinion, to questions arising from unusual and basically unfair literacy requirements which any State may now impose or demand in the future for the apparent purpose of denying voting rights to any group.

All of these requirements can be met without altering the basic purpose of this legislation or delaying the prompt resolution of disputes through the consideration of all individual complaints.

As I see it, we have before us a matter which requires the Congress to recognize two basic constitutional principles. Both are clear in their purpose and intent. One requires that no person be denied the right to vote because of race or color. The other requires that each State should determine the qualifications of voters residing within the State. These provisions in our Constitution are not incompatible nor are they in conflict. The choice is not an exclusive one requiring that in this situation we choose one and reject the other.

Adherence to the guarantees of the 15th amendment does not require us to ignore the legitimate rights of the States. It appears to me that, in essence, this is what the President's bill demands. This is one of its major shortcomings and the principal reason why valid constitutional objections to it have been raised.

Positive alternative legislation that recognizes the problem of voting rights disputes and offers a simple and fair means for solving the problem wherever it may arise is possible without doing violence to the sound constitutional balance. Unless this Congress makes a conscientious effort to write effective legislation of this kind, we will have failed to protect the rights of all Americans and we will compound the problem by piling new inequities upon existing injustice. If we succumb to hasty and ill-considered legislation, we will be faced with the need for future correction as new turmoil is bred by a law that was superficially intended to alleviate discord and assure voting rights.

I most respectfully appeal to the committee to rewrite this legislation so that we in this Congress can enact a bill that will genuinely meet the needs not only of today, but at any future time, anywhere in this country where unfair denial of the franchise may occur.

STATEMENT OF HON. ABRAHAM J. MULTER, U.S. REPRESENTATIVE FROM THE STATE OF NEW YORK

Mr. Chairman, I am happy to have the privilege to state my views to the Committee on the Judiciary in support of the Voting Rights Act of 1965, which President Johnson submitted to the House on March 17, and in support of H.R. 1568, a bill which I introduced on January 5 to protect further the right to vote.

I should like to speak first about the meaning and necessity of the President's bill, and specifically about sections 3(a) and 4(a). Section 3(a) which would abolish literacy and other mental tests, examinations of personal character, and voucher requirements as conditions of voter registration for Federal, State, and local elections in any State or political subdivision of a State as to which the U.S. Attorney General certifies that it maintained any of these tests or devices on November 1, 1964, and in which the Director of the Census finds either that less than 50 percent of the persons of voting age were registered to vote on November 1, 1964, or that less than 50 percent of such persons actually voted in the 1964 presidential election. Section 4(a) provides that the Attorney General, whenever he has received 20 or more allegations of denial of the right to vote under color of law because of race or color in any political subdivision in which registration tests and devices have been abolished under section 3(a), may have the Civil Service Commission appoint Federal examiners to register voters in that political subdivision.

Under our constitutional separation of powers, it is up to the courts to provide the remedy against abuse of executive authority as well as against improper exercise of legislative power.

Denial to any citizen of the right to vote, not because that person is found unqualified by reasonable and uniform standards, but because of that person's

race or color is an abuse of the authority to administer the registration process. Hence, it is proper that Congress should attempt to protect the right to vote against widespread denial because of race or color by authorizing recourse to the courts.

By the Civil Rights Act of 1957, Congress authorized the Attorney General to initiate civil actions for injunctive relief of denial of the right to vote. By the Civil Rights Act of 1960, Congress enhanced the powers of the Federal courts to prevent discriminatory denial of the right to vote. It did so by authorizing them to appoint temporary voting referees to assist in issuing orders for the registration of persons rejected by local registrars on account of race after the courts had found a pattern or practice of such discrimination. It did so by providing that States as such may be joined as party defendants in voting rights cases.

But the efficacy of our system of divided authority is conditional upon the good-faith compliance of executive officials with court orders enjoining acts which constitute abuse of their authority. We must be able to expect general compliance and cooperation. Whereas, under the Civil Rights Act of 1964, private hotel and restaurant proprietors and private employers are accorded the right to trial by jury for criminal contempt of court in regard to proceedings instituted under titles II or VII, registration officials, who are State officials, may be punished summarily by the courts for criminal contempt up to penalties of $300 fine or 45 days in jail for criminal contempt of court in regard to proceedings instituted under the 1957 Civil Rights Act or under title I of the 1964 Civil Rights Act. The difference in jury trial provisions signifies what we have a right to expect of executive officials.

When executive officials as a whole refuse to comply with the courts, when they set themselves in concerted opposition to the courts, the courts are in no position to engage them in a power struggle in order to preserve threatened civil rights. The courts could not engage in such a power struggle with executive officials without attempting to take over the duties of public administration themselves. This the courts are in no position to do.

Continuing oversight of executive administration belongs in the first instance to heads of the executive branch itself, who have the responsibility to see that the laws are faithfully executed. It belongs in the second instance to the legislative branch. In order to protect the right to vote we have attempted to transfer the duty of oversight or actual execution of the laws to the courts. Let me cite two examples.

The 1960 Civil Rights Act authorized the courts to appoint voting referees whenever they find that a denial of the right to vote is pursuant to a pattern or practice of discrimination. These referees are to receive applications from other persons who claim to have been denied the right to vote because of race or color, to take evidence, and to report their findings to the courts which would then issue orders declaring such applicants as are found qualified to be so. This procedure means that the courts themselves actually undertake the duties of registration officials.

The Civil Rights Commission has found that litigation by the Attorney General to protect voting rights can be successful only if the court requires voting registrars to submit regular reports to the court stating the outcome of every application for registration and the reasons for every rejection. "The only way," the Commission said, "to eliminate the practices by litigation is to win comprehensive decrees with intensive reporting requirements so that literally every act of every registrar is known to the court" (1963 Report, p. 24). A Federal district court has ordered such reports month by month from registration officials in Macon, Montgomery, and Bullock Counties, Ala. This reporting system means that a court itself undertakes continuing oversight of executive administration.

To attempt to transfer to the courts duties which do not belong to the judicial process must end in futility.

Civil actions are instituted so that the court may determine the existence of a right, and may determine whether what is due a citizen has been withheld or denied. It requires time for the court to find through due process of law whether injustice has been done or not.

To attempt to convert this judicial process into a process of executive administration is anomalous, and must result in interruption in the execution of the laws and in delay which has the effect of denying any right, such as the right to vote, which must be exercised at a certain time or not at all.

The Voting Rights Act of 1965 would relieve the courts of the duties of oversight and administration and would restore these duties to executive officials to whom they belong.

Title I of the 1964 Civil Rights Act established certain criteria for the application of registration requirements in order to facilitate adjudication of voting rights cases by the courts. Section 3(a) of the 1965 Voting Rights Act abolishes such requirements altogether wherever they have been used to deny voting rights because of race or color.

The 1960 Civil Rights Act provides for appointment of voting referees as officers of the courts. The 1965 Voting Rights Act provides for appointment of Federal examiners who would assume the duty of actually registering voters without reference to the courts.

Article I, section 2 of the Constitution and the 17th amendment state that electors for U.S. representatives and Senators respectively shall have the qualifications requisite for electors of the most numerous branch of the legislature in each of their States. Pursuant to these provisions of the Constitution, establishment of voter qualifications and registration of voters are functions which have been exercised by the States.

It cannot be argued in opposition to the Voting Rights Act of 1965 that abolition of literacy and other tests and devices used by certain States as conditions of registration and that appointment of Federal examiners to register voters constitutes illicit transportation of authority from the States to the Federal Government.

The President and the Congress intend by this bill to protect the federally guaranteed right to vote of U.S. citizens within each of the several States which have denied that right. Every American citizen is at once a citizen of the United States and of the State in which he resides. As such, he is the subject both of rights under the Constitution and laws of the United States and of rights under his State constitution and laws. He carries with himself into his State guarantees of certain rights by the Federal Government.

The right to vote is that fundamental political and civil right which constitutes representative democracy.

The 15th amendment declares that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Our Constitution does not establish any right without at the same time giving the Federal Government authority for its implementation. Section 2 of the amendment provides that "The Congress shall have power to enforce this article by appropriate legislation."

I urge that the Voting Rights Act of 1965 is both necessary and appropriate to defend the most essential right of citizens of the United States.

I should like to turn Mr. Chairman, to my bill, H.R. 1568. This bill would ban all literacy and other performance tests as conditions for voter registration. I believe that the enactment of H.R. 1568 is demanded by the fact that there are 20 States of the Union which impose literacy tests of one kind or another. The Voting Rights Act of 1965 which you are considering would eliminate literacy tests, but only in those States where 50 percent of the voting-age population failed to register of failed to vote in 1964.

The 26 States imposing a literacy test are Alabama, Alaska, Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New York, North Carolina, Oregon, South Carolina, Virginia, Washington, and Wyoming. Some of the above mentioned States will be covered by the Voting Rights Act of 1965; most of them will not.

As for my own State of New York, I wish to point out that if the provisions of H.R. 1568 were to be included in the Voting Rights Act of 1965, or enacted as a separate law, it would have the effect of enfranchising approximately 200,000 Puerto Ricans who are U.S. citizens and who are presently denied the right to vote by English language literacy tests imposed by the State of New York for registration.

Hundreds of thousands of Puerto Rican citizens are quite literate in Spanish but not in English. This should not be regarded as a disability with respect to the exercising of the duties and rights of citizenship. Practically every newsstand in New York City carries daily newspapers printed in Spanish which

give news and commentary on the affairs of government at every level; there are radio stations in New York that broadcast primarily in Spanish. In short, Mr. Chairman, there is no reason to assume that our Spanish speaking fellow citizens are not just as well informed as anybody else.

The amendment to the New York State constitution requiring English-language literacy tests was adopted in 1921. It was an unhappy piece of business and I don't think anybody today is proud of the reasons for it.

Language, Mr. Chairman, is considered an attribute of race. The New York law does not test literacy as such as a reasonable test of mental qualification to vote. It tests rather proficiency in the English language and thereby discriminates against U.S. citizens on an attributable racial basis.

The treaty of Paris in 1898 by which Puerto Rico was ceded to the United States provided that the Puerto Ricans themselves could adopt either Spanish or English as their official language. They chose Spanish. Since the treaty of Paris is the law of the land, the right to conduct their public affairs in Spanish is a right of Puerto Ricans under United States law. I suggest, therefore, Mr. Chairman, that to deny Puerto Rican citizens who are literate in Spanish the right to vote is a denial of the equal protection of the laws.

The abolition of literacy tests and other discriminatory means of denying the right to vote will enfranchise the Negro citizen in Selma and elsewhere and the Puerto Rican citizen in New York and elsewhere. It will, thereby, immeasurably enhance representative democracy.

STATEMENT OF HON. LEONARD FARBSTEIN FROM THE STATE OF NEW YORK

Mr. CHAIRMAN. Those farsighted men whom we salute as the fathers of our country did more than institute a new way of government. They passed on to our hands the conduct of one of the noblest experiments on earth; one which would determine whether freemen could decide of and by themselves the course of the Government to which they owe allegiance. We meet here today to confront a challenge to that experiment—a challenge which has denied that right of choice to a large segment of our population—a challenge which must be met here and now with forceful legislative measures.

We have before us for consideration legislation that the President has proposed to meet this challenge. I feel this legislation is strong, but that it could be improved in certain respects. Toward this end, I have introduced my own bill which incorporates those important improvements which I believe are necessary to achieve the voting equality which we seek.

First among these changes should be the complete abolition of literacy tests as a means of qualifying voters. Such tests have long been used as a pernicious means of discrimination at the polls, not only in the South where it has become so evident these past few weeks, but as far away as my own State of New York where countless Spanish-speaking citizens, who are perfectly literate in their own tongue, and who often have high school or college degrees, are denied this basic right because they are not literate in English.

The argument can be made that the sovereign States have the prerogative to set whatever qualifications they deem necessary, including literacy tests. This is true and one would deny it. But it is equally true that the 15th amendment empowers Congress to curtail any such State qualifications when they are used in a discriminatory manner. I feel that the literacy test has so long been used as such a means that we should act now to exercise our congressional obligation to strike it out.

This gives rise to the very serious question of whether or not our polls will be flooded by ignorant voters. I have given this careful consideration and can honestly say that it is my belief that with radio and TV news coverage at the advanced state it is today, the means of informing oneself of the issues at hand are just as adequate for a person who can neither read nor write as they are for a person who is literate.

The second change which I would seek would be an extension of the coverage of the bill to those counties where, although literacy tests are not given, less than 25 percent of the nonwhite population was registered in 1964. We would indeed be myopic if we thought that literacy tests were the only means of voter discrimination in the South or elsewhere. While the provision in the administration bill for the automatic appointment of registrars is good, it should be extended to those areas where literacy tests do not apply. For example, Arkansas has no literacy test, yet only 40.3 percent of the nonwhite eligible voting population was registered in 1964 as compared to 65.4 percent of the white population. The actual voting figures were much lower.

The third improvement I seek is the removal of the requirement that those who have been repeatedly harassed by local officials must, in some cases, apply to the same officials before they can register with a Federal examiner. The provision for Federal registrars works on the well-grounded presumption that discrimination already exists. Why must Negroes or Spanish-speaking citizens and others risk serious reprisals (reprisals which have in the past, as in Selma, reached the point of murder) to prove again what we have already assumed?

My bill would eliminate the provision that before registration by a Federal examiner, applicants must try to register with State officials within 90 days.

Lastly, I feel that the poll tax should be eliminated completely as a requirement for voting in State and local elections, as it has been by constitutional amendment for Federal elections. The right to vote is essential and should not be compromised by a person's financial situation. Moreover, I feel such abolition is demanded by the equal protection clause of the first section of the 14th amendment.

These are the ways in which I feel the voter rights bill should be strengthened. They do not deny H.R. 6400; they will just make it a much better bill—a bill which will more clearly defend the basic voting rights of the nonwhites in America and a bill which will enable us to proceed with our "experiment" in democracy.

STATEMENT BY THOMAS J. LLOYD AND PATRICK E. GORMAN, PRESIDENT AND SECRETARY-TREASURER, RESPECTIVELY, OF THE AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN (AFL-CIO)

MARCH 26, 1965.

Our names are Thomas J. Lloyd and Patrick E. Gorman, president and secretary-treasurer, respectively, of the Amalgamated Meat Cutters and Butcher Workmen (AFL-CIO).

The Amalgamated is a labor union with 375,000 members in about 500 local unions throughout the United States and Canada. The Amalgamated and its local unions have contracts with thousands of employers in the meat, retail, poultry, egg, canning, leather, fish processing, and fur industries.

1. VOTING IS SACRED RIGHT OF CITIZENSHIP

Our union had intended to appear before Subcommittee No. 5 of the Committee on Judiciary to present oral testimony concerning the voting rights bill. However, we realize the importance of expediting this legislation and we therefore have not asked for time before the subcommittee. Instead, we are expressing the views of the Amalgamated in this statement, which we are submitting to all members of the subcommittee. We also respectfully request that this statement be made a part of the subcommittee's record of the hearings.

Voting is one of the most sacred rights and obligations of American citizens. It is guaranteed in the Constitution. It is the most basic part of our political system. To deny this right to millions of Americans because of their race, color, or national origin is a stain on the quality and depth of our democracy.

As the President so ably pointed out in his speech to the joint session of Congress, the rights of no American are safe if the rights of some Americans are abridged. If some Americans are prevented from exercising their rights of franchise, then all of us are endangered. Just as this Nation could not exist half slave and half free, so it cannot exist part first-class citizens and part second-class citizens.

Our union has long recognized these facts. We have long called for legislation to end all legal discrimination and inequality, including concerning voting rights. We strongly supported voting legislation during the 1940's and 1950's. And we fought against the disastrous watering down of the voting bills which occurred in the congressional approval of the 1957 and 1960 legislation.

We regret that the nearly universal acceptance of the need for voting legislation comes at such a late date. However, we are, of course, delighted that this acceptance has come at last. We sincerely hope that in the very near future, all Americans will be able to exercise their birthright by participating in the decision as to who should govern them.

2. STRENGTHENING CHANGES SOUGHT IN H.R. 6400

The legislation proposed by the Johnson administration and introduced by the distinguished chairman of the committee, Representative Emanuel Celler (H.R.

6400) is a good bill. We wish to congratulate the President and Mr. Cellor on this measure. However, we do believe that it needs strengthening in four particular areas. These are:

1. The bill should provide the end of all poll taxes and should not require the Federal registrars to collect this obnoxious tax, whose purpose is and has been to prevent Negroes from voting.

The men and women who have been deprived of the right to vote because of their race and color have also been deprived of economic opportunities. They are among the most poverty striken of the land. Yet this legislation would hold out the right to vote to them only if they could afford to pay the poll tax. We firmly believe this is wrong and inequitable. It would make the vote a class matter.

2. Coverage of the bill should be broadened to include any political subdivision where voting discrimination exists.

Although H.R. 6400 would automatically affect Alabama, Mississippi, Georgia, Louisiana, South Carolina, and Virginia and some subdivisions of North Carolina, it would not cover many hard-core discrimination areas in such States as Arkansas, Florida, Tennessee, and Texas. For example, the U.S. Commission on Civil Rights has reported on three counties in Florida where no Negroes were registered and another two counties in which fewer than 3 percent of the Negroes were registered. It would be ridiculous to pass a bill allegedly assuring the right to vote and leave out areas such as these.

3. INTIMIDATION MUST BE PREVENTED

3. The provision which requires citizens to apply first to State and local officials before they can register with the Federal registrars should be taken out of the bill.

The Nation has unfortunately witnessed an outpouring of violence in various Southern States against men and women who have dared to attempt to register and vote. To expose citizens to such violence even after this legislation is enacted would be unconscionable. The intimidation which this provision would make practicable could very well contravene the high purposes of the bill.

4. The protection of prospective voters against intimidation in the entire election process should be strengthened.

In their effort to register and to vote, American citizens have suffered the most shameful of intimidation in some southern areas. Threats of violence to themselves and their families and actual violence, itself, have frequently occurred. Equally common have been economic threats and economic reprisals, such as firing Negro workers or throwing Negro sharecroppers off the land they rented. Unless these and other means of intimidations are prohibited and punished by Federal law, this legislation could become a dead letter in many areas of the Nation where its provisions are needed the most.

4. SPEEDY APPROVAL URGED

We strongly urge the committee to make these changes in H.R. 6400. We believe these amendments are essential to accomplish the high purposes which the administration, the overwhelming majority of Congress and the overwhelming majority of the American people seek so earnestly. Without these amendments, we believe that the bill will not have the desired effect of truly providing universal suffrage, free of discrimination.

We also respectfully urge that the committee approve H.R. 6400, so amended, as quickly as possible and report it to the full House of Representatives.

SUBMITTED BY MARLIN EVANS, EDITOR IN CHIEF, BALL STATE NEWS, BALL STATE UNIVERSITY, MUNCIE, IND.

[From the Ball State News]

EDITORIAL: A MESSAGE TO INDIANA'S CONGRESSMEN

Senators: Birch E. Bayh and R. Vance Hartke; Representatives: Ray J. Madden, Charles A. Halleck, John Brademas, E. Ross Adair, J. Edward Roush, Richard L. Roudebush, William G. Bray, Winfield K. Denton, Lee H. Hamilton, Ralph Harvey, and Andrew Jacobs, Jr.

To the Indiana delegation to the Congress of the United States:

The Ball State News addresses this urgent appeal for congressional action in this session.

In the discussions and resulting legislation in the field of civil rights, the Ball State News fears that two important aspects may be overlooked. Therefore, we urgently request that in that legislation these two provisions be included:

1. A law should be written making it illegal for the flag that was the emblem of the Confederacy to be displayed or flown in or over public buildings, whether they be locales of State, city, county, township, or Federal agencies. Further, no such governmental agency should be allowed to devise a banner that imitates or simulates that flag as a devious scheme to circumvent this law.

2. A law should be written to prohibit any governmental official or registrar on any level of government to require any statement from voters at the time of their registration, balloting, or at any other time which would in effect say:

"In the case that Alabama (or any other State or governmental unit) should secede from the United States, the voter pledges that he shall support the secession and fight against the United States in any ensuing action." The requirement of such a statement should be a treasonable act punishable in the full severity of laws pertaining to treason.

These two practices that exist in several southern areas have been tolerated merely because sensible persons have thought them to be patent nonsense and childish play.

There is nothing childish about the murders in Alabama or the Confederate flag on its capitol. It is past time that that element of the South be considered as a comic opera. It is time that every citizen of the Nation be aware of his responsibilities to the Nation whether those responsibilities take him to North Vietnam, Birmingham, or Selma.

The Ball State News asks you to plead with Congress to take these two steps along with the others that the march to Montgomery has inspired.

SOUTHERN STATES INDUSTRIAL COUNCIL,
Nashville, Tenn., April 6, 1965.

HON. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of this organization, I wish to file for the record the attached statement by the undersigned, in opposition to H.R. 6400; also the attached editorial by Mr. Thurman Sensing, executive vice president of the council.

With appreciation for your courtesy and with all good wishes, I am, with much respect,

Sincerely yours,

TYRE TAYLOR,
General Counsel.

STATEMENT BY TYRE TAYLOR, GENERAL COUNSEL, SOUTHERN STATES INDUSTRIAL COUNCIL, IN OPPOSITION TO H.R. 6400

APRIL 6, 1965.

At a meeting held at Sea Island, Ga., on May 21–23, 1964, the board of directors of the council unanimously reaffirmed its position on force bills as follows:

"The council opposes so-called Federal civil rights legislation as a further unwarranted encroachment by the Central Government upon the rights of the individual citizen, the States, and local communities."

It strongly opposes H.R. 6400 (along with its companion bill, S. 1560, in the Senate) for many reasons, including—

It is clearly unconstitutional. The very first article of the Constitution authorizes the States to determine the qualifications of voters in both State and Federal elections, subject only to the proviso that whoever is deemed qualified to vote for "the most numerous branch of the State Legislature" is automatically qualified to vote in Federal elections. This provision—which is repeated verbatim in the 17th amendment—has been repeatedly upheld by the Supreme Court, the last time in 1959.

It is discriminatory. It would abolish all literacy tests for voting, except in those States, such as New York, where 50 percent or more of the eligible voters cast their ballots in the 1964 presidential election. Thus, the State of Virginia,

for example, would be proscribed, even though its literacy test would appear to be the minimum necessary to the orderly conduct of an election—such as name, date and place of birth, current residence, occupation, and, if the voter has voted before, the county and precinct in which he voted. The administration concedes that the Virginia literacy test is reasonable and that there is no evidence that it has been used to discriminate against Negroes.

I might add here, by way of parenthesis, that a good case can be made for more, rather than fewer literacy requirements for voting. This bill is designed to permit total illiterates—even morons—to vote. As the Washington Evening Star observed editorially last Sunday, the educational voting level is low enough now without enacting a Federal law to push it down even further.

This bill fabricates out of whole cloth and relies upon an unproved and unprovable assumption that any State using a literacy test has violated the 15th amendment if 50 percent or fewer of those of voting age were not registered on November 1, 1964, or did not vote in the 1964 presidential election. Lack of participation in elections is, of course, brought about by many factors, including a strong, one-party system, confidence in victory, dissatisfaction with both candidates, bad weather—or just a plain lack of concern.

H.R. 6400 is flagrantly violative of the rights of the States guaranteed to them by the first article and by the 9th and 10th amendments to the Constitution of the United States. The seven States found guilty in advance under the infamous and insulting formula provided for in the bill would be slapped down by the Federal power, and Federal registrars would supplant State and local authorities. Indeed, this is the whole aim and purpose of the bill. It is in no sense national legislation. Its aim and purpose is not to state a general rule of law applicable to all, but to subject certain States to special laws. It is—as to those States to which it would apply—a reenactment of Reconstruction—an ex post facto bill of attainder. However, if enacted, there would be slight hope for judicial relief. Five members of the Supreme Court, including the Chief Justice, stood and applauded when Mr. Johnson concluded his so-called voting rights address to the joint session.

This bill is proposed in and starkly reflects the prevailing atmosphere of ruthlessness and hysteria, hate, and total political cynicism. It is supported by some sincere and well meaning, though in our view, totally misguided people, including a great many clergymen and college professors who should know better. It is also supported—and not surprisingly—by the Communists and fellow travelers, which, one would think, should give pause to the more hot eyed among us. We earnestly urge that H.R. 6400 be defeated, or at least held up until the country cools off and regains a calmer, more normal view of things. In this connection, I should like also to offer for the record an editorial, "In a Time of Frenzy", by Thurman Sensing, executive vice president of the council. The editorial appeared in the April 1, 1965, council bulletin.

Thank you.

EDITORIAL: IN A TIME OF FRENZY

(By Thurman Sensing)

The last few weeks mark one of the worst stampedes in the history of our country. Unscrupulous conflict managers engineered turmoil in the streets and highways of Alabama, misleading a large section of the American people into believing that a terrible injustice had been committed.

Using massed groups of clergymen, who were cleverly persuaded by the National Council of Churches that a political drive actually was a moral crusade, the conflict managers then carried their revolutionary campaign inside the doors of the White House, with squads of beatniks sprawled in the corridors of the Executive Mansion. President Johnson, feeling the intense pressure, quickly succumbed. He went over to Capitol Hill and virtually demanded of Congress—using the very theme song of the street agitators "We shall overcome"—that the Constitution be set aside and that the Federal Government grab control of the election machinery in six Southern States.

Back in the 1930's, Sinclair Lewis, the novelist, wrote a book entitled "It Can't Happen Here." Well, it is happening here in America. In conditions of emotional frenzy and contempt for the law of the land comparable with Nazi Germany after the Reichstag fire, the Johnson administration has all but pointed a gun at Congress in calling for a voter registration law that is completely unconstitutional.

Article I, section 2, of the U.S. Constitution clearly gives to the States the right to determine the qualifications of voters. This has been the American way since the Constitution was ratified by the States. But if Mr. Johnson's registration bill is enacted into law, the Constitution will have been breached. The American system will have undergone a totalitarian change. Six States will have been deprived of one of the foundations of republican government and will be in a Reconstruction era identical with the military occupation of 1865.

The L.B.J. voter bill is an appalling piece of legislation. Contrary to all American traditions of justice, six States will be presumed guilty. If in 1964 not more than 50 percent of the persons of voting age noted in the 1960 census actually voted, then the Federal Government automatically assumes that people were discriminated against and deprived of the vote. This is a cruel, wicked and un-American assumption. There are places where voting has been discouraged. But there also are vast areas—entire States—where voter registration proceeds with absolute fairness and equal application of the laws. These areas and States are to be slapped down by the Federal power, and Federal registrars are to usurp States' rights.

The L.B.J. voter law is grossly discriminatory in another way. It is legislation aimed at a particular section of the country. Nothing in the bill is aimed at dealing with corrupt voting practices elsewhere in the Nation. Yet Americans know full well that big city machines in the metropolitan centers of the North are a synonym for voter corruption and manipulation. Yet Mr. Johnson feeds on these machines, so he does nothing about them.

What Mr. Johnson has proposed is not democracy; it is mobocracy. By endeavoring to shatter all qualifications for voting, he uses a crowbar to break down standards erected for the purpose of promoting good government in this land. He would turn over the government of towns and cities, counties, and States, to that element in our population which is least qualified to understand the public business and most poorly qualified to make decisions regarding the community's well-being.

The suspicion is naturally aroused that, in bowing to the street and highway agitators, Mr. Johnson hopes that powerful new political engines will be created in the South so as to turn the Southern States into captive communities for his reelection.

The founders of the Republic feared the rise of dictatorship, and therefore they created the judicial branch of the U.S. Government. But the day that Mr. Johnson spoke to Congress, *the members of the Supreme Court were present in the legislative chamber, clapped loudly, and showed their approval of his revolutionary demands.* It is shameful that judges should become a claque. And the American people can only hope that any legislation produced in a time of frenzy and totalitarian ruthlessness will be subjected to judicial second thoughts. *If the Justices of the Supreme Court close their eyes to the law, then there can be no hope for redress until such time as the court of last resort—the American people—can see past the machinations of the anarchists and turmoil promoters who present revolution as a crusade.*

STATEMENT OF LAWRENCE W. FAGG, ARLINGTON, VA.

The essential conflict arising in the consideration of the proposed voting rights bill (H.R. 6400) is that between the rights of States to set qualifications for its voters, as is clearly implied in article I, section 2 of the Constitution, and the right of a person not to be denied his vote on account of race or color, as is specifically stated in the 15th amendment. In basic principle there is no reason why these provisions of the Constitution cannot be reconciled. In other words, there is no reason in principle why a State cannot be allowed a wide latitude in the choice of the qualifications it wishes to impose without making those qualifications in any way discriminatory as to race or color.

However, it has become apparent in certain States that the voter qualification laws of these States have been executed in such a fashion by certain local registrars as to deny persons the right to vote on account of race or color. Cases are replete with instances where State voting qualifications, although they are stated with no suggestion of racial discrimination, have been distorted in application and made impossibly difficult by local registrars so as to deny persons of the Negro race the right to vote.

Thus the root of the problem is not in any State's voter qualification law, which could not stand if it violated the 15th amendment, but in the execution of the law by certain local registrars in certain States.

Whereas the provisions of title I of the Civil Rights Acts of 1964 specify the legal action to be taken in cases of the use of voter qualifications to deny the right to vote by reason of color, this law has been shown in the past year not to be effective. One of the prime reasons for this is that in Federal suits against registrars or other persons responsible for the denial of voting rights, the most that can be expected is that the person or persons for whom the Attorney General brings suit will gain their right to vote. There is no means provided in title I of the Civil Rights Act, for effectively guaranteeing that discriminatory voting practices will no longer exist in a locality once they have been proven to exist.

Clearly a method for insuring that discriminatory practices do not continue in such cases is to require that federally appointed registrars or examiners, either supervise such local registrars, or serve themselves as registrars in order to execute the existing State voting qualification laws in a nondiscriminatory fashion. This procedure should be instituted as soon as a case of discriminatory practice in the locality has been proven to exist in the Federal courts. The presence of the Federal registrars should be maintained until such time as the Attorney General determines that there is no longer reason to believe that discriminatory use of the State voting qualification laws will be resumed.

It should be emphasized that such a method fully respects the existing, constitutionally legal, State voter qualification laws, while at the same time insures effective enforcement of the 15th amendment. The respect of such State laws must be maintained otherwise article I, section II of the Constitution will be violated.

This is feature of the voting rights problem to which the voting rights bill, H.R. 6400, does not pay sufficient heed. In section 5(b) of this bill it is stated that, "Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters." In section 6(b) it is stated, "The times, places, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing."

The import of these statements is that the voting qualification laws of the States affected in the bill will be executed subject to the discretion of the Civil Service Commission. Such a provision does not respect the constitutional right of States to maintain voter qualification laws because, in effect, it makes it possible to abrogate these laws at will.

It should be sufficient chastisement for a State or locality that it has been proven that its laws are not executed in a nondiscriminatory fashion and that they be forced to execute them so without depriving it of the fundamental sovereignty it has the constitutional right to possess.

A further advantage of the above-suggested method is that it applies to any locality where such denial of voting rights exists. There is no formula, as in H.R. 6400, based on the percentage of the State's population registered or voting in the 1964 presidential election, which clearly leaves it possible for discriminatory practices to continue in many localities. Neither would the method suggested in this testimony penalize an entire State for the shortcomings of a few localities therein, since the suggested legislation would apply directly to the locality where the discrimination exists.

Finally the legislation suggested herein does not entail the presumption that a State or locality is guilty of discriminatory voting practices until proven innocent as is clearly implied in section 3 of H.R. 6400. Such a presumption clearly runs counter to all basic legal tradition.

Accordingly, it is respectfully submitted that through the method discussed in this testimony the right of a State to establish voter qualifications, and the right of a person to expect that these qualifications be administered without discrimination as to race or color, can be reconciled.

TEXT OF BILLS

[H.R. 685, 89th Cong., 1st sess.]

A BILL To provide that the representation in the House of Representatives of each of the several States shall be reduced in proportion to the number of adult inhabitants of such State whose right to vote is denied or abridged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 141 of title 13 of the United States Code is amended by inserting at the end thereof the following: "Each census taken under this section shall also include a computation of the total number of inhabitants of each of the several States, being then twenty-one years of age, and citizens of the United States, whose right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, has, within four years before the census date applicable to that census, been denied or in any way abridged, except for participation in rebellion or other crime."

(b) Subsection (b) of such section 141 is amended by adding at the end thereof the following: "In determining the total population of any State for purposes of the apportionment of Representatives, the number of inhabitants determined with respect to that State under the last sentence of subsection (a) shall be subtracted from the whole number of persons in such State, excluding Indians not taxed."

(c) Such section 141 is further amended by adding at the end thereof the following:

"(c) The Secretary shall, in the year 1966, take a census of population as of the first day of April which shall be known as the census date."

SEC. 2. Subsection (a) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2), is amended (1) by inserting "(1)" immediately after "(a)", (2) by striking out "the seventeenth and each subsequent decennial census of the population" and inserting in lieu thereof "the most recent census of the population conducted under section 141 of title 13", and (3) by adding at the end thereof the following:

"(2) On the first day, or within one week thereafter, of the first regular session of the Eighty-ninth Congress, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the census of the population conducted under section 141(c) of title 13, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one member."

[H.R. 1568, 89th Cong., 1st sess.]

A BILL To protect the right to vote in Federal elections free from arbitrary discrimination by literacy tests or other means

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That (a) Congress finds that it is essential to our form of government that all qualified citizens have the opportunity to participate in the choice of elected officials.

(b) Congress further finds that the right to vote in Federal elections should be maintained free from discrimination and other corrupt influence.

(c) Congress further finds that many persons have been subjected to arbitrary and unreasonable voting restrictions on account of their race or color; that literacy tests and other performance examinations have been used extensively to effect arbitrary and unreasonable denials of the right to vote; and that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote.

(d) Congress further finds that education in the United States is such that persons who have completed six primary grades in a public school or accredited private school cannot reasonably be denied the franchise on grounds of illiteracy or lack of sufficient education or intelligence to exercise the prerogatives of citizenship.

(e) Congress further finds that large numbers of American citizens who are also citizens of the several States are deprived of the right to vote by virtue of their birth and education in a part of the United States in which the Spanish language is commonly used; that these citizens are well qualified to exercise the franchise; that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources; that lack of proficiency in the English language provides no reasonable basis for excluding these citizens from participating in the democratic process.

(f) Under article I, section 4 of the Constitution; section 5 of the fourteenth amendment, and section 2 of the fifteenth amendment; and its power to protect the integrity of the Federal electoral process, Congress has the duty to provide against the abuses which presently exist.

SEC. 2. Subsection (b) of section 2004 of the Revised Statutes (42 U.S.C. 1971) is amended to read as follows:

"(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such person to vote or to vote as he may choose in any Federal election, or subject or attempt to subject any other person to the deprivation of the right to vote in any Federal election. 'Deprivation of the right to vote' shall include but shall not be limited to (1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such other person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

"'Federal election' means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegate, or Commissioner from the territories or possessions."

SEC. 3. If any part or provision of this Act is held invalid, all other parts or provisions shall remain in effect. If a part or provision of this Act is held invalid in one or more of its applications, the part or provision shall remain in effect in all other applications.

[H.R. 2649, 89th Cong., 1st sess.]

A BILL To amend section 2004(e) of the Revised Statutes to provide for the appointment of Federal registrars to protect the right to vote in Federal elections from discriminatory practices

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2004(e) of the Revised Statutes (42 U.S.C. 1971(e)), as contained in section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is amended by adding immediately after the first paragraph thereof the following new paragraph:

"In addition, if, in any such proceeding to protect any voting right or privilege under this section, the court finds that any person has been deprived, on account of race or color, of any such voting right or privilege pursuant to any discriminatory pattern or practice in the administration of election laws, the court may issue an order appointing as many Federal registrars as may be necessary to oversee, supervise, and superintend the election procedures and processes in the State concerned, or in any subdivision of such State. Such order and appointments shall be effective until such time as the court subsequently finds that such discriminatory pattern or practice has ceased.".

[H.R. 2477, 89th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1964 to provide that all citizens of the United States may vote at all elections without being required to take literacy tests

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of section 101 as precedes paragraph (d) thereof in title I, relating to voting rights, of the Civil Rights Act of 1964 (78 Stat. 241) is amended to read as follows:

"SEC. 101. Section 2004 of the Revised Statutes of the United States, as amended (42 U.S.C. 1971), is amended as follows:

"(1) Subsection (a) is amended to read as follows:

"'(a) (1) The Congress finds—

"'(A) that the right to vote is fundamental to free, democratic government;

"'(B) that it is the responsibility of the Federal Government to secure and protect this right;

"'(C) that the right to vote of many persons has been impaired contrary to the requirements of the fourteenth and fifteenth amendments to the Constitution of the United States by reason of race or color;

"'(D) that literacy tests, including tests designed to test the ability of a person to comprehend, understand, or interpret written or other matter or to evaluate his powers of analysis or ability to reason, have been used extensively as a device for accomplishing such impairment; and

"'(E) that the enactment of this Act is necessary to protect and secure this right.

"'(2) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude and without the application of any literacy test; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding.

"'(3) No person acting under color of law shall—

"'(A) in determining whether any individual is qualified under State law or laws to vote in any election described in paragraph (2), apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"'(B) deny the right of any individual to vote in any election described in paragraph (2) because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"'(C) employ any literacy test as a qualification for voting in any election described in paragraph (2).

"'(4) For purposes of his subsection—

"'(A) the term "vote" shall have the same meaning as in subsection (e) of this section;

"'(B) the phrase "literacy test" includes any test of the ability to read, write, comprehend, understand, or interpret any matter and any test designed to evaluate the powers of analysis or ability to reason of any person.'"

"(2) Subsection (f) is amended by striking out '(a) or' ".

[H.R. 4249, 89th Cong., 1st sess.]

A BILL To prohibit literacy tests with respect to the right to vote

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, no person acting under color of law shall employ any literacy test to determine the qualifications for voting in any election of a citizen who has not been adjudged an incompetent and who has completed the sixth 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.

SEC. 2. (a) Whenever the provisions of section 1 of this Act are violated, or there are reasonable grounds to believe that a violation is about to occur, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the party aggrieved.

(b) The district courts of the United States shall have jurisdiction of civil proceedings authorized by this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 3. For the purposes of this Act—

(a) the phrase "literacy test" includes any test of the ability to read, write, comprehend, understand, or interpret any matter and any test designed to evaluate the powers of analysis, or ability to reason, of any person.

(b) the term "election" includes any primary or other election for President or Vice President, for electors for President or Vice President, for Senators or Representatives in Congress, or for any office of any State or political subdivision of a State or the Commonwealth of Puerto Rico, on any question submitted to the people.

(c) the term "vote" shall have the same meaning as in subsection (e) of section 1971, title 42, United States Code (74 Stat. 90).

[H.R. 4425, 89th Cong., 1st sess.]

A BILL To further secure the right to vote, free from discrimination on account of race or color, through the establishment of a Federal Voting, Registration, and Elections Commission

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 of 1965".

The Congress hereby finds: (1) That large numbers of citizens of the United States are still denied the right to vote on account of their race or color; (2) that many State and local registration and election officials are responsible for such denials; (3) that such denials are also accomplished through violence, threats of violence, economic reprisals, and other forms of intimidation; (4) that in many areas of the United States the literacy test, interpretation test, and others such devices serve no legitimate function and are used only as a means of denying citizens of the United States the right to vote on account of their race or color; (5) that the poll tax is today almost exclusively used to deny the right to vote on account of race or color and has no appreciable value in any way as a source of revenue, and (6) that the delays incident in granting the right to vote to all citizens of the United States regardless of their race or color under existing legislation have been excessive and unreasonable.

FEDERAL VOTING, REGISTRATION, AND ELECTIONS COMMISSION

SEC. 2. There is hereby established a Federal Voting, Registration, and Elections Commission which will consist of six members appointed by the President, not more than three of whom shall be of the same political party. All appointments shall be made with the advice and consent of the Senate. The President shall designate the Chairman of the Commission.

SEC. 3. The Commission, on application of any aggrieved person, or on its own motion, shall determine those States, districts, counties, municipalities, or other areas in which there exists a pattern or practice of denial or abridgment of the right to vote on account of race or color.

SEC. 4. Whenever the Commission makes a determination of a pattern or practice of denial or abridgment of the right to vote on account of race or color under section 3, then it shall and is hereby empowered to take appropriate action to correct such denials or abridgments. "Appropriate action" may include—

(a) establishment of a system of officials to conduct and make return of the election or elections in the affected area;

(b) appointment of supervisors of elections to oversee elections conducted by State or local officials. Such supervisors shall have full powers to guarantee the right to vote at the polls regardless of race or color, including the powers of United States marshals to arrest and to bear firearms;

(c) establishment of a system of Federal registrars empowered to register persons to vote in all elections, unless otherwise restricted by the Commission;

(d) requiring the use of such registration and voting application forms as are consistent with the purpose of this Act and with the valid qualifications for registration and voting under State law;

(e) establishment of a system of voter education and information centers designed to encourage registration and voting;

(f) preparing and publishing and distributing necessary materials;

(g) providing for Federal registrars who secure registration on a community-by-community and house-by-house basis;

(h) utilization of the provisions of section 1971 of title 42 of the United States Code;

(i) establishment, suspension or otherwise modifying registration deadlines and other such time limitations as is necessary to carry out the purposes of this Act.

SEC. 5. Whenever a determination is made by the Commission under section 3 that a pattern or practice of denial or abridgment of the right to vote on account of race or color exists in an affected area, without further action by the Commission;

(a) an applicant seeking to register to vote who has completed four grades of education in a public school or in a private accredited school shall have fulfilled all literacy, education, knowledge or intelligence requirements, and

(b) fulfillment of any requirements to vote in all elections shall be allowed at any time up to thirty days preceding the date of the election.

SEC. 6. The requirement for payment of the poll tax as a prerequisite to vote in any election is hereby abolished.

DEFINITIONS

SEC. 7. (a) "Affected area" means the State or a political subdivision or subdivisions thereof.

(b) "Election" means all elections including those for Federal, State, or local office and including primary elections or any other voting process at which candidates or officials are chosen. "Election" shall also include any election at which a proposition or issue is to be decided.

(c) "Valid qualifications for registration and voting under State law" shall not include any requirement prerequisite to voting which the Commission finds the purpose or effect to be that of furthering in any way a pattern or practice found pursuant to section 3.

ENFORCEMENT

SEC. 8. (a) Any officer refusing in any way or neglecting to accept and count a vote cast by a person registered pursuant to subsection 4(c) of this Act shall be liable for a penalty of $300 for each separate vote not counted, which shall be forthwith assessed by the Commission after a hearing and given to the United States marshal for collection. The city, county, State, or other unit of government of which the official is a part shall be assessed a like penalty.

(b) It shall be a discriminatory election practice for any person to—

(1) interfere with, impede the effectuation of, or disobey any order of the Commission, or to

(2) violate any rule or regulation adopted by the Commission in accordance with section 14.

(c) Upon complaint of any aggrieved person or upon its own motion, the Commission shall determine the existence of discriminatory election practice. Upon such determination the Commission shall issue a cease and desist order or take such affirmative action as will effectuate the policy of this Act. The Commission may make the cease and desist order apply to all future activity of any person committing discriminatory election practices. The Commission may apply at any time to the court of appeals of the circuit where the discriminatory election practice occurred for the enforcement of such order or action and for appropriate temporary relief or restraining orders.

(d) The Commission may declare void any election in which it finds that discriminatory election practices have resulted in a substantial denial of the right to vote on account of race or color, may declare the office vacant and may order a new election.

(e) The Commission shall request the President for such further assistance as it deems necessary for enforcement of the provisions of this Act.

APPEALS

SEC. 9. Action of the Commission pursuant to section 3 and subsections 8(a) or 8(d) shall be subject to appeal within sixty days to the court of appeals for the circuit in which the proceeding arose. Unless stayed by an order of the court or a panel thereof, the action of the Commissions shall remain in full force and effect pending appeal. The findings of the Commission as to questions of fact, if supported by substantial evidence, shall be conclusive.

TESTIMONY OF WITNESSES AND PRODUCTION OF DOCUMENTS

SEC. 10. The Commission shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Commission may apply for its enforcement to the court of appeals of the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt.

SEC. 11. It is hereby declared to be the policy of the United States that wherever a pattern or practice of denial of the right to vote on account of race or color exists in any area, all reasonable doubts shall be forthwith resolved in favor of registration and voting rather than in favor of nonregistration and nonvoting.

SEC. 12. The Commission shall appoint an executive director and such officers and other personnel as performance of its duties requires.

SEC. 13. The Commissioners shall receive an annual salary of $25,000; the executive director, $22,500.

SEC. 14. The Commission shall have authority from time to time to make, amend, or rescind in the manner prescribed in the Administrative Procedure Act any rules and regulations which may be necessary to carry out the provisions of this Act.

SEC. 15. The Administrative Procedure Act shall not be construed to apply to proceedings under this Act except as provided in section 12.

[H.R. 4427, 89th Cong., 1st sess.]

A BILL To further secure the right to vote, free from discrimination on account of race or color, through the establishment of a Federal Voting, Registration, and Elections Commission

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 of 1965".

The Congress hereby finds: (1) That large numbers of citizens of the United States are still denied the right to vote on account of their race or color; (2) that many State and local registration and election officials are responsible for such denials; (3) that such denials are also accomplished through violence, threats of violence, economic reprisals and other forms of intimidation; (4) that in many areas of the United States the literacy test, interpretation test and other such devices serve no legitimate function and are used only as a means of denying citizens of the United States the right to vote on account of their race or color; (5) that the poll tax is today almost exclusively used to deny the right to vote on account of race or color and has no appreciable value in any way as a source of revenue, and (6) that the delays incident in granting the right to vote to all citizens of the United States regardless of their race or color under existing legislation have been excessive and unreasonable.

FEDERAL VOTING, REGISTRATION AND ELECTIONS COMMISSION

SEC. 2. There is hereby established a Federal Voting, Registration and Elections Commission which will consist of six members appointed by the President, not more than three of whom shall be of the same political party. All appointments shall be made with the advice and consent of the Senate. The President shall designate the Chairman of the Commission.

SEC. 3. The Commission, on application of any aggrieved person, or on its own motion, shall determine those States, districts, counties, municipalities or other areas in which there exists a pattern or practice of denial or abridgment of the right to vote on account of race or color.

SEC. 4. Whenever the Commission makes a determination of a pattern or practice of denial or abridgment of the right to vote on account of race or color under section 3, then it shall and is hereby empowered to take appropriate action to correct denials or abridgments. "Appropriate action" may include—

(a) establishment of a system of officials to conduct and make return of the election or elections in the affected area;

(b) appointment of supervisors of elections to oversee elections conducted by State or local officials. Such supervisors shall have full powers

guarantee the right to vote at the polls regardless of race or color, including the powers of United States marshals to arrest and to bear firearms;

(c) establishment of a system of Federal registrars empowered to register persons to vote in all elections, unless otherwise restricted by the Commission;

(d) requiring the use of such registration and voting application forms as are consistent with the purpose of this Act and with the valid qualifications for registration and voting under State law;

(e) establishment of a system of voter education and information centers designed to encourage registration and voting;

(f) preparing and publishing and distributing necessary materials;

(g) providing for Federal registrars who secure registration on a community-by-community and house-by-house basis;

(h) utilization of the provisions of section 1971 of title 42 of the United States Code;

(i) establishment, suspension or otherwise modifying registration deadlines and other such time limitations as is necessary to carry out the purposes of this Act.

SEC. 5. Whenever a determination is made by the Commission under section 3 that a pattern or practice of denial or abridgment of the right to vote on account of race or color exists in an affected area, without further action by the Commission:

(a) an applicant seeking to register to vote who has completed four grades of education in a public school or in a private accredited school shall have fulfilled all literacy, education, knowledge or intelligence requirements, and

(b) fulfillment of any requirements to vote in all elections shall be allowed at any time up to thirty days preceding the date of the election.

SEC. 6. The requirement for payment of the poll tax as a prerequisite to vote in any election is hereby abolished.

DEFINITIONS

SEC. 7. (a) "Affected area" means the State or a political subdivision or subdivisions thereof.

(b) "Election" means all elections, including those for Federal, State, or local office and including primary elections or any other voting process at which candidates or officials are chosen. "Election" shall also include any election at which a proposition or issue is to be decided.

(c) "Valid qualifications for registration and voting under State law" shall not include any requirement prerequisite to voting which the Commission finds the purpose or effect to be that of furthering in any way a pattern or practice found pursuant to section 3.

ENFORCEMENT

SEC. 8 (a) Any officer refusing in any way or neglecting to accept and count a vote cast by a person registered pursuant to subsection 4(c) of this Act shall be liable for a penalty of $300 for each separate vote not counted, which shall be forthwith assessed by the Commission after a hearing and given to the United States marshal for collection. The city, county, State or other unit of government of which the official is a part shall be assessed a like penalty.

(b) It shall be a discriminatory election practice for any person to—

(1) interfere with, impede the effectuation of, or disobey any order of the Commission, or to

(2) violate any rule or regulation adopted by the Commission in accordance with section 14.

(c) Upon complaint of any aggrieved person or upon its own motion, the Commission shall determine the existence of discriminatory election practice. Upon such determination, the Commission shall issue a cease-and-desist order or take such affirmative action as will effectuate the policy of this Act. The Commission may make the cease-and-desist order apply to all future activity of any person committing discriminatory election practices. The Commission may apply at any time to the court of appeals of the circuit where the discriminatory election practice occurred for the enforcement of such order or action and for appropriate temporary relief or restraining orders.

(d) The Commission may declare void any election in which it finds that discriminatory election practices have resulted in a substantial denial of the right to vote on account of race or color, may declare the office vacant, and may order a new election.

(c) The Commission shall request the President for such further assistance as it deems necessary for enforcement of the provisions of this Act.

APPEALS

SEC. 9. Action of the Commission pursuant to section 3 and subsections 8(a), or 8(d) shall be subject to appeal within sixty days to the court of appeals for the circuit in which the proceeding arose. Unless stayed by an order of the court or a panel thereof, the action of the Commission shall remain in full force and effect pending appeal. The findings of the Commission as to questions of fact, if supported by substantial evidence, shall be conclusive.

TESTIMONY OF WITNESSES AND PRODUCTION OF DOCUMENTS

SEC. 10. The Commission shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Commission may apply for its enforcement to the court of appeals of the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt.

SEC. 11. It is hereby declared to be the policy of the United States that wherever a pattern or practice of denial of the right to vote on account of race or color exists in any area, all reasonable doubts shall be forthwith resolved in favor of registration and voting rather than in favor of nonregistration and nonvoting.

SEC. 12. The Commission shall appoint an executive director and such officers and other personnel as performance of its duties requires.

SEC. 13. The Commissioners shall receive an annual salary of $25,000; the executive director, $22,500.

SEC. 14. The Commission shall have authority from time to time to make, amend, or rescind in the manner prescribed in the Administrative Procedure Act any rules and regulations which may be necessary to carry out the provisions of this Act.

SEC. 15. The Administrative Procedure Act shall not be construed to apply to proceedings under this act, except as provided in section 12.

[H.R. 4509, 89th Cong., 1st sess.]

A BILL To further secure the right to vote, free from discrimination on account of race or color, through the establishment of a Federal Voting, Registration, and Elections Commission

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 of 1965".

The Congress hereby finds: (1) that large numbers of citizens of the United States are denied the right to vote on account of their race or color; (2) that many State and local registration and election officials are responsible for such denials; (3) that such denials are sometimes accomplished through violence, threats of violence, economic reprisals, and other forms of intimidation; (4) that in many areas of the United States the literacy test, interpretation test, and other such devices are frequently abused so as to deny qualified citizens the right to vote on account of race or color; (5) that the poll tax as a condition of suffrage is today almost exclusively used to deny the right to vote on account of race or color; and (6) that the delays incident to granting the right to vote to qualified citizens of the United States regardless of their race or color under existing legislation have been excessive and unreasonable.

SEC. 2. DEFINITION.—"Election" means any election, including an election for Federal, State, or local office; a primary election or any other voting process at which officials or candidates for public office are chosen; and any vote which decides a proposition or issue of public law.

SEC. 3. The right to vote in any election shall not be denied or abridged by reason of failure to pay any poll tax or other tax.

SEC. 4. There is hereby established a Federal Voting, Registration, and Elections Commission which shall consist of six members appointed by the President, with the advice and consent of the Senate. Not more than three of the members

shall be of the same political party. The President shall designate the Chairman of the Commission.

SEC. 5. The Commission, on application of any aggrieved person, or on its own motion, shall determine, after a hearing on the record, whether there exists a pattern or practice of denial or abridgment of the right to vote on account of race or color in any State or political subdivision thereof.

SEC. 6. Whenever a determination is made by the Commission under section 5 that a pattern or practice of denial or abridgment of the right to vote on account of race or color exists in an area, without further action by the Commission any applicant seeking to register to vote—

(a) shall, by completion of six grades of education in a public school or in a private accredited school, be deemed to have fulfilled all literacy, education, knowledge, or intelligence requirements, and

(b) shall be allowed to satisfy any registration or voting requirements at any time until thirty days before an election.

SEC. 7. Whenever the Commission makes a determination of a pattern or practice of denial or abridgment of the right to vote on account of race or color under section 5, it is empowered to take appropriate action to correct such denials or abridgments. "Appropriate action" may include:

(a) Establishment of a system of officials to conduct and make return of elections in the area;

(b) Appointment of supervisors to oversee elections conducted by State or local officials. The Commission may confer upon the supervisors such powers as it deems necessary to guarantee the right to vote, including the powers of United States marshals to arrest and to bear firearms;

(c) Establishment of a system of Federal registrars empowered to register persons to vote in all elections. Such registrars may secure registration on a house-to-house basis;

(d) Requiring the use of such registration and voting application forms as are consistent with the policies of this Act and which incorporate the valid qualifications for registration and voting under State law. "Valid qualifications for registration and voting under State law" shall not include any requirement the purpose or effect of which the Commission finds is to further in any way the pattern or practice found pursuant to section 5;

(e) Establishment of a system of voter education and information centers designed to facilitate registration and voting;

(f) Preparation, publication, and distribution of materials;

(g) Establishment, suspension or modification of registration deadlines or periods, or of other such time limitations.

SEC. 8. If the Commission finds after a hearing on the record, that any official of any State or political subdivision thereof has refused, or has aided another such official in refusing, in any way to accept or count a ballot cast by a person registered pursuant to section 7 of this Act, the Commission shall assess a civil penalty of $300 for each separate ballot not counted upon both (a) the official, and (b) the State or political subdivision thereof of which he is an official. These civil penalties shall be collected by United States marshals.

SEC. 9. (a) It shall be a discriminatory election practice for any person to—

1. commit in any official capacity any act which furthers the pattern or practice found pursuant to section 5;

2. interfere with or impede the effectuation of any order or action of the Commission;

3. violate any rule or regulation adopted by the Commission under section 15.

(b) Upon complaint of any aggrieved person or upon its own motion, the Commission shall determine, after a hearing on the merits, whether any person has committed a discriminatory election practice. Upon such determination the Commission may issue a cease and desist order or order such affirmative action as will effectuate the policies of this Act. Such cease and desist orders may apply to all future discriminatory election practices. The Commission may apply at any time to the court of appeals of the circuit within which the discriminatory election practice occurred for the enforcement of such order and for appropriate temporary relief or restraining orders.

(c) If the Commission finds that discriminatory election practices have resulted in a substantial denial of the right to vote on account of race or color in any election, the Commission may declare the election void, and may order and conduct a new election. This subsection shall not apply to elections for presi-

dential and vice-presidential electors, United States Senators, and United States Representatives.

(d) The Commission may request such further assistance from the President as it deems necessary for enforcement of this Act.

SEC. 10. APPEALS.—Any aggrieved person may appeal any determination, order, or action of the Commission pursuant to sections 5, 8, 9(b), or 9(c) within sixty days to the court of appeals for the circuit in which the proceeding arose. Unless stayed by an order of the court or a panel thereof, a determination, order, or action of the Commission pursuant to sections 5, 8, or 9(c) shall remain in full force and effect pending appeal. In any appeal under this section, or upon application by the Commission for enforcement of its order pursuant to section 9(b), the findings of the Commission as to questions of fact, if supported by substantial evidence, shall be conclusive.

SEC. 11. TESTIMONY OF WITNESSES AND PRODUCTION OF DOCUMENTS.—The Commission shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Commission may apply for its enforcement to the court of appeals of the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt.

SEC. 12. This Act shall be liberally construed so as to secure and protect the right to vote.

SEC. 13. The Commission shall appoint an executive director and such officers and other personnel as performance of its duties requires.

SEC. 14. The Commissioners shall receive an annual salary of $25,000; the Executive Director, $22,500.

SEC. 15. The Commission shall have the authority to make, amend, or rescind rules and regulations, procedural or substantive, for the enforcement of the provisions and policies of this Act.

SEC. 16. The Administrative Procedure Act shall apply to proceedings under this Act, provided that, whenever a single Commissioner has presided at a hearing, the Commission may, upon the basis of consultation with that Commissioner, decide the matter.

SEC. 17. Nothing in this Act shall be construed to repeal or supersede the provisions of title 42, United States Code, section 1971.

[H.R. 4549, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed

by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate indentifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other

action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4550, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5,

United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such a finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4551, 80th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color or any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any persons who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith

determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4552, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to reigster to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative,

any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4553, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof of otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or other wise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4554, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If he court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars,

so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4565, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 10 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4556, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971 (f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been

refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 4018, 89th Cong., 1st sess.]

A BILL To further secure the right to vote, free from discrimination on account of race or color, through the establishment of a Federal Voting, Registration, and Elections Commission

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 of 1965."

The Congress hereby finds—

(1) that large numbers of citizens of the United States are denied the right to vote on account of their race or color;

(2) that many State and local registration and election officials are responsible for such denials;

(3) that such denials are sometimes accomplished through violence, threats of violence, economic reprisals, and other forms of intimidation;

(4) that in many areas of the United States the literacy test, interpretation test, and other such devices are frequently abused so as to deny qualified citizens the right to vote on account of race or color;

(5) that the poll tax as a condition of suffrage is today almost exclusively used to deny the right to vote on account of race or color; and

(6) that the delays incident to granting the right to vote to qualified citizens of the United States regardless of their race or color under existing legislation have been excessive and unreasonable.

SEC. 2. DEFINITION.—"Election" means any election, including an election for Federal, State, or local office; a primary election or any other voting process at which officials or candidates for public office are chosen; and any vote which decides a proposition or issue of public law.

SEC. 2. The right to vote in any election shall not be denied or abridged by reason of failure to pay any poll tax or other tax.

SEC. 3. There is hereby established a Federal Voting, Registration, and Elections Commission which shall consist of six members appointed by the President, with the advice and consent of the Senate. Not more than three of the members shall be of the same political party. The President shall designate the Chairman of the Commission.

SEC. 4. The Commission, on application of any aggrieved person, or on its own motion, shall determine, after a hearing on the record, whether there exists a pattern or practice of denial or abridgment of the right to vote on account of race or color in any State or political subdivision thereof.

SEC. 5. Whenever a determination is made by the Commission under section 4 that a pattern or practice of denial or abridgment of the right to vote on account of race or color exists in an area, without further action by the Commission any applicant seeking to register to vote:

(a) shall, by completion of six grades of education in a public school or in a private accredited school, be deemed to have fulfilled all literacy, education, knowledge, or intelligence requirements, and

(b) shall be allowed to satisfy any registration or voting requirements at any time until thirty days before an election.

SEC. 6. Whenever the Commission makes a determination of a pattern or practice of denial or abridgment of the right to vote on account of race or color under section 4, it is empowered to take appropriate action to correct such denials or abridgments. "Appropriate action" may include—

(a) establishment of a system of officials to conduct and make return of elections in the area:

(b) appointment of supervisors to oversee elections conducted by State or local officials (the Commission may confer upon the supervisors such powers as it deems necessary to guarantee the right to vote, including the powers of United States marshals to arrest and to bear firearms);

(c) establishment of a system of Federal registrars empowered to register persons to vote in all elections. Such registrars may secure registration on a house-to-house basis:

(d) requiring the use of such registration and voting application forms as are consistent with the policies of this Act and which incorporate the valid qualifications for registration and voting under State law. "Valid qualifications for registration and voting under State law" shall not include any requirement the purpose or effect of which the Commission finds is to further in any way the pattern or practice found pursuant to section 4;

(e) establishment of a system of voter education and information centers designed to facilitate registration and voting;

(f) preparation, publication, and distribution of materials;

(g) establishment, suspension, or modification of registration, deadlines or periods, or of other such time limitations.

SEC. 7. If the Commission finds after a hearing on the record, that any official of any State or political subdivision thereof has refused, or has aided another such official in refusing, in any way to accept or count a ballot cast by a person registered pursuant to section 6 of this Act, the Commission shall assess a civil penalty of $300 for each separate ballot not counted upon both (a) the official, and (b) the State or political subdivision thereof of which he is an official. These civil penalties shall be collected by United States marshals.

SEC. 8. (a) It shall be a discriminatory election practice for any person to—

(1) commit in an official capacity any act which furthers the pattern or practice found pursuant to section 4;

(2) interfere with or impede the effectuation of any order or action of the Commission;

(3) violate any rule or regulation adopted by the Commission under section 14.

(b) Upon complaint of any aggrieved person or upon its own motion, the Commission shall determine, after a hearing on the merits, whether any person has committed a discriminatory election practice. Upon such determination the Commission may issue a cease-and-desist order or order such affirmative action as will effectuate the policies of this Act. Such cease-and-desist orders may apply to all future discriminatory election practices. The Commission may apply at any time to the court of appeals of the circuit within which the dis-

criminatory election practice occurred for the enforcement of such order and for appropriate temporary relief or restraining orders.

(c) If the Commission finds that discriminatory election practices have resulted in a substantial denial of the right to vote on account of race or color in any election, the Commission may declare the election void, and may order and conduct a new election. This subsection shall not apply to elections for Presidential and Vice Presidential electors, United States Senators, and United States Representatives.

(d) The Commission may request such further assistance from the President as it deems necessary for enforcement of this Act.

SEC. 9. APPEALS.—Any aggrieved person may appeal any determination, order, or action of the Commission pursuant to sections 4, 7, 8(b), or 8(c) within sixty days to the court of appeals for the circuit in which the proceeding arose. Unless stayed by an order of the court or a panel thereof a determination, order, or action of the Commission pursuant to sections 4, 7, or 8(c) shall remain in full force and effect pending appeal. In any appeal under this section, or upon application by the Commission for enforcement of its order pursuant to section 8(b), the findings of the Commission as to questions of fact, if supported by substantial evidence, shall be conclusive.

SEC. 10. TESTIMONY OF WITNESSES AND PRODUCTION OF DOCUMENTS.—The Commission shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Commission may apply for its enforcement to the court of appeals of the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt.

SEC. 11. This Act shall be liberally construed so as to secure and protect the right to vote.

SEC. 12. The Commission shall appoint an executive director and such officers and other personnel as performance of its duties requires.

SEC. 13. The Commissioners shall receive an annual salary of $25,000; the executive director, $22,500.

SEC. 14. The Commission shall have authority to make, amend, or rescind rules and regulations, procedural or substantive, for the enforcement of the provisions and policies of this Act.

SEC. 15. The Administrative Procedure Act shall apply to proceedings under this Act, provided that, whenever a single Commissioner has presided at a hearing, the Commission may, upon the basis of consultation with that Commissioner, decide the matter.

SEC. 16. Nothing in this Act shall be construed to repeal or supersede the provisions of section 1971, title 42 of the United States Code.

[H.R. 4962, 89th Cong., 1st sess.]

A BILL To amend the Civil Rights Act of 1964 to eliminate literacy tests as a qualification for voting in any election, to facilitate voting registration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of section 101 as precedes paragraph (d) thereof in title I, relating to voting rights, of the Civil Rights Act of 1964 (78 Stat. 241) is amended to read as follows:

"SEC. 101. Section 2004 of the Revised Statutes of the United States, as amended (42 U.S.C. 1971), is amended as follows:

"(1) Subsection (a) is amended to read as follows:

"'(a)(1) The Congress finds—

"'(A) that the right to vote is fundamental to free, democratic government;

"'(B) that it is the responsibility of the Federal Government to secure and protect this right;

"'(C) that the right to vote of many persons has been impaired contrary to the requirements of the fourteenth and fifteenth amendments to the Constitution of the United States by reason of race or color;

"'(D) that literacy tests, including tests designed to test the ability of a person to comprehend, understand, or interpret written or other matter or to evaluate his powers of analysis or ability to reason, have been used extensively as a device for accomplishing such impairment, and

"'(E) that the enactment of this Act is necessary to protect and secure this right.

"'(2) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous conditions of servitude and without the application of any literacy test; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding.

"'(3) No person acting under color of law shall—

"'(A) in determining whether any individual is qualified under State law or laws to vote in any election described in paragraph (2), apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"'(B) deny the right of any individual to vote in any election described in paragraph (2) because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"'(C) employ any literacy test as a qualification for voting in any election described in paragraph (2).

"'(4) For purposes of this subsection—

"'(A) the term "vote" shall have the same meaning as in subsection (e) of this section;

"'(B) the phrase "literacy test" includes any test of the ability to read, write, understand, or interpret any matter and any test designed to evaluate the powers of analysis or ability to reason of any person other than a person legally declared to be mentally incompetent.

"'(5) In order to provide additional periods in which persons ultimately may become eligible to vote, any legally competent person shall be permitted to register for voting in any election described in paragraph (2) on any day on which the courthouse or other appropriate government center is open for official business, notwithstanding that such person may be actually ineligible to vote in the next succeeding election by reason of any lawful termination date with respect to actual eligibility to vote in such next succeeding election by reason of registration processing requirements.'.

"(2) Subsection (b) is amended to read as follows:

"'(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate, at any election in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision.'.

"(3) Subsection (c) is amended by striking out 'if in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth 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 where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election.' and inserting in lieu thereof 'There shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth 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 where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election.'.

"(4) Subsection (e) is amended—

"(A) by striking out 'Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.', and

"(B) by striking out 'The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.'.

"(5) Subsection (f) is hereby repealed.".

[H.R. 5062, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the rights to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5276, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971 (f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to registrar to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to registrar to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the

right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5294, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated repesentative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered

to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5314, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrmination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5402, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5409, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c),

United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the

court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5419, 89th Cong., 1st sess.]

A BILL Providing for the reduction of the basis of representation of States denying or abridging the right of its citizens to vote, 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 "Congressional Representation Act of 1965".

ESTABLISHMENT OF A JOINT COMMITTEE ON CONGRESSIONAL REPRESENTATION

SEC. 2. There is hereby established a Joint Committee on Congressional Representation (hereinafter in this part referred to as the joint committee) to be composed of nine Members of the Senate to be appointed by the President of the Senate, and nine Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each instance not more than five members shall be members of the same political party.

FUNCTIONS OF THE JOINT COMMITTEE

SEC. 3. (a) The joint committee shall, as soon as practicable following the date of each biennial election for Representatives in Congress in the several States as established by section 25 of the Revised Statutes, but not later than May 1 of the year following such election—

(1) determine whether any State has, in violation of section 2 of the fourteenth amendment to the Constitution, denied or abridged the right of inhabitants of such State to vote as prescribed in such section since the preceding biennial election for Representatives in Congress;

(2) calculate, in the manner prescribed in section 2 of the fourteenth amendment to the Constitution, the number (if any) of Representatives in Congress which each State shall be then entitled as the result of any such denial or abridgment; and

(3) utilize such services of the United States Commission on Civil Rights and the United States Census Bureau as are necessary to achieve the required determinations and calculations.

(b) The joint committee shall, on or before May 1 of the year following each biennial election for Representatives in Congress, submit to the Congress a statement indicating, with respect to each State, the number (if any) by which such State's Representatives in Congress shall be decreased or increased under section 11(a) for the Congress which commences after the date of such statement. The joint committee shall submit with such statement a full and complete report of the facts upon which such statement is based. A copy of such statement shall be transmitted to the Clerk of the House of Representatives.

TIME CHANGES BECOME EFFECTIVE

SEC. 4. The changes prescribed in such statement shall become effective, with respect to the Congress which commences after the date of submission of such statement, upon the expiration of the first period of thirty calendar days of continuous session of the Congress following the date of submission of such statement, but only if between the date of submission and the expiration of such thirty-day period the Congress has not passed a concurrent resolution stating in substance that the Congress does not approve the statement. For the purposes of this section, continuity of session shall be considered as broken only by an adjournment of the Congress sine die, but, in the computation of the thirty-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

DISAPPROVAL OF JOINT COMMITTEE'S ACTION

SEC. 5. (a) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (b)); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) As used in this subsection, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the statement relating to representation in the Congress submitted to the Congress by the Joint Committee on Congressional Representation on , 19 .", the blank spaces therein being appropriately filled.

(c) A resolution with respect to a statement shall be referred to a committee (and all resolutions with respect to the same statement shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) (1) If the committee to which has been referred a resolution with respect to a statement has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such statement which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to such statement), and debate hereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to such statement.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a statement, it shall be at any time thereafter be in order (even though a previous motion to the same effect

has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f)(1) All motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a statement, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a statement shall be decided without debate.

(g) If, prior to the passage by one House of a resolution of that House with respect to a statement, such House receives from the other House a resolution with respect to such statement, then—

(1) if no resolution of the first House with respect to such statement has been referred to committee, no other resolution with respect to such statement may be reported or (despite the provisions of paragraph (d)(1)) be made the subject of a motion to discharge; and

(2) if a resolution of the first House with respect to such statement has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such statement which have been referred to committee shall be the same as if no resolution from the other House with respect to such statement had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such statement the resolution from the other House with respect to such statement shall be automatically substituted for the resolution of the first House.

VACANCIES; SELECTION OF CHAIRMAN AND VICE CHAIRMAN

SEC. 6. (a) Vacancies in the membership of the joint committee shall not, except as provided in section 8, affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection.

(b) The joint committee shall select a chairman and vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the chairman shall be selected by the members from that House entitled to the chairmanship. The vice chairman shall be chosen from the House other than that of the chairman by the members from that House.

POWERS OF THE JOINT COMMITTEE

SEC. 7. (a) In carrying out its functions, the joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings and investigations, to sit and act at such places and times, to require by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or by the joint committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses.

(c) The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended, shall apply in the case of the failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

ORGANIZATION AND PROCEDURE

SEC. 8. The joint committee may make such rules respecting its organization and procedures as it deems necessary but no statement shall be submitted to the Congress pursuant to subsection (b) of section 8 unless it shall have been agreed to by a majority of the authorized membership of the joint committee.

EXPENSES

SEC. 9. (a) Members of the joint committee, and its employees and consultants, shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties of the joint committee.

(b) The cost of stenographic services to report hearings shall not be in excess of the amounts prescribed by law for reporting the hearings of standing committees of the Senate.

(c) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee upon vouchers approved by the chairman.

STAFF AND ASSISTANCE

SEC. 10. The joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The joint committee is authorized to utilize the service, information, facilities, and personnel of the departments and establishments of the Government.

NOTICE TO THE STATES OF DECREASES OR INCREASES IN CONGRESSIONAL REPRESENTATION

SEC. 11. (a) Effective for the Ninetieth Congress and each succeeding Congress, the number of Representatives to which each State is entitled under section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for appointment of Representatives in Congress", approved June 18, 1929, as amended, is hereby altered by the number of Representatives shown in the statement submitted for such Congress under subsection (b) of section 8, if such statement has not been disapproved by the Congress as provided in sections 4 and 5. Any change under this subsection in the number of Representatives to which a State is entitled shall be effective only with respect to the Congress for which such statement is submitted.

(b) It shall be the duty of the Clerk of the House of Representatives, or if there be no Clerk, such other official of the House of Representatives as the joint committee may designate, within fifteen calendar days, after a statement submitted under subsection (b) of section 8 has become effective, to transmit to the executive of those States whose representation in Congress is altered pursuant to section 2 of the fourteenth article of amendment to the Constitution and section 22 of the Revised Statutes for the Congress which commences after the date of submission of such statement a certificate specifying the number by which such State's Representatives in Congress is decreased or increased for such Congress.

(c) The provisions of subsection (c) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for appointment of Representatives in Congress," approved June 18 1929, as amended, shall be effective with respect to any States whose congressional representation is charged pursuant to the provisions of this part.

(d) No State's representation in the House of Representatives shall be reduced below one Representative.

SEC. 12. Section 22 of the Revised Statutes (Act of February 2, 1872, ch. 11; 2 U.S.C. 6) is hereby repealed.

[H.R. 5920, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive application to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds

that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5424, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971(a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not

qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Atorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare

such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5593, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5936, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceedings has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private

school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 5952, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(c), United States Code, is amended to read as follows:

"(c) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such

applicant could have been registered or otherwise qualified to vote under State law, no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6010, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1071 (a) (2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1071 (f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1071 (c), United States Code, is amended to read as follows:

"(c) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section,

the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice

President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6028, 89th Cong., 1st sess.]

A BILL To protect the voting rights of United States citizens

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress has heretofore expressed, by the creation of the Commission on Civil Rights, its concern at the continuing disfranchisement of qualified voters because of their race, color, or national origin. The Commission has found that substantial numbers of qualified voters are being denied the right to register and vote in elections because of their race, color, or national orgin. The Congress hereby determines that the continuing denial of rights secured by the fourteenth and fifteenth articles of amendment to the Constitution of the United States requires the exercise of the congressional authority provided under these amendments.

DEFINITIONS

SEC. 2. For the purposes of this Act, the term "election" means any general or special election held in any State for the purpose of selecting any candidate to elective public office and any primary election held in any State for the purpose of selecting any candidate for elective public or party office.

DETERMINATION OF DISFRANCHISEMENT

SEC. 3. (a) Whenever, in any action brought under section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971), a court finds that, under color of law or by State action, persons in any locality or area have been deprived of registration, or of the opportunity of registration, for elections because of their race, color, or national origin, the Attorney General shall notify the President of the United States of such finding.

(b) Whenever the Commission on Civil Rights finds that persons in any locality or area have been deprived of registration or the opportunity of registration, for elections because of their race, color, or national origin, the Commission shall notify the President of the United States of such finding.

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 4. (a) Upon any notification of a finding pursuant to section 3, the President shall establish a Federal Registration Office in each locality or area for which such a finding has been made and shall appoint one or more Federal Registrars for such Federal Registration Office. The Federal Registration Office shall be in effect and operation for a minimum of one year and until the President subsequently finds that there is no further need for such Federal Registration Office. To the maximum extent practicable, each individual appointed to serve as a Federal Registrar shall be a qualified voter within the affected locality or area. Federal Registrars shall receive compensation for services at the rate of $ per diem while actually engaged in the performance of such services, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) The Federal Registrars shall be appointed for one year and shall serve at the pleasure of the President or until the President subsequently finds that there is no further need for a Federal Registration Office in the affected locality or area.

(c) In any locality or area in which a Federal Registration Office is established, the Federal Registrar appointed pursuant to this Act shall replace and serve in lieu of any voting referee in such locality or area appointed under the provisions of section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971).

DUTIES OF FEDERAL REGISTRARS

SEC. 5. (a) The Federal Registrar for any locality or area shall accept voting registration applications from individuals living in the locality or area in which a finding has been rendered pursuant to section 3. Each applicant whom he finds to meet the residence, age, and sanity requirements for voting of the State wherein the affected locality or area is located shall receive from him a certificate of registration. Any constitution, law, custom, usage, or regulation of any State, or by or under its authority, to the contrary notwithstanding, residence, age, and sanity shall be the sole qualifications for a certificate of registration. The Federal Registrar shall disregard any poll tax as a prerequisite for voting.

(b) Applications to register to vote shall be received upon any working day of the week up to thirty days prior to any election by Federal Registrars who shall forthwith determine whether any applicant is qualified to vote pursuant to subsection (a).

(c) The certificate of registration shall certify that the holder is qualified to vote. The certificate of registration shall be effective within the longest period for which such applicant could have been qualified to vote under the laws of the State in which the affected locality or area is located, but not less than one year, or until the President finds that the findings pursuant to section 3 are no longer valid for the affected locality or area, whichever period is longest. The Federal Registrar shall, from time to time, transmit to the proper State and local officials all information necessary to identify the persons who have received certificates of registration.

(d) Nothing contained herein shall be construed to authorize a Federal Registrar to issue a certificate of registration to any person who is not of the same race, color, or national origin as the persons found pursuant to section 3 to have been deprived of registration, or the opportunity of registration.

VOTING

SEC. 6. Each applicant who is issued a certificate of registration pursuant to section 5 shall have the right to vote, and to have such vote counted, in any election held in his locality or area.

ENFORCEMENT

SEC. 7. (a) Federal Registrars shall oversee all elections conducted by State and local officials within the affected locality or area, make tallies, and report any persons holding certificates of registration who have been denied the right

to vote or to have such vote counted to the court or the Commission on Civil Rights, whichever made the finding pursuant to section 3, and to the Attorney General or his designated representative.

(b) Federal Registrars may appoint Deputy Federal Registrars, subject to the approval of the Attorney General of the United States, to assist in overseeing such elections. Deputy Federal Registrars shall receive compensation for their services at the rate of $ per diem while actually engaged in the performance of such services, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties as a Deputy Federal Registrar.

(c) When necessary to assure persons issued certificates of registration pursuant to section 5 of the right to vote and to have their vote counted, the district court shall issue permanent or temporary injunctions or other orders directed to appropriate State or local voting officials, requiring them to permit persons issued certificates of registration under the provisions of this Act to cast their votes and have them counted; and may void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that persons holding certificates of registration have been denied the right to vote or to have their votes counted in such election: *Provided*, That the court shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons holding certificates of registration have been denied the right to vote or to have their votes counted in such election.

(d) The refusal by any State or local officials conducting an election to permit any person who holds a certificate of registration to vote or to have his vote counted shall constitute contempt of court where the court has made a finding pursuant to section 3; and shall constitute a violation of this Act pursuant to subsection (e) of this section.

(e) Any person who interferes with a person attempting to apply for a certificate of registration from a Federal Registrar or who interferes with a person who has received a certificate of registration from a Federal Registrar and who is attempting to vote shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(f) In all cases of contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by a fine or imprisonment or both: *Provided, however*, That in case the accused is a natural person the fine to be paid shall not exceed $5,000, nor shall imprisonment exceed the term of one year.

(g) Nothing contained in this Act shall be construed to deny to appropriate State officials or other interested persons the right at the time of elections to challenge the eligibility to vote of persons issued certificates of registration hereunder. Whenever such a challenge is made, however, the person issued the certificate of registration shall be permitted to cast his vote and have it counted, but it shall be preserved subject to a determination of the validity of the challenge in any appropriate action brought in the United States district court having jurisdiction over the affected locality or area in which the challenge is made.

SEPARABILITY

SEC. 8. If any provision of his Act is held invalid, the remainder of this Act shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

[H.R. 6027, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars, shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates or qualification to vote, who have been refused

the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the word 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6029, 89th Cong., 1st sess.]

A BILL Providing for the enforcement of section 2 of article XIV of the Constitution of the United States of America

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 22(a) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for the apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2a(a)), is amended—

(1) by inserting "(1)" immediately following "(a)"; and

(2) by adding at the end thereof the following:

"(2) On or within one week thereafter of the second regular session of the Eighty-ninth Congress, and thereafter at the times required by paragraph (1), the President shall transmit to the Congress a statement showing the total population of each State as ascertained under the census of population conducted under section 141 of title 13, United States Code, and as modified by the application of section 2 of article XIV of the Constitution of the United States. Such statement shall give the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.

"(3) In applying section 2 of article XIV of the Constitution to determine the basis of representation in the House of Representatives the President shall—

"(A) count those inhabitants of a State twenty-one years of age, citizens of the United States, not having participated in rebellion or other major crimes, who were fully qualified to vote in all of the immediately preceding

several elections held for the choice of electors for the President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of the State, and the members of the legislature thereof, or who are presently fully qualified to vote at all such elections;

"(B) not construe clause (A) to prohibit State or local authorities from requiring as a voting qualification the information necessary to complete a simple form, which shall be received at any time up to thirty days preceding any election, requesting only the name, age, address, residence, and record of major crimes, if any, of an applicant to vote in any election;

"(C) in addition to clause (A), count those persons whom the State or local authorities can demonstrate, based upon substantial evidence, either—

"(i) did not make application to vote as may be required pursuant to clause (B) or

"(ii) having made application to vote pursuant to clause (B), refused to make known in any way the information which may be required pursuant to clause (B);

"(D) notwithstanding clause (C), not count those persons whose right to vote in any election specified in clause (A) depended upon or at the present time depends upon their meeting any qualification or requirement other than those permitted under section 2 of Article XIV of the Constitution of the United States and clause (B) of this paragraph, including any test of literacy, knowledge, understanding, or achievement, or any other test, and any poll tax or other tax regardless of whether or not such person might have been able or willing to fulfill such qualification or requirements; and

"(E) utilize the compilations made pursuant to title VIII of the Civil Rights Act of 1964 (78 Stat. 266; 42 U.S.C. 2000f) to the extent that they are useful and appropriate."

SEC. 2. The first sentence of section 22(b) of the Act of June 18, 1929, as amended (2 U.S.C. 2a(b)), is amended by adding "(2)" immediately after "(a)".

SEC. 3. There are hereby authorized to be appropriated such sums as are necessary for the implementation of this Act.

SEC. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6074, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an

election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6086, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literary, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualifications to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issurance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6179, 89th Cong., 1st sess.]

A BILL To protect the voting rights of United States citizens

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress has heretofore expressed, by the creation of the United States Commission on Civil Rights, its concern at the continuing disfranchisement of qualified voters because of their race, color, or national origin. The Commission has found that substantial numbers of qualified voters are being denied the right to register and vote in elections because of their race, color, or national origin. The Congress hereby determines that the continuing denial of rights secured by the fourteenth and fifteenth articles of amendment to the Constitution of the United States requires the exercise of the congressional authority provided under these amendments.

DEFINITIONS

SEC. 2. For the purposes of this Act, the term "election" means any general or special election held in any State for the purpose of selecting any candidate to elective public office and any primary election held in any State for the purpose of selecting any candidate for elective public or party office.

DETERMINATION OF DISENFRANCHISEMENT

SEC. 3. (a) Whenever, in any action brought under section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971), a court finds that, under color of law or by State action, persons in any locality, county or State have been deprived of registration, or of the opportunity of registration, for elections because of their race, color, or national origin, the Attorney General shall notify the President of the United States of such finding.

(b) Whenever the Commission on Civil Rights finds that persons in any locality, county or State have been deprived of registration or the opportunity of registration, for elections because of their race, color, or national origin, the Commission shall notify the President of the United States of such finding.

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 4. (a) Upon any notification of a finding pursuant to section 3, with respect to any State or any locality or county located therein, the President shall establish a Federal Registration Office for the entirety of such State and shall appoint one or more Federal Registrars for such Federal Registration Office. The Federal Registration Office shall be in effect and operation for a minimum of one year and until the President subsequently finds that there is no further need for such Federal Registration Office. To the maximum extent practicable, each individual appointed to serve as a Federal Registrar shall be a qualified voter within the affected State. Federal Registrars shall receive compensation for services at the rate of $ per diem while actually engaged in the performance of such services, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) The Federal Registrars shall be appointed for one year and shall serve at the pleasure of the President or until the President subsequently finds that there is no further need for a Federal Registration Office in the affected locality, county, or State.

(c) In any locality, county, or State, in which a Federal Registration Office is established, the Federal Registrar appointed pursuant to this Act shall replace and serve in lieu of any voting referee in such locality, county, or State appointed under the provisions of section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971).

DUTIES OF FEDERAL REGISTRARS

SEC. 5. (a) The Federal Registrar for any locality, county, or State shall accept voting registration applications from individuals living in the locality, county, or State in which a finding has been rendered pursuant to section 3. Each applicant whom he finds to meet the residence, age, and sanity requirements for voting of the State wherein the affected locality, county, or State is located shall receive

from him a certificate of registration. Any constitution, law, custom, usage, or regulation of any State, or by or under its authority, to the contrary notwithstanding, residence, age, and sanity shall be the sole qualifications for a certificate of registration. The Federal Registrar shall disregard any poll tax as a prerequisite for voting.

(b) Applications to register to vote shall be received upon any working day of the week up to thirty days prior to any election by Federal Registrars who shall forthwith determine whether any applicant is qualified to vote pursuant to subsection (a).

(c) The certificate of registration shall certify that the holder is qualified to vote. The certificate of registration shall be effective within the longest period for which such applicant could have been qualified to vote under the laws of the State in which the affected locality or area is located, but not less than one year, or until the President finds that the findings pursuant to section 3 are no longer valid for the affected locality, county, or State, whichever period is longest. The Federal Registrar shall, from time to time, transmit to the proper State and local officials all information necessary to identify the persons who have received certificates of registration.

(d) Nothing contained herein shall be construed to authorize a Federal Registrar to issue a certificate of registration to any person who is not of the same race, color, or national origin as the persons found pursuant to section 3 to have been deprived of registration, or the opportunity of registration.

VOTING

SEC. 6. Each applicant who is issued a certificate of registration pursuant to section 5 shall have the right to vote, and to have such vote counted, in any election held in his locality, county, or State.

ENFORCEMENT

SEC. 7. (a) Federal Registrars shall oversee all elections conducted by State and local officials within the affected locality, county, or State, make tallies, and report any persons holding certificates of registration who have been denied the right to vote or to have such vote counted to the court or the Commission on Civil Rights, whichever made the finding pursuant to section 3, and to the Attorney General or his designated representative.

(b) Federal Registrars may appoint Deputy Federal Registrars, subject to the approval of the Attorney General of the United States, to assist in overseeing such elections. Deputy Federal Registrars shall receive compensation for their services at the rate of $ per diem while actually engaged in the performance of such services, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties as a Deputy Federal Registrar.

(c) When necessary to assure persons issued certificates of registration pursuant to section 5 of the right to vote and to have their vote counted, the district court shall issue permanent or temporary injunctions or other orders directed to appropriate State or local voting officials, requiring them to permit persons issued certificates of registration under the provisions of this Act to cast their votes and have them counted; and may void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that persons holding certificates of registration have been denied the right to vote or to have their votes counted in such election: *Provided*, That the court shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons holding certificates of registration have been denied the right to vote or to have their votes counted in such election.

(d) The refusal by any State or local officials conducting an election to permit any person who holds a certificate of registration to vote or to have his vote counted shall constitute contempt of court where the court has made a finding pursuant to section 3; and shall constitute a violation of this Act pursuant to subsection (e) of this section.

(e) Any person who interferes with a person attempting to apply for a certificate of registration from a Federal Registrar or who interferes with a person who has received a certificate of registration from a Federal Registrar and who is attempting to vote shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(f) In all cases of contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by a fine or imprisonment or both: *Provided, however,* That in case the accused is a natural person the fine to be paid shall not exceed $5,000, nor shall imprisonment exceed the term of one year.

(g) Nothing contained in this Act shall be construed to deny to appropriate State officials or other interested persons the right at the time of elections to challenge the eligibility to vote of persons issued certificates of registration hereunder. Whenever such a challenge is made, however, the person issued the certificate of registration shall be permitted to cast his vote and have it counted, but it shall be preserved subject to a determination of the validity of the challenge in any appropriate action brought in the United States district court having jurisdiction over the affected locality, county, or State in which the challenge is made.

SEPARABILITY

SEC. 8. If any provision of this Act is held invalid, the remainder of this Act shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

[H.R. 6254, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial

district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades of education in a public school in, or a private school accelerated by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who have been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition, thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (e) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and application of the provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 6264, 89th Cong., 1st sess.]

A BILL To implement the provisions of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6) which require that the basis of representation of each of the several States in the House of Representatives shall be reduced in proportion to the number of adult citizen inhabitants of such State whose right to vote is denied or abridged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT TO TITLE 13, UNITED STATES CODE

SECTION 1. Section 141 of title 13, United States Code, relating to decennial censuses of population, is amended to read as follows:

"§ 141. Population, unemployment, housing

"(a) (1) The Secretary shall, in the year 1970 and every 10 years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date.

"(2) In taking the censuses prescribed by this section, the Secretary shall—

"(A) ascertain and determine the total population of each State;

"(B) ascertain and determine the total number of inhabitants of each State twenty-one years or more of age and citizens of the United States, and, with respect to each such individual, the number of his years of formal education and whether or not he is registered to vote as of the census date;

"(C) ascertain and determine for the entire Nation, the percentage which the number of registered voters twenty-one years or more of age is of the total number of citizens twenty-one years or more of age in each of the following classifications:

"(i) individuals with eight or fewer years of formal educational,

"(ii) individuals with more than eight and up to and including twelve years of formal education, and

"(iii) individuals with more than twelve years of formal education;

"(D) ascertain and determine for each State, the total number of individuals which would be produced if the number of citizens twenty-one years or more of age in each of the educational classifications specified in paragraph (C) were multiplied by the national percentages for such classification as determined under paragraph (C);

"(E) if the number computed under paragraph (D) for any State exceeds the actual number of registered voters twenty-one years or more of age in such State, ascertain and determine the difference between the number of individuals computed under paragraph (D) for such State and the actual number of registered voters twenty-one years or more of age in such State. The right to vote of the number of persons in such State represented by such difference shall be considered to have been denied or abridged within the meaning of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6);

"(F) ascertain and determine for each State to which paragraph (E) applies the proportion which the number of individuals determined under paragraph (E) is of the total number of inhabitants twenty-one years or more of age and citizens of the United States.

The Secretary is authorized to inspect voting registration records in any State for purposes of this section.

"(b) The Secretary shall complete, within eight months following the census date, and report to the President of the United States the tabulation (as required for the apportionment of Representatives in Congress) of—

"(A) the total population of each State,

"(B) the proportion, if any, described in paragraph (F) of subsection (a)(2) of this section with respect to each State to which paragraph (E) of such subsection (a)(2) applies, and

"(C) the total population of each State to which paragraph (E) of subsection (a)(2) of this section applies as reduced in any such proportion described in paragraph (F) of such subsection (a)(2) with respect to such State."

AMENDMENTS TO EXISTING LAW APPORTIONING REPRESENTATIVES IN CONGRESS

SEC. 2. (a) Subsection (a) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2a), is amended to read as follows:

"(a) On the first day, or within one week thereafter of the first regular session of the Ninety-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing—

"(1) the total population of each State, or the total population of each State as reduced (if such is the case with respect to such State) in the proportion described in section 141(a)(2)(F) of title 13, United States Code, as ascertained and determined under the nineteenth and each subsequent decennial census of the population and

"(2) the number of Representatives in Congress to which each State would be entitled, on the basis of total population or proportionately reduced population, as applicable, under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one member.".

SAVING PROVISION

SEC. 3. The amendments made by this Act shall not be held or considered to change the number of Representatives in Congress to which a State is entitled on the basis of the total population of such State as ascertained in the Eighteenth Decennial Census of population under section 22 of the Act of June 18, 1929 (2 U.S.C. 2a) as in effect immediately prior to the date of enactment of this Act, until a subsequent reapportionment takes effect under such section 22 as amended by this Act.

[H.R. 6322, 89th Cong., 1st sess.]

A BILL To protect the right of individuals to register and to vote in State and Federal elections without discrimination because of race or color

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. The Congress finds and declares that the denial or infringement of the right to vote because of race or color is a violation of the fourteenth and fifteenth amendments of the Constitution of the United States and of the legislation adopted by the Congress to enforce those amendments, including the Civil Rights Act of 1957, the Civil Rights Act of 1960, and the Civil Rights Act of 1964. The Congress finds that, despite those enactments, the right to vote continues to be denied to many citizens of the United States on grounds of their race or color, and that the methods prescribed in this Act are the only available means of assuring all citizens their right to vote.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office; and any election held in any State or political subdivision thereof solely or partially to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision. If there are no counties, parishes, or similar political subdivisions of a State, such State shall, for the purposes of this Act, constitute a single voting district.

(c) The term "test" includes (i) any test of, or condition of, registration or voting requiring the ability to read, write, understand, or interpret any matter; (ii) any test of moral character; (iii) any requirement that other persons vouch for or act as witness for applicants for registration.

(d) The term "mental competency" means an absence of adjudication of mental incompetency.

TITLE I—LITERACY AND OTHER TESTS

SEC. 101. (a) Congress hereby finds that—

(i) the unconstitutional segregation of educational and other facilities on grounds of race or color in various States has resulted in inequalities of educational attainment and opportunity which render tests in such States discriminatory on grounds of race or color; and

(ii) tests have been utilized in various States as an instrument of discrimination on grounds of race or color through the use of arbitrary standards, unfair decisions, and similar devices; and

(iii) tests have been required of persons of one race or color as a condition of registration and voting in various States at the same time that such tests have not been required of another race or color.

(b) Congress further finds that in any State employing a test—

(i) where the number of persons of any race or color of voting age residing in such State who were registered to vote at the time of the November 1964 election was less than 50 per centum of the number of all persons of such race or color of voting age then residing in such State, or

(ii) where less than 50 per centum of the persons of voting age residing in such State voted in the November 1964 election,

such test has been and is being utilized as an instrument of discrimination in violation of the fourteenth and fifteenth amendments to the Constitution.

SEC. 102. Within sixty days of the enactment of this Act, the President shall certify and cause to be published in the Federal Register a list of those States to which either numerical finding in section 101(b) applies.

SEC. 103. In any State listed in accordance with section 102, the application of any test to a person seeking to register or vote in a Federal, State, or local election, is hereby prohibited.

SEC. 104. The provisions of section 103 shall remain in effect in any State unless and until the President shall certify that discrimination in registration and voting in that State has terminated and that there is no substantial risk of any renewed discrimination.

SEC. 105. The provisions of this title shall be enforceable—

(a) by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States; and

(b) by the appointment of a Federal registrar or registrars in accordance with the provisions of this Act.

SEC. 106. The contempt provisions of section 151 of the Civil Rights Act of 1957 and the three-judge court provisions of section 101(d) of the Civil Rights Act of 1964 shall be applicable to proceedings brought under section 105(a).

TITLE II—FEDERAL REGISTRARS

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 201. (a) The President shall, within ninety days after the enactment of this Act, establish an office of Federal registrar for any voting district, if the President determines that the total number of persons of any race or color who were registered to vote in the November 1964 election in such voting district for the purpose of electing any candidate for the office of President is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(b) In addition, the President shall establish an office of Federal registrar for any voting district at any time thereafter that the total number of persons of any race or color who are registered to vote in any succeeding general election

is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(c) Whenever twenty or more persons residing in a voting district file a written petition with the President alleging denial of their right to register to vote in any election in such voting district on account of their race or color, the President shall establish an office of Federal registrar in such voting district if he has reason to believe such allegations are true, and—

(i) the voting district is one in which less than 50 per centum of the total number of all persons of voting age residing therein voted in the November 1964 election, or

(ii) the voting district is in a State where less than 50 per centum of the total number of all persons of voting age residing in the entire State voted in the November 1964 election.

(d) Upon the establishment of an office of Federal registrar in any voting district, the President shall appoint a sufficient number of Federal registrars for such voting district to achieve the purpose of this title from among officers or employees of the United States who receive basic compensation at a rate of basic salary which is equivalent to at least grade 12 of the General Schedule of the Classification Act of 1949. Each individual, so appointed as a Federal registrar, shall serve without compensation in addition to that received for his regular office or employment, but while engaged in the performance of the duties of a registrar shall be allowed travel and subsistence expenses while away from his home or regular post of duty in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations.

(e) Each individual who is appointed a Federal registrar for a voting district shall perform the duties required by this Act, as may be designated by the President, until such time as he is relieved of such duties by the President, or until the office of Federal registrar for such voting district is terminated by the President as provided in subsection (f).

(f) Whenever the President determines that denial of the right to vote has ceased in any voting district for which he has established an office of Federal registrar, he shall terminate the office of Fedeal registrar for such voting district.

(g) If, after the termination of the office of Federal registrar for a voting district, the President determines in accordance with subsection (b) or (c) that it is necessary and appropriate to reestablish the office for such voting district in order to enforce the provisions of this Act, he shall do so and appoint one or more Federal registrars for such area as provided in subsection (d).

REGISTRATION BY FEDERAL REGISTRARS

SEC. 202. The Congress hereby finds—

(a) the qualifications and other conditions prescribed by State laws for voting, or registering to vote, in Federal and State elections, other than qualifications based upon age, residence, citizenship, mental competency, and absence of conviction for a felony, are susceptible of use, and have been used, to deny persons the right to vote, because of their race or color; and

(b) the application of qualifications and other conditions by Federal registrars appointed under this title, other than those excepted in subsection (a), would impeted and obstruct Federal registrars in the performance of their duties.

SEC. 203. (a) The Federal registrar or registrars for any voting district shall, upon application therefor, register to vote in elections held in such voting district any individual whom the Federal registrar finds to have the requisite qualifications as to citizenship, age, residence, mental competency, and absence of conviction for a felony under the laws of the State in which such voting district is located. An individual so registered by a Federal registrar shall receive a certificate identifying him as a person so qualified to vote in such elections.

(b) If a State imposes or has imposed qualifications with respect to citizenship, age, residence, mental competency, or absence of conviction for a felony more restrictive than those in effect on May 17, 1964, the Federal registrar or registrars in that State shall apply the State law in effect on May 17, 1954.

(c) The Federal registrar or registrars for any voting district shall conform to regulations promulgated by the President with respect to the time, place, and manner of the performance of the duties prescribed by this Act.

(d) The Federal registrar or registrars of any voting district shall, from time to time, transmit certifications to the proper State and local officials of the individuals who have been registered by them. Such certifications shall be final and not subject to judicial review except as provided in section 205.

(e) All persons certified for registration by Federal registrars in a voting district shall continue to be entitled to vote in any election held in such voting district during the period of service of a Federal registrar in such district, notwithstanding the requirement of reregistration or any other requirement by the State in which such voting district is located. After the office of Federal registrar for any voting district is terminated, all persons certified for registration by Federal registrars in such voting district shall continue to be entitled to vote in any election held in such voting district, if reregistration is required under the laws of the State in which such voting district is located, until they have a reasonable opportunity to reregister without discrimination on account of their race or color.

VOTING IN ELECTIONS

SEC. 204. Each individual who is registered by a Federal registrar pursuant to section 203 shall have the right to vote, and to have such vote counted, in any election held in the voting district where he resides during the effective period of his registration, unless after his registration and prior to any such election the Federal registrar determines that by reason of any of the qualifications specified in section 203(a) of this Act he has become ineligible to vote in such elections.

ENFORCEMENT

SEC. 205. (a) Any challenge to the eligibility to vote of persons registered under section 203 of this Act, or any review of the denial of registration by a Federal registrar under section 203 shall be within the sole jurisdiction of the United States circuit court of appeals for the circuit in which the voting district is located. Each person registered under this Act shall be permitted to cast his vote and have it counted pending the determination by the reviewing court of the validity of such challenge or challenges. Any challenge to the eligibility of a person to register under this Act shall be made within five days following such registration, except that challenges shall be in order in any case of fraud or ineligibility arising after registration.

(b) The provisions of this Act shall be enforceable by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States. When necessary to assure persons registered under this Act of the right to vote and to have their votes counted, the district court concerned shall issue permanent or temporary injunctions or other orders directed to appropriate State or local voting officials, requiring them to permit persons so registered to cast their votes and have them counted and staying the certification of the results of such election pending the determination by the court in the case involved.

(c) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all cases of criminal contempt arising under the provisions of this Act.

(d) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all threats of intimidation or coercion of persons seeking to register and vote under the provisions of this Act.

CONTINUED EFFECT PENDING JUDICIAL REVIEW

SEC. 206. In any case in which a challenge is made to the constitutionality of this Act, the appropriate reviewing court shall issue an order authorizing the provisions of this Act and the authority granted therefrom to continue in effect pending determination of the validity of such challenge.

TITLE III—PROHIBITION OF POLL TAXES

SEC. 301. The Congress hereby finds—

(a) that the requirement of the payment of a poll tax as a prerequisite to voting has historically been one of the methods used to circumvent the fourteenth and fifteenth amendments, and that the passage of laws establishing such a requirement, in the States still retaining this requirement was for the purpose, in whole or in part, of denying persons the right to vote because of race or color, and that this requirement has been and is being applied discriminatorily so as to deprive persons of the right to vote because of race or color;

(b) that the requirement of the payment of a poll tax as a condition upon or a prerequisite to voting is not a bona fide qualification of an elector,

but an arbitrary and unreasonable restriction upon the right to vote in violation of the fourteenth and fifteenth amendments.

SEC. 302. No State shall require the payment of a poll tax as a condition upon or a prerequisite to voting in any election conducted under its authority.

TITLE IV—MISCELLANEOUS

SEC. 401. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION 2004 OF THE REVISED STATUTES

SEC. 402. Section 2004 of the Revised Statutes (42 U.S.C. 1071) is amended as follows:

(a) In subsections (a)(2) and (c), strike out "Federal", immediately preceding "election", wherever it appears in such subsections.

(b) Strike out subsection (f) thereof.

EXERCISE OF FUNCTIONS CONFERRED UPON PRESIDENT

SEC. 403. (a) The President may delegate authority to exercise any of the functions conferred upon him by this Act to such officer of the United States Government as he shall direct.

(b) In making numerical determinations required under this Act, the President may make such determinations on the best statistical information available to him.

[H.R. 6328, 89th Cong., 1st sess.]

A BILL To protect the right of individuals to register and to vote in State and Federal elections without discrimination because of race or color

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. The Congress finds and declares that the denial or infringement of the right to vote because of race or color is a violation of the fourteenth and fifteenth amendments of the Constitution of the United States and of the legislation adopted by the Congress to enforce those amendments, including the Civil Rights Act of 1957, the Civil Rights Act of 1960, and the Civil Rights Act of 1964. The Congress finds that, despite those enactments, the right to vote continues to be denied to many citizens of the United States on grounds of their race or color, and that the methods prescribed in this Act are the only available means of assuring all citizens their right to vote.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office; and any election held in any State or political subdivision thereof solely or partially to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision. If there are no counties, parishes, or similar political subdivisions of a State, such State shall, for the purposes of this Act, constitute a single voting district.

(c) The term "test" includes (i) any test of, or condition of, registration or voting, requiring the ability to read, write, understand, or interpret any matter; (ii) any test of moral character; (iii) any requirement that other persons vouch for or act as witness for applicants for registration.

(d) The term "mental competency" means an absence of adjudication of mental incompetency.

TITLE I—LITERACY AND OTHER TESTS

SEC. 101. (a) Congress hereby finds that—

(i) the unconstitutional segregation of educational and other facilities on grounds of race or color in various States has resulted in inequalities of educational attainment and opportunity which render tests in such States discriminatory on grounds of race or color; and

(ii) tests have been utilized in various States as an instrument of discrimination on grounds of race or color through the use of arbitrary standards, unfair decisions, and similar devices; and

(iii) tests have been required of persons of one race or color as a condition of registration and voting in various States at the same time that such tests have not been required of another race or color.

(b) Congress further finds that in any State employing a test—

(i) where the number of persons of any race or color of voting age residing in such State who were registered to vote at the time of the November 1964 election was less than 50 per centum of the number of all persons of such race or color of voting age then residing in such State, or

(ii) where less than 50 per centum of the persons of voting age residing in such State voted in the November 1964 election,

such test has been and is being utilized as an instrument of discrimination in violation of the fourteenth and fifteenth amendments to the Constitution.

SEC. 102. Within sixty days of the enactment of this Act, the President shall certify and cause to be published in the Federal Register a list of those States to which either numerical finding in section 101(b) applies.

SEC. 103. In any State listed in accordance with section 102, the application of any test to a person seeking to register or vote in a Federal, State, or local election, is hereby prohibited.

SEC. 104. The provisions of section 103 shall remain in effect in any State unless and until the President shall certify that discrimination in registration and voting in that State has terminated and that there is no substantial risk of and renewed discrimination.

SEC. 105. The provisions of this title shall be enforceable—

(a) by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States; and

(b) by the appointment of a Federal registrar or registrars in accordance with the provisions of this Act.

SEC. 106. The contempt provisions of section 151 of the Civil Rights Act of 1957 and the three-judge court provisions of section 101(d) of the Civil Rights Act of 1964 shall be applicable to proceedings brought under section 105(a).

TITLE II—FEDERAL REGISTRARS

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 201. (a) The President shall, within ninety days after the enactment of this Act, establish an office of Federal registrar for any voting district, if the President determines that the total number of persons of any race or color who were registered to vote in the November 1964 election in such voting district for the purpose of electing any candidate for the office of President is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(b) In addition, the President shall establish an office of Federal registrar for any voting district at any time thereafter that the total number of persons of any race or color who are registered to vote in any succeeding general election is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(c) Whenever twenty or more persons residing in a voting district file a written petition with the President alleging denial of their right to register to vote in any election in such voting district on account of their race or color, the President shall establish an office of Federal registrar in such voting district if he has reason to believe such allegations are true, and—

(i) the voting district is one in which less than 50 per centum of the total number of all persons of voting age residing therein voted in the November 1964 election, or

(ii) the voting district is in a State where less than 50 per centum of the total number of all persons of voting age residing in the entire State voted in the November 1964 election.

(d) Upon the establishment of an office of Federal registrar in any voting district, the President shall appoint a sufficient number of Federal registrars for such voting district to achieve the purpose of this title from among officers or employees of the United States who receive basic compensation at a rate of basic salary which is equivalent to at least grade 12 of the General Schedule of the Classification Act of 1949. Each individual, so appointed as a Federal registrar, shall serve without compensation in addition to that received for his regular office or employment, but while engaged in the performance of the duties of a registrar shall be allowed travel and subsistence expenses while away from his home or regular post of duty in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations.

(e) Each individual who is appointed a Federal registrar for a voting district shall perform the duties required by this Act, as may be designated by the President, until such time as he is relieved of such duties by the President, or until the office of Federal registrar for such voting district is terminated by the President as provided in subsection (f).

(f) Whenever the President determines that denial of the right to vote has ceased in any voting district for which he has established an office of Federal registrar, he shall terminate the office of Federal registrar for such voting district.

(g) If, after the termination of the office of Federal registrar for a voting district, the President determines in accordance with subsection (b) or (c) that it is necessary and appropriate to reestablish the office for such voting district in order to enforce the provisions of this Act, he shall do so and appoint one or more Federal registrars for such area as provided in subsection (d).

REGISTRATION BY FEDERAL REGISTRARS

SEC. 202. The Congress hereby finds—

(a) the qualifications and other conditions prescribed by State laws for voting, or registering to vote, in Federal and State elections, other than qualifications based upon age, residence, citizenship, mental competency, and absence of conviction for a felony, are susceptible of use, and have been used, to deny persons the right to vote, because of their race or color; and

(b) the application of qualifications and other conditions by Federal registrars appointed under this title, other than those excepted in subsection (a), would impede and obstruct Federal registrars in the performance of their duties.

SEC. 203. (a) The Federal registrar or registrars for any voting district shall, upon application therefor, register to vote in elections held in such voting district any individual whom the Federal registrar finds to have the requisite qualifications as to citizenship, age, residence, mental competency, and absence of conviction for a felony under the laws of the State in which such voting district is located. An individual so registered by a Federal registrar shall receive a certificate identifying him as a person so qualified to vote in such elections.

(b) If a State imposes or has imposed qualifications with respect to citizenship, age, residence, mental competency, or absence of conviction for a felony more restrictive than those in effect on May 17, 1954, the Federal registrar or registrars in that State shall apply the State law in effect on May 17, 1954.

(c) The Federal registrar or registrars for any voting district shall conform to regulations promulgated by the President with respect to the time, place, and manner of the performance of the duties prescribed by this Act.

(d) The Federal registrar or registrars of any voting district shall, from time to time, transmit certifications to the proper State and local officials of the individuals who have been registered by them. Such certifications shall be final and not subject to judicial review except as provided in section 205.

(e) All persons certified for registration by Federal registrars in a voting district shall continue to be entitled to vote in any election held in such voting district during the period of service of a Federal registrar in such district,

notwithstanding the requirement of reregistration or any other requirement by the State in which such voting district is located. After the office of Federal registrar for any voting district is terminated, all persons certified for registration by Federal registrars in such voting district shall continue to be entitled to vote in any election held in such voting district, if reregistration is required under the laws of the State in which such voting district is located, until they have a reasonable opportunity to reregister without discrimination on account of their race or color.

VOTING IN ELECTIONS

SEC. 204. Each individual who is registered by a Federal registrar pursuant to section 203 shall have the right to vote, and to have such vote counted, in any election held in the voting district where he resides during the effective period of his registration, unless after his registration and prior to any such election the Federal registrar determines that by reason of any of the qualifications specified in section 203(a) of this Act he has become ineligible to vote in such elections.

ENFORCEMENT

SEC. 205. (a) Any challenge to the eligibility to vote of persons registered under section 203 of this Act, or any review of the denial of registration by a Federal registrar under section 203 shall be within the sole jurisdiction of the United States circuit court of appeals for the circuit in which the voting district is located. Each person registered under this Act shall be permitted to cast his vote and have it counted pending the determination by the reviewing court of the validity of such challenge or challenges. Any challenge to the eligibility of a person to register under this Act shall be made within five days following such registration, except that challenges shall be in order in any case of fraud or ineligibility arising after registration.

(b) The provisions of this Act shall be enforceable by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States. When necessary to assure persons registered under his Act of the right to vote and to have their votes counted, the district court concerned shall issue permanent or temporary injunction or other orders directed to appropriate State or local voting officials, requiring them to permit persons so registered to cast their votes and have them counted and staying the certification of the results of such election pending the determination by the court in the case involved.

(c) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all cases of criminal contempt arising under the provisions of this Act.

(d) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all threats of intimidation or coercion of persons seeking to register and vote under the provisions of this Act.

CONTINUED EFFECT PENDING JUDICIAL REVIEW

SEC. 206. In any case in which a challenge is made to the constitutionality of this Act, the appropriate reviewing court shall issue an order authorizing the provisions of this Act and the authority granted therefrom to continue in effect pending determination of the validity of such challenge.

TITLE III—PROHIBITION OF POLL TAXES

SEC. 301. The Congress hereby finds—

(a) that the requirement of the payment of a poll tax as a prerequisite to voting has historically been one of the methods used to circumvent the fourteenth and fifteenth amendments, and that the passage of laws establishing such a requirement in the States still retaining this requirement was for the purpose, in whole or in part, of denying persons the right to vote because of race or color, and that this requirement has been and is being applied discriminatorily so as to deprive persons of the right to vote because of race or color;

(b) that the requirement of the payment of a poll tax as a condition upon or a prerequisite to voting is not a bona fide qualification of an elector, but an arbitrary and unreasonable restriction upon the right to vote in violation of the fourteenth and fifteenth amendments.

SEC. 302. No State shall require the payment of a poll tax as a condition upon or a prerequisite to voting in any election conducted under its authority.

TITLE IV—MISCELLANEOUS

SEC. 401. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION 2004 OF THE REVISED STATUTES

SEC. 402. Section 2004 of the Revised Statutes (42 U.S.C. 1971) is amended as follows:

(a) In subsections (a)(2) and (c), strike out "Federal", immediately preceding "election", wherever it appears in such subsections.

(b) Strike out subsection (f) thereof.

EXERCISE OF FUNCTIONS CONFERRED UPON PRESIDENT

SEC. 403. (a) The President may delegate authority to exercise any of the functions conferred upon him by this Act to such officer of the United States Government as he shall direct.

(b) In making numerical determinations required under this Act, the President may make such determinations on the best statistical information available to him.

[H.R. 6324, 89th Cong., 1st sess.]

A BILL To protect the right of individuals to register and to vote in State and Federal elections without discrimination because of race or color

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. The Congress finds and declares that the denial or infringement of the right to vote because of race or color is a violation of the fourteenth and fifteenth amendments of the Constitution of the United States and of the legislation adopted by the Congress to enforce those amendments, including the Civil Rights Act of 1957, the Civil Rights Act of 1960, and the Civil Rights Act of 1964. The Congress finds that, despite those enactments, the right to vote continues to be denied to many citizens of the United States on grounds of their race or color, and that the methods prescribed in this Act are the only available means of assuring all citizens their right to vote.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office; and any election held in any State or political subdivision thereof solely or partially to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision. If there are no counties, parishes, or similar political subdivisions of a State, such State shall, for the purposes of this Act, constitute a single voting district.

(c) The term "test" includes (i) any test of, or condition of, registration or voting requiring the ability to read, write, understand, or interpret any matter; (ii) any test of moral character; (iii) any requirement that other persons vouch for or act as witness for applicants for registration.

(d) The term "mental competency" means an absence of adjudication of mental incompetency.

TITLE I—LITERACY AND OTHER TESTS

SEC. 101. (a) Congress hereby finds that—

(i) the unconstitutional segregation of educational and other facilities on grounds of race or color in various States has resulted in inequalities of educational attainment and opportunity which render tests in such States discriminatory on grounds of race or color; and

(ii) tests have been utilized in various States as an instrument of discrimination on grounds of race or color through the use of arbitrary standards, unfair decisions, and similar devices; and

(iii) tests have been required of persons of one race or color as a condition of registration and voting in various States at the same time that such tests have not been required of another race or color.

(b) Congress further finds that in any State employing a test—

(i) where the number of persons of any race or color of voting age residing in such State who were registered to vote at the time of the November 1964 election was less than 50 per centum of the number of all persons of such race or color of voting age then residing in such State, or

(ii) where less than 50 per centum of the persons of voting age residing in such State voted in the November 1964 election,

such test has been and is being utilized as an instrument of discrimination in violation of the fourteenth and fifteenth amendments to the Constitution.

SEC. 102. Within sixty days of the enactment of this Act, the President shall certify and cause to be published in the Federal Register a list of those States to which either numerical finding in section 101(b) applies.

SEC. 103. In any State listed in accordance with section 102, the application of any test to a person seeking to register or vote in a Federal, State, or local election, is hereby prohibited.

SEC. 104. The provisions of section 103 shall remain in effect in any State unless and until the President shall certify that discrimination in registration and voting in that State has terminated and that there is no substantial risk of any renewed discrimination.

SEC. 105. The provisions of this title shall be enforceable—

(a) by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States; and

(b) by the appointment of a Federal registrar or registrars in accordance with the provisions of this Act.

SEC. 106. The contempt provisions of section 151 of the Civil Rights Act of 1957 and the three-judge court provisions of section 101(d) of the Civil Rights Act of 1964 shall be applicable to proceedings brought under section 105(a).

TITLE II—FEDERAL REGISTRARS

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 201. (a) The President shall, within ninety days after the enactment of this Act, establish an office of Federal registrar for any voting district, if the President determines that the total number of persons of any race or color who were registered to vote in the November 1964 election in such voting district for the purpose of electing any candidate for the office of President is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(b) In addition, the President shall establish an office of Federal registrar for any voting district at any time thereafter that the total number of persons of any race or color who are registered to vote in any succeeding general election is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(c) Whenever twenty or more persons residing in a voting district file a written petition with the President alleging denial of their right to register to vote in any election in such voting district on account of their race or color, the President shall establish an office of Federal registrar in such voting district if he has reason to believe such allegations are true, and—

(i) the voting district is one in which less than 50 per centum of the total number of all persons of voting age residing therein voted in the November 1964 election, or

(ii) the voting district is in a State where less than 50 per centum of the total number of all persons of voting age residing in the entire State voted in the November 1964 election.

(d) Upon the establishment of an office of Federal registrar in any voting district, the President shall appoint a sufficient number of Federal registrars for such voting district to achieve the purpose of this title from among officers or employees of the United States who receive basic compensation at a rate of basic salary which is equivalent to at least grade 12 of the General Schedule of the Classification Act of 1949. Each individual, so appointed as a Federal registrar, shall serve without compensation in addition to that received for his regular office or employment, but while engaged in the performance of the duties of a registrar shall be allowed travel and subsistence expenses while away from his home or regular post of duty in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations.

(e) Each individual who is appointed a Federal registrar for a voting district shall perform the duties required by this Act, as may be designated by the President, until such time as he is relieved of such duties by the President, or until the office of Federal registrar for such voting district is terminated by the President as provided in subsection (f).

(f) Whenever the President determines that denial of the right to vote has ceased in any voting district for which he has established an office of Federal registrar, he shall terminate the office of Federal registrar for such voting district.

(g) If, after the termination of the office of Federal registrar for a voting district, the President determines in accordance with subsection (b) or (c) that it is necessary and appropriate to reestablish the office for such voting district in order to enforce the provisions of this Act, he shall do so and appoint one or more Federal registrars for such area as provided in subsection (d).

REGISTRATION BY FEDERAL REGISTRARS

SEC. 202. The Congress hereby finds—

(a) the qualifications and other conditions prescribed by State laws for voting, or registering to vote, in Federal and State elections, other than qualifications based upon age, residence, citizenship, mental competency, and absence of conviction for a felony, are susceptible of use, and have been used, to deny persons the right to vote, because of their race or color; and

(b) the application of qualifications and other conditions by Federal registrars appointed under this title, other than those excepted in subsection (a), would impede and obstruct Federal registrars in the performance of their duties.

SEC. 203. (a) The Federal registrar or registrars for any voting district shall, upon application therefor, register to vote in elections held in such voting district any individual whom the Federal registrar finds to have the requisite qualifications as to citizenship, age, residence, mental competency, and absence of conviction for a felony under the laws of the State in which such voting district is located. An individual so registered by a Federal registrar shall receive a certificate identifying him as a person so qualified to vote in such elections.

(b) If a State imposes or has imposed qualifications with respect to citizenship, age, residence, mental competency, or absence of conviction for a felony more restrictive than those in effect on May 17, 1954, the Federal registrar or registrars in that State shall apply the State law in effect on May 17, 1954.

(c) The Federal registrar or registrars for any voting district shall conform to regulations promulgated by the President wth respect to the time, place, and manner of the performance of the duties prescribed by this Act.

(d) The Federal registrar or registrars of any voting district shall, from time to time, transmit certifications to the proper State and local officials of the individuals who have been registered by them. Such certifications shall be final and not subject to judicial review except as provided in section 205.

(e) All persons certified for registration by Federal registrars in a voting district shall continue to be entitled to vote in any election held in such voting district during the period of service of a Federal registrar in such district, notwithstanding the requirement of reregistration or any other requirement by the State in which such voting district is located. After the office of Federal registrar for any voting district is terminated, all persons certified for registration by Federal registrars in such voting district shall continue to be entitled

to vote in any election held in such voting district, if reregistration is required under the laws of the State in which such voting district is located, until they have reasonable opportunity to reregister without discrimination on account of their race or color.

VOTING IN ELECTIONS

SEC. 204. Each individual who is registered by a Federal registrar pursuant to section 203 shall have the right to vote, and to have such vote counted, in any election held in the voting district where he resides during the effective period of his registration, unless after his registration and prior to any such election the Federal registrar determines that by reason of any of the qualifications specified in section 203(a) of this Act he has become ineligible to vote in such elections.

ENFORCEMENT

SEC. 205. (a) Any challenge to the eligibility to vote of persons registered under section 203 of this Act, or any review of the denial of registration by a Federal registrar under section 203 shall be within the sole jurisdiction of the United States circuit court of appeals for the circuit in which the voting district is located. Each person registered under this Act shall be permitted to cast his vote and have it counted pending the determination by the reviewing court of the validity of such challenge or challenges. Any challenge to the eligibility of a person to register under this Act shall be made within five days following such registration, except that challenges shall be in order in any case of fraud or ineligibility arising after registration.

(b) The provisions of this Act shall be enforceable by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States. When necessary to assure persons registered under this Act of the right to vote and to have their votes counted, the district court concerned shall issue permanent or temporary injunctions or other orders directed to appropriate State or local voting officials, requiring them to permit persons so registered to cast their votes and have them counted and staying the certification of the results of such election pending the determination by the court in the case involved.

(c) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all cases of criminal contempt arising under the provisions of this Act.

(d) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all threats of intimidation or coercion of persons seeking to register and vote under the provisions of this Act.

CONTINUED EFFECT PENDING JUDICIAL REVIEW

SEC. 206. In any case in which a challenge is made to the constitutionality of this Act, the appropriate reviewing court shall issue an order authorizing the provisions of this Act and the authority granted therefrom to continue in effect pending determination of the validity of such challenge.

TITLE III—PROHIBITION OF POLL TAXES

SEC. 301. The Congress hereby finds—

(a) that the requirement of the payment of a poll tax as a prerequisite to voting has historically been one of the methods used to circumvent the fourteenth and fifteenth amendments, and that the passage of laws establishing such a requirement in the States still retaining this requirement was for the purpose, in whole or in part, of denying persons the right to vote because of race or color, and that this requirement has been and is being applied discriminatorily so as to deprive persons of the right to vote because of race or color;

(b) that the requirement of the payment of a poll tax as a condition upon or a prerequisite to voting is not a bona fide qualification of an elector, but an arbitrary and unreasonable restriction upon the right to vote in violation of the fourteenth and fifteenth amendments.

SEC. 302. No State shall require the payment of a poll tax as a condition upon or a prerequisite to voting in any election conducted under its authority.

TITLE IV—MISCELLANEOUS

SEC. 401. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION 2004 OF THE REVISED STATUTES

SEC. 402. Section 2004 of the Revised Statutes (42 U.S.C. 1971) is amended as follows:

(a) In subsections (a)(2) and (c), strike out "Federal", immediately preceding "election", wherever it appears in such subsections.

(b) Strike out subsection (f) thereof.

EXERCISE OF FUNCTIONS CONFERRED UPON PRESIDENT

SEC. 403. (a) The President may delegate authority to exercise any of the functions conferred upon him by this Act to such officer of the United States Government as he shall direct.

(b) In making numerical determinations required under this Act, the President may make such determinations on the best statistical information available to him.

[H.R. 6340, 89th Cong., 1st sess.]

A BILL To provide for the implementation of voting rights, the appointment of Federal registrars, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42, sections 1971 (a)(2) and (c), United States Code, are amended by striking out the word "Federal" wherever it appears therein.

SEC. 2. Title 42, section 1971(f), United States Code, is deleted and the following subsections shall be renumbered accordingly.

SEC. 3. Title 42, section 1971(e), United States Code, is amended to read as follows:

"(e) In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding forthwith whether such deprivation was or is pursuant to a pattern or practice. If the court finds that fifty or more persons of such race or color resident within the affected area are qualified to vote under State law and have been, within one year from the date the proceeding was commenced pursuant to subsection (c), (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law, it shall immediately make a finding that a pattern or practice of discrimination exists.

"Upon such a finding of a pattern or practice, the court shall appoint one or more Federal registrars from a panel of no less than ten persons so designated by the President of the United States. A Federal registrar shall be appointed by the court for one year and thereafter until the court subsequently finds that such pattern or practice has ceased.

"If the court, within forty days after the request of the Attorney General for a finding of a pattern or practice, fails to determine whether such pattern or practice exists, the President shall appoint Federal registrars in the same manner as the court is empowered to do, if the President receives statements under oath from at least fifty persons within the affected area that they have been, because of their race or color, (1) deprived of or denied under color of law the opportunity to register to vote within two days of making application thereof or otherwise qualified to vote, or (2) found not qualified to vote by any person acting under color of law.

"The panel of persons from which Federal registrars are to be chosen shall be existing Federal officers or employees who are qualified voters in the judicial district in which the proceeding has been instituted. Federal registrars, so appointed, shall subscribe to the oath of office required by section 16 of title 5, United States Code. Such registrars shall serve without compensation in

addition to that received for such other service, but while engaged in the work as registrars shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended.

"Federal registrars shall, notwithstanding a registration deadline or other such time limitations as may be established under State or local law, receive applications to register to vote of any person who is resident within the affected area and is of the same race or color as those persons who were found to be deprived of the right to vote. Federal registrars shall, in determining whether an applicant is qualified to vote, apply State law, except that, any applicant who has completed the six grades 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, shall have fulfilled all literacy, education, knowledge, or intelligence requirements. The Federal registrar shall disregard any poll tax as a prerequisite to vote.

"Applications to vote shall be received by a Federal registrar upon any working day of the week up to thirty days prior to any election and he shall forthwith determine whether an applicant is qualified to vote. If a Federal registrar determines that an applicant is qualified to vote, he shall issue to the applicant a certificate identifying the holder thereof as a person so qualified. The certificate of qualification to vote shall be effective within the longest period for which such applicant could have been registered or otherwise qualified to vote under State law, but no less than one year or until the court finds that a pattern or practice of discrimination has ceased, whichever is greater. Copies of the certificate shall also be submitted to the court, to the Attorney General or his designated representative, and to the appropriate election officers.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any appropriate election. Federal registrars shall, until the court finds that a pattern or practice of discrimination has ceased, oversee all elections conducted by State and local officials within the affected area, make tallies, and report to the court and the Attorney General or his designated representative, any person, holding certificates of qualification to vote, who has been refused the right to vote. The refusal by any such officer with notice of such certificate of qualification to permit any person to vote shall constitute contempt of court where the court has made a finding of a pattern or practice of discrimination. In addition thereto, the court where it has made such finding, shall void any election, except an election for the office of President, Vice President, or presidential elector, where it finds that fifty or more persons, possessing certificates of qualification to vote, have been refused the right to vote in such election. If the court fails to void an election, as so required, the Attorney General shall seek the issuance of a writ of mandamus from the Supreme Court of the United States to require the court to take such action.

"Where the President, instead of the court, has found a pattern or practice of discrimination, and has appointed Federal registrars, the President shall declare such election void under the same conditions that the court is empowered to do, and shall request the Attorney General to institute the necessary legal action to have such declaration of voidance enforced.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

"Unless stayed by an order of the Supreme Court, the action of the court or the Federal registrars pursuant to subsection (c) shall remain in full force and effect pending appeal."

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 5. 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 provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

. . . . . .

[H.R. 6341, 80th Cong., 1st sess.]

A BILL To implement the provisions of section 2 of article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6) which require that the basis of representation of each of the several States in the House of Representatives shall be reduced in proportion to the number of adult citizen inhabitants of such State whose right to vote is denied or abridged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT TO TITLE 13, UNITED STATES CODE

SECTION 1. Section 141 of title 13, United States Code, relating to decennial censuses of population, is amended to read as follows:

"§ 141. Population, unemployment, housing

"(a)(1) The Secretary shall, in the year 1970 and every ten years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date.

"(2) In taking the censuses prescribed by this section, the Secretary shall—

"(A) ascertain and determine the total population of each State;

"(B) ascertain and determine the total number of inhabitants of each State twenty-one years or more of age and citizens of the United States, and, with respect to each such individual, the number of his years of formal education and whether or not he is registered to vote as of the census date;

"(C) ascertain and determine for the entire Nation, the percentage which the number of registered voters twenty-one years or more of age is of the total number of citizens twenty-one years or more of age in each of the following classifications:

"(i) individuals with eight or fewer years of formal education,

"(ii) individuals with more than eight and up to and including twelve years of formal education, and

"(iii) individuals with more than twelve years of formal education;

"(D) ascertain and determine for each State, the total number of individuals which would be produced if the number of citizens twenty-one years or more of age in each of the educational classifications specified in paragraph (C) were multiplied by the national percentages for such classification as determined under paragraph (C);

"(E) if the number computed under paragraph (D) for any State exceeds the actual number of registered voters twenty-one years or more of age in such State, ascertain and determine the difference between the number of individuals computed under paragraph (D) for such State and the actual number of registered voters twenty-one years or more of age in such State. The right to vote of the number of persons in such State represented by such difference shall be considered to have been denied or abridged within the meaning of section 2 of article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6);

"(F) ascertain and determine for each State to which paragraph (E) applies the proportion which the number of individuals determined under paragraph (E) is of the total number of inhabitants twenty-one years or more of age and citizens of the United States.

The Secretary is authorized to inspect voting registration records in any State for purposes of this section.

"(b) The Secretary shall complete, within eight months following the census date, and report to the President of the United States the tabulation (as required for the apportionment of Representatives in Congress) of—

"(A) the total population of each State,

"(B) the proportion, if any, described in paragraph (F) of subsection (a)(2) of this section with respect to each State to which paragraph (E) of such subsection (a)(2) applies, and

"(C) the total population of each State to which paragraph (E) of subsection (a)(2) of this section applies as reduced in any such proportion described in paragraph (F) of such subsection (a)(2) with respect to such State.".

AMENDMENTS TO EXISTING LAW APPORTIONING REPRESENTATIVES IN CONGRESS

SEC. 2. (a) Subsection (a) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2a), is amended to read as follows:

"(a) On the first day, or within one week thereafter, of the first regular session of the Ninety-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing—

"(1) the total population of each State, or the total population of each State as reduced (if such is the case with respect to such State) in the proportion described in section 141(a)(2)(F) of title 13, United States Code, as ascertained and determined under the nineteenth and each subsequent decennial census of the population, and

"(2) the number of Representatives in Congress to which each State would be entitled, on the basis of total population or proportionately reduced population, as applicable, under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one member.".

SAVING PROVISION

SEC. 3. The amendments made by this Act shall not be held or considered to change the number of Representatives in Congress to which a State is entitled on the basis of the total population of such State as ascertained in the Eighteenth Decennial Census of population under section 22 of the Act of June 18, 1929 (2 U.S.C. 2a) as in effect immediately prior to the date of enactment of this Act, until a subsequent reapportionment takes effect under such section 22 as amended by this Act.

[H.R. 6400, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has

been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed

on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6435, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment of the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging

that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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tions promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

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SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

SEC. 9. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2 or 8 or who shall violate section 7, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia shall have jurisdiction to issue any declaratory judgment or any restraining order or

temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6437, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

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(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

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SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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cordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the privisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act are not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6460, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure establish by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate elections 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 appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on No-

vember 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6400, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment of the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

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tunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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[H.R. 6400, 89th Cong., 1st sess.]

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(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that either the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

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SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

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(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All case of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6400, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more 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, or 7, 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, 7, or 8 of 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6500, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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 intepret 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classifications Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any persons whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney

general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing or an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more 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, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6502, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

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SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the officers of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A 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 challeged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 in-

junction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6510, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) The phrase "testor 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the rights to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the

procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(c) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualification or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such

allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6539, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment

against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the

court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6556, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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 intepret 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the

filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the officers of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

(c) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1071(e)).

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6562, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (The Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission

(1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6504, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

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(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without rgeard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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

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(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6505, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason

of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations

promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be termined in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia shall have jurisdiction to issue any declaratory judgment or any restraining order

or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6584, 80th Cong., 1st sess.]

A BILL To implement the provisions of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6) which require that the basis of representation of each of the several States in the House of Representatives shall be reduced in proportion to the number of adult citizen inhabitants of such State whose right to vote is denied or abridged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENT TO TITLE 13, UNITED STATES CODE

SECTION 1. Section 141 of title 13, United States Code, relating to decennial censuses of population, is amended to read as follows:

"§ 141. Population, unemployment, housing

"(a) (1) The Secretary shall, in the year 1970 and every 10 years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date.

"(2) In taking the censuses prescribed by this section, the Secretary shall—

"(A) ascertain and determine the total population of each State;

"(B) ascertain and determine the total number of inhabitants of each State twenty-one years or more of age and citizens of the United States, and, with respect to each such individual, the number of his years of formal education and whether or not he is registered to vote as of the census date;

"(C) ascertain and determine for the entire Nation, the percentage which the number of registered voters twenty-one years or more of age is of the total number of citizens twenty-one years or more of age in each of the following classifications:

"(i) individuals with eight or fewer years of formal education,

"(ii) individuals with more than eight and up to and including twelve years of formal education, and

"(iii) individuals with more than twelve years of formal education;

"(D) ascertain and determine for each State, the total number of individuals which would be produced if the number of citizens twenty-one or more of age in each of the educational classifications specified in paragraph (C) were multiplied by the national percentages for such classification as determined under paragraph (C);

"(E) if the number computed under paragraph (D) for any State exceeds the actual number of registered voters twenty-one years or more of age in such State, ascertain and determine the difference between the number of individuals computed under paragraph (D) for such State and the actual number of registered voters twenty-one years or more of age in such State. The right to vote of the number of persons in such State represented by such difference shall be considered to have been denied or abridged within the meaning of section 2 of Article XIV of the Constitution of the United States and section 22 of the Revised Statutes (2 U.S.C. 6);

"(F) ascertain and determine for each State to which paragraph (E) applies the proportion which the number of individuals determined under paragraph (E) is of the total number of inhabitants twenty-one years or more of age and citizens of the United States.

The Secretary is authorized to inspect voting registration records in any State for purposes of this section.

"(b) The Secretary shall complete, within eight months following the census date, and report to the President of the United States the tabulation (as required for the apportionment of Representatives in Congress) of—

"(A) the total population of each State,

"(B) the proportion, if any, described in paragraph (F) of subsection (a) (2) of this section with respect to each State to which paragraph (E) of such subsection (a) (2) applies, and

"(C) the total population of each State to which paragraph (E) of subsection (a) (2) of this section applies as reduced in any such proportion described in paragraph (F) of such subsection (a) (2) with respect to such State.".

AMENDMENTS TO EXISTING LAW APPORTIONING REPRESENTATIVES IN CONGRESS

SEC. 2. (a) Subsection (a) of section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended (2 U.S.C. 2a), is amended to read as follows:

"(a) On the first day, or within one week thereafter, of the first regular session of the Ninety-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing—

"(1) the total population of each State, or the total population of each State as reduced (if such is the case with respect to such State) in the proportion described in section 141(a) (2) (F) of title 13, United States Code, as ascertained and determined under the nineteenth and each subsequent decennial census of the population, and

"(2) the number of Representatives in Congress to which each State would be entitled, on the basis of total population or proportionately reduced population, as applicable, under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one member.".

SAVING PROVISION

SEC. 3. The amendments made by this Act shall not be held or considered to change the number of Representatives in Congress to which a State is entitled on the basis of the total population of such State as ascertained in the Eighteenth Decennial Census of population under section 22 of the Act of June 18, 1929 (2 U.S.C. 2a) as in effect immediately prior to the date of enactment of this Act, until a subsequent reapportionment takes effect under such section 22 as amended by this Act.

[H.R. 6014, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determina-

tions have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the even the court determines that persons

who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6643, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act

or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A 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 with fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6053, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account or race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more 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, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6778, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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 member of any other class.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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(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, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6820, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State

and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in ac-

cordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6855, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and

until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

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SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6028, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

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(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

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SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

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(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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.

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SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment

brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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(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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 6970, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

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

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to voted 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 appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

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

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

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

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

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, or 7, 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

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

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

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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.

[H.R. 7063, 89th Cong., 1st sess.]

A BILL To protect the right of individuals to register and to vote in State and Federal elections without discrimination because of race or color

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965."

FINDINGS

SEC. 2. The Congress finds and declares that the denial or infringement of the right to vote because of race or color is a violation of the fourteenth and fifteenth amendments of the Constitution of the United States and of the legislation adopted by the Congress to enforce those amendments, including the Civil Rights Act of 1957, the Civil Rights Act of 1960, and the Civil Rights Act of 1964. The Congress finds that, despite those enactments, the right to vote continues to be denied to many citizens of the United States on grounds of their race or color, and that the methods prescribed in this Act are the only available means of assuring all citizens their right to vote.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office; and any election held in any State or political subdivision thereof solely or partially to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision. If there are no counties, parishes, or similar political subdivisions of a State, such State shall, for the purposes of this Act, constitute a single voting district.

(c) The term "test" includes (i) any test of, or condition of, registration or voting requiring the ability to read, write, understand, or interpret any matter; (ii) any test of moral character; (iii) any requirement that other persons vouch for or act as witness for applicants for registration.

(d) The term "mental competency" means an absence of adjudication of mental incompetency.

TITLE I—LITERACY AND OTHER TESTS

SEC. 101. (a) Congress hereby finds that—

(i) the unconstitutional segregation of educational and other facilities on grounds of race or color in various States has resulted in inequalities of educational attainment and opportunity which render tests in such States discriminatory on grounds of race or color; and

(ii) tests have been utilized in various States as an instrument of discrimination on grounds of race or color through the use of arbitrary standards, unfair decisions, and similar devices; and

(iii) tests have been required of persons of one race or color as a condition of registration and voting in various States at the same time that such tests have not been required of another race or color.

(b) Congress further finds that in any State employing a test—

(i) where the number of persons of any race or color of voting age residing in such State who were registered to vote at the time of the November 1964 election was less than 50 per centum of the number of all persons of such race or color of voting age then residing in such State, or

(ii) where less than 50 per centum of the persons of voting age residing in such State voted in the November 1964 election,

such test has been and is being utilized as an instrument of discrimination in violation of the fourteenth and fifteenth amendments to the Constitution.

SEC. 102. (a) Section 2004(a) of the Revised Statutes of the United States, as amended (42 U.S.C. 1971(a)), is amended to read as follows:

"(a)(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city,

parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude and without the application of any literacy test; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding.

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any election described in paragraph (1), apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any election described in paragraph (1) because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any election described in paragraph (1).

"(3) For purposes of this subsection—

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Section 2004(e) of the Revised Statutes of the United States, as amended (42 U.S.C. 1971(e)), is amended by striking out "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth 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 where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election.".

(c) Section 2004(e) of the Revised Statutes of the United States, as amended (42 U.S.C. 1971(e)), is amended—

(1) by striking out "Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court."; and

(2) by striking out "The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.".

SEC. 103. Within sixty days of the enactment of this Act, the President shall certify and cause to be published in the Federal Register a list of those States to which either numerical finding in section 101(b) applies.

SEC. 104. In any State listed in accordance with section 103, the application of any test to a person seeking to register or vote in a Federal, State, or local election, is hereby prohibited.

SEC. 105. The provisions of section 104 shall remain in effect in any State unless and until the President shall certify that discrimination in registration and voting in that State has terminated and that there is no substantial risk of any renewed discrimination.

SEC. 106. The provisions of this title shall be enforceable—

(a) by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States; and

(b) by the appointment of a Federal registrar or registrars in accordance with the provisions of this Act.

SEC. 107. The contempt provisions of section 151 of the Civil Rights Act of 1957 and the three-judge court provisions of section 101(d) of the Civil Rights Act of 1964 shall be applicable to proceedings brought under section 106(a).

TITLE II—FEDERAL REGISTRARS

APPOINTMENT OF FEDERAL REGISTRARS

SEC. 201. (a) The President shall, within ninety days after the enactment of this Act, establish an office of Federal registrar for any voting district, if the President determines that the total number of persons of any race or color who were registered to vote in the November 1964 election in such voting district for the purpose of electing any candidate for the office of President is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(b) In addition, the President shall establish an office of Federal Registrar for any voting district at any time thereafter that the total number of persons of any race or color who are registered to vote in any succeeding general election is less than 25 per centum of the total number of all persons of such race or color of voting age residing in such voting district.

(c) Whenever twenty or more persons residing in a voting district file a written petition with the President alleging denial of their right to register to vote in any election in such voting district on account of their race or color, the President shall establish an office of Federal registrar in such voting district if he has reason to believe such allegations are true, and—

(i) the voting district is one in which less than 50 per centum of the total number of all persons of voting age residing therein voted in the November 1964 election, or

(ii) the voting district is in a State where less than 50 per centum of the total number of all persons of voting age residing in the entire State voted in the November 1964 election.

(d) Upon the establishment of an office of Federal registrar in any voting district, the President shall appoint a sufficient number of Federal registrars for such voting district to achieve the purpose of this title from among officers or employees of the United States who receive basic compensation at a rate of basic salary which is equivalent to at least grade 12 of the General Schedule of the Classification Act of 1949. Each individual, so appointed as a Federal registrar, shall serve without compensation in addition to that received for his regular office or employment, but while engaged in the performance of the duties of a registrar shall be allowed travel and subsistence expenses while away from his home or regular post of duty in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations.

(e) Each individual who is appointed a Federal registrar for a voting district shall perform the duties required by this Act, as may be designated by the President, until such time as he is relieved of such duties by the President, or until the office of Federal registrar for such voting district is terminated by the President as provided in subsection (f).

(f) Whenever the President determines that denial of the right to vote has ceased in any voting district for which he has established an office of Federal registrar, he shall terminate the office of Federal registrar for such voting district.

(g) If, after the termination of the office of Federal registrar for a voting district, the President determines in accordance with subsection (b) or (c) that it is necessary and appropriate to reestablish the office for such voting district in order to enforce the provisions of this Act, he shall do so and appoint one or more Federal registrars for such area as provided in subsection (d).

REGISTRATION BY FEDERAL REGISTRARS

SEC. 202. The Congress hereby finds—

(a) the qualifications and other conditions prescribed by State laws for voting, or registering to vote, in Federal and State elections, other than qualifications based upon age, residence, citizenship, mental competency, and absence of conviction for a felony, are susceptible of use, and have been used, to deny persons the right to vote, because of their race or color; and

(b) the application of qualifications and other conditions by Federal registrars appointed under this title, other than those excepted in subsection (a), would impede and obstruct Federal registrars in the performance of their duties.

SEC. 203. (a) The Federal registrar or registrars for any voting district shall, upon application therefor, register to vote in elections held in such voting dis-

trict any individual whom the Federal registrar finds to have the requisite qualifications as to citizenship, age, residence, mental competency, and absence of conviction for a felony under the laws of the State in which such voting district is located. An individual so registered by a Federal registrar shall receive a certificate identifying him as a person so qualified to vote in such elections.

(b) If a State imposes or has imposed qualifications with respect to citizenship, age, residence, mental competency, or absence of conviction for a felony more restrictive than those in effect on May 17, 1954, the Federal registrar or registrars in that State shall apply the State law in effect on May 17, 1954.

(c) The Federal registrar or registrars for any voting district shall conform to regulations promulgated by the President with respect to the time, place, and manner of the performance of the duties prescribed by this Act.

(d) The Federal registrar or registrars of any voting district shall, from time to time, transmit certifications to the proper State and local officials of the individuals who have been registered by them. Such certifications shall be final and not subject to judicial review except as provided in section 205.

(e) All persons certified for registration by Federal registrars in a voting district shall continue to be entitled to vote in any election held in such voting district during the period of service of a Federal registrar in such district, notwithstanding the requirement of reregistration or any other requirement by the State in which such voting district is located. After the office of Federal registrar for any voting district is terminated, all persons certified for registration by Federal registrars in such voting district shall continue to be entitled to vote in any election held in such voting district, if reregistration is required under the laws of the State in which such voting district is located, until they have a reasonable opportunity to reregister without discrimination on account of their race or color.

VOTING IN ELECTIONS

SEC. 204. Each individual who is registered by a Federal registrar pursuant to section 203 shall have the right to vote, and to have such vote counted, in any election held in the voting district where he resides during the effective period of his registration, unless after his registration and prior to any such election the Federal registrar determines that by reason of any of the qualifications specified in section 203(a) of this Act he has become ineligible to vote in such elections.

ENFORCEMENT

SEC. 205. (a) Any challenge to the eligibility to vote of persons registered under section 203 of this Act, or any review of the denial of registration by a Federal registrar under section 203 shall be within the sole jurisdiction of the United States circuit court of appeals for the circuit in which the voting district is located. Each person registered under this Act shall be permitted to cast his vote and have it counted pending the determination by the reviewing court of the validity of such challenge or challenges. Any challenge to the eligibility of a person to register under this Act shall be made within five days following such registration, except that the challenges shall be in order in any case of fraud or ineligibility arising after registration.

(b) The provisions of this Act shall be enforceable by appropriate civil actions instituted in the district courts of the United States by the Attorney General, for or in the name of the United States. When necessary to assure persons registered under this Act of the right to vote and to have their votes counted, the district court concerned shall issue permanent or temporary injunctions or other orders directed to appropriate State or local voting officials, requiring them to permit persons so registered to cast their votes and have them counted and staying the certification of the results of such election pending the determination by the court in the case involved.

(c) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all cases of criminal contempt arising under the provisions of this Act.

(d) The provisions of section 2004 of the Revised Statutes (42 U.S.C. 1971) shall be applicable with respect to all threats of intimidation or coercion of persons seeking to register and vote under the provisions of this Act.

CONTINUED EFFECT PENDING JUDICIAL REVIEW

SEC. 206. In any case in which a challenge is made to the constitutionality of this Act, the appropriate reviewing court shall issue an order authorizing the provisions of this Act and the authority granted therefrom to continue in effect pending determination of the validity of such challenge.

TITLE III—PROHIBITION OF POLL TAXES

SEC. 301. The Congress hereby finds—

(a) that the requirement of the payment of a poll tax as a prerequisite to voting has historically been one of the methods used to circumvent the fourteenth and fifteenth amendments, and that the passage of laws establishing such a requirement in the States still retaining this requirement was for the purpose, in whole or in part, of denying persons the right to vote because of race or color, and that this requirement has been and is being applied discriminatorily so as to deprive persons of the right to vote because of race or color;

(b) that the requirement of the payment of a poll tax as a condition upon or a prerequisite to voting is not a bona fide qualification of an elector, but an arbitrary and unreasonable restriction upon the right to vote in violation of the fourteenth and fifteenth amendments.

SEC. 302. No State shall require the payment of a poll tax as a condition upon or a prerequisite to voting in any election conducted under its authority.

TITLE IV—MISCELLANEOUS

SEC. 401. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION 2004 OF THE REVISED STATUTES

SEC. 402. Section 2004(f) of the Revised Statutes (42 U.S.C. 1971(f)) is repealed.

EXERCISE OF FUNCTIONS CONFERRED UPON PRESIDENT

SEC. 403. (a). The President may delegate authority to exercise any of the functions conferred upon him by this Act to such officer of the United States Government as he shall direct.

(b) In making numerical determinations required under this Act, the President may make such determinations on the best statistical information available to him.

[H.R. 7112, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the vouchers of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall cerate a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been

removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

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

section, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7125, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for

voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such a challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or eco-

nomic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other serv-

ice, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7101, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactment of the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are often accomplished by State and local officials through the discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision, or, absent any such political subdivisions, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

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

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971(a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district the Commission shall notify the President of its determination, describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more

complainants who meet the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right to vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of reigstrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name appears on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not

otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular qualification results in a denial of the right to vote on account of race or color, it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

TERMINATION

SEC. 12. (a) The Board, in consultation with the Civil Rights Commission and the Attorney General, shall conduct a continuing study of conditions in voting districts for which registrars have been assigned with a view toward determining when State and local officials may be expected to administer the laws consistently with the guarantee of the fifteenth amendment. When the Board determines that such a condition exists, it shall instruct registrars in such voting districts to examine and list only applicants who make a sworn allegation that within thirty days preceding their application they have been denied the right to register or to vote. The Board may remove this requirement if it finds that the laws are not being administered in accordance with this Act.

(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district

for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgment of the right to vote.

INTIMIDATION OF VOTERS

SEC. 15. (a) Whenever the Board, in consultation with the Civil Rights Commission and the Attorney General, determines that there is a substantial risk that an election consistent with the guarantee of the fifteenth amendment cannot be held in a voting district for which a registrar has been assigned because of threats, intimidation, or coercion of persons seeking to register or vote, the Board shall certify this finding to the President, who, if he concurs, may instruct the Board to assign election supervisors to the voting district.

(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

IMPROPER ELECTIONS

SEC. 16. (a) The Board is authorized to apply for an order enjoining certification of the results of any election which has taken place in any voting district for which a registrar has been assigned. Such application shall be made to the district court for the judicial district in which the voting district is located. Upon such application, the court shall issue such an order. If after notice to the voting district and a hearing the court determines that any persons registered to vote under this Act have not been permitted to vote or to have their votes counted, it shall where practicable provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before certification of the results. Where prior to application the results have been certified, it shall provide in addition for revision of the certification.

If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote, the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

(b) A court may invoke the power to enjoin certification and void an election under subsection (a) if it determines that persons registered to vote under State law have not been permitted to vote or to have their votes counted on account of race or color by a person acting under color of law.

(c) The President may act under section 15 to provide for the conduct by election supervisors of any new election held in place of one declared void under this section.

PROTECTION OF RIGHTS

SEC. 17. (a) Whoever shall deprive or attempt to deprive any person of any right or interfere with any right secured by section 18, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

(e) Whoever makes a challenge under section 11 knowing such challenge to be false, fictitious, or fraudulent, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

EXTENSION OF CIVIL RIGHTS COMMISSION

SEC. 18. Section 104(b) of the Civil Rights Act of 1964 (42 U.S.C. 1975c (b); 77 Stat. 271) is hereby amended by striking "January 31, 1968," and by substituting therefore: "ten years after the date of this enactment".

NONREVIEWABILITY OF FINDINGS

SEC. 19 (a) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be final and not reviewable in any court.

(b) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be effective upon publication in the Federal Register.

PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 20. Section 1114 of title 18, United States Code, is amended by inserting after "Department of Justice" the following: "any officer or employee of the National Voting Rights Board,".

PROTECTION OF FIRST AMENDMENT RIGHTS

SEC. 21. (a) Congress finds that recent events have demonstrated that effective exercise of the right to vote requires that citizens of the United States be protected in the exercise of rights guaranteed by the first amendment; and that State and local officials have often reinforced denials of the right to vote by suppressing first amendment rights through the use of threats, intimidation, and brutality.

(b) Whenever any person acting under color of law has engaged, or there are reasonable grounds to believe that such person is about to engage, in any act or practice that intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce the exercise by any other person of his right of freedom of speech or of the press, or his right peaceably to assemble, and to petition the Government for a redress of grievances; or whenever any person, acting under color of law, knows or, with reasonable diligence, should know that any other person is being intimidated, threatened, or coerced for the purpose of interfering with the enjoyment of the above rights by such other person and abstains from, fails, or refuses to protect such other person in the enjoyment of such rights, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief including an application for a permanent or temporary injunction, restraining order, or other order.

CONTEMPTS

SEC. 22. All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

EXPIRATION OF ACT

SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7102, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactment of the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are often accomplished by State and local officials through the discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision or, absent any such political subdivisons, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

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

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971(a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district, the Commission shall notify the President of its determination, describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more complainants who met the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right of vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of registrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name appears on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular qualification results in a denial of the right to vote on account of race or color, it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

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(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by

State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgment of the right to vote.

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(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

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If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

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

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

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SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7193, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactmentof the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are often accomplished by State and local officials through the discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision, or, absent any such political subdivisions, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

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

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971(a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district, the Commission shall notify the President of its determination, describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more complainants who met the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right to vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of registrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name appears on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular qualification results in a denial of the right to vote on account of race or color, it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

TERMINATION

SEC. 12. (a) The Board, in consultation with the Civil Rights Commission and the Attorney General, shall conduct a continuing study of conditions in voting districts for which registrars have been assigned with a view toward determining when State and local officials may be expected to administer the laws consistently with the guarantee of the fifteenth amendment. When the Board determines that such a condition exists, it shall instruct registrars in such voting districts to examine and list only applicants who make a sworn allegation that within thirty days preceding their application they have been denied the right to register or to vote. The Board may remove this requirement if it finds that the laws are not being administered in accordance with this Act.

(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgment of the right to vote.

INTIMIDATION VOTERS

SEC. 15. (a) Whenever the Board, in consultation with the Civil Rights Commission and the Attorney General, determines that there is a substantial risk that an election consistent with the guarantee of the fifteenth amendment cannot be held in a voting district for which a registrar has been assigned because of threats, intimidation, or coercion of persons seeking to register or vote, the

Board shall certify this finding to the President, who, if he concurs, may instruct the Board to assign election supervisors to the voting district.

(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

IMPROPER ELECTIONS

SEC. 16. (a) The Board is authorized to apply for an order enjoining certification of the results of any election which has taken place in any voting district for which a registrar has been assigned. Such application shall be made to the district court for the judicial district in which the voting district is located. Upon such application, the court shall issue such an order. If after notice to the voting district and a hearing the court determines that any persons registered to vote under this Act have not been permitted to vote or to have their votes counted, it shall where practicable provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before certification of the results. Where prior to application the results have been certified, it shall provide in addition for revision of the certification.

If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote, the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

(b) A court may invoke the power to enjoin certification and void an election under subsection (a) if it determines that persons registered to vote under State law have not been permitted to vote or to have their votes counted on account of race or color by a person acting under color of law.

(c) The President may act under section 15 to provide for the conduct by election supervisors of any new election held in place of one declared void under this section.

PROTECTION OF RIGHTS

SEC. 17. (a) Whoever shall deprive or attempt to deprive any person of any right or intefere with any right secured by section 13, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

(e) Whoever makes a challenge under section 11 knowing such challenge to be false, fictitious, or fraudulent, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

EXTENSION OF CIVIL RIGHTS COMMISSION

SEC. 18. Section 104(b) of the Civil Rights Act of 1964 (42 U.S.C. 1975c (b); 77 Stat. 271) is hereby amended by striking "January 31, 1968," and by substituting therefore: "ten years after the date of this enactment".

NONREVIEWABILITY OF FINDINGS

SEC. 19. (a) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be final and not reviewable in any court.

(b) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be effective upon publication in the Federal Register.

PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 20. Section 1114 of title 18, United States Code, is amended by inserting after "Department of Justice" the following: "any officer or employee of the National Voting Rights Board,".

PROTECTION OF FIRST AMENDMENT RIGHTS

SEC. 21. (a) Congress finds that recent events have demonstrated that effective exercise of the right to vote requires that citizens of the United States be protected in the exercise of rights guaranteed by the first amendment; and that State and local officials have often reinforced denials of the right to vote by suppressing first amendment rights through the use of threats, intimidation, and brutality.

(b) Whenever any person acting under color of law has engaged, or there are reasonable grounds to believe that such person is about to engage, in any act or practice that intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce the exercise by any other person of his right of freedom of speech or of the press, or his right peaceably to assemble, and to petition the Government for a redress of grievances; or whenever any person, acting under color of law, knows or, with reasonable diligence, should know that any other person is being intimidated, threatened, or coerced for the purpose of interfering with the enjoyment of the above rights by such other person and abstains from, fails, or refuses to protect such other person in the enjoyment of such rights, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief including an application for a permanent or temporary injunction, restraining order, or other order.

CONTEMPTS

SEC. 22. All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

EXPIRATION OF ACT

SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7104, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactment of the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision, or, absent any such political subdivisions, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

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

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971(a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district, the Commission shall notify the President of its determination describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more complainants who met the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed

by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right to vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of registrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name appears on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular

qualification results in a denial of the right to vote on account of race or color, it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

TERMINATION

SEC. 12. (a) The Board, in consultation with the Civil Rights Commission and the Attorney General, shall conduct a continuing study of conditions in voting districts for which registrars have been assigned with a view toward determining when State and local officials may be expected to administer the laws consistently with the guarantee of the fifteenth amendment. When the Board determines that such a condition exists, it shall instruct registrars in such voting districts to examine and list only applicants who make a sworn allegation that within thirty days preceding their application they have been denied the right to register or to vote. The Board may remove this requirement if it finds that the laws are not being administered in accordance with this Act.

(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgment of the right to vote.

INTIMIDATION OF VOTERS

SEC. 15. (a) Whenever the Board, in consultation with the Civil Rights Commission and the Attorney General, determines that there is a substantial risk that an election consistent with the guarantee of the fifteenth amendment cannot be held in a voting district for which a registrar has been assigned because of threats, intimidation, or coercion of persons seeking to register or

vote, the Board shall certify this finding to the President, who, if he concurs, may instruct the Board to assign election supervisors to the voting district.

(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

IMPROPER ELECTIONS

SEC. 10. (a) The Board is authorized to apply for an order enjoining certification of the results of any election which has taken place in any voting district for which a registrar has been assigned. Such application shall be made to the district court for the judicial district in which the voting district is located. Upon such application, the court shall issue such an order. If after notice to the voting district and a hearing the court determines that any persons registered to vote under this Act have not been permitted to vote or to have their votes counted, it shall where practicable provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before certification of the results. Where prior to application the results have been certified, it shall provide in addition for revision of the certification.

If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote, the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

(b) A court may invoke the power to enjoin certification and void an election under subsection (a) if it determines that persons registered to vote under State law have not been permitted to vote or to have their votes counted on account of race or color by a person acting under color of law.

(c) The President may act under section 15 to provide for the conduct by election supervisors of any new election held in place of one declared void under this section.

PROTECTION OF RIGHTS

SEC. 17. (a) Whoever shall deprive or attempt to deprive any person of any right or interfere with any right secured by section 13, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

(e) Whoever makes a challenge under section 11 knowing such challenge to be false, fictitious, or fraudulent, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

EXTENSION OF CIVIL RIGHTS COMMISSION

SEC. 18. Section 104(b) of the Civil Rights Act of 1964 (42 U.S.C. 1975c (b); 77 Stat. 271) is hereby amended by striking "January 31, 1968," and by substituting therefore: "ten years after the date of this enactment".

NONREVIEWABILITY OF FINDINGS

SEC. 19. (a) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be final and not reviewable in any court.

(b) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be effective upon publication in the Federal Register.

PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 20. Section 1114 of title 18, United States Code, is amended by inserting after "Department of Justice" the following: "any officer or employee of the National Voting Rights Board,".

PROTECTION OF FIRST AMENDMENT RIGHTS

SEC. 21. (a) Congress finds that recent events have demonstrated that effective exercise of the right to vote requires that citizens of the United States be protected in the exercise of rights guaranteed by the first amendment; and that State and local officials have often reinforced denials of the right to vote by suppressing first amendment rights through the use of threats, intimidation, and brutality.

(b) Whenever any person acting under color of law has engaged, or there are reasonable grounds to believe that such person is about to engage, in any act or practice that intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce the exeise by any other person of his right of freedom of speech or of the press, or his right peaceably to assemble, and to petition the Government for a redress of grievances; or whenever any person, acting under color of law, knows or, with reasonable diligence, should know that any other person is being intimidated, threatened, or coerced for the purpose of interfering with the enjoyment of the above rights by such other person and abstains from, fails, or refuses to protect such other person in the enjoyment of such rights, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief including an application for a permanent or temporary injunction, restraining order, or other order.

CONTEMPTS

SEC. 22. All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

EXPIRATION OF ACT

SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7195, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactment of the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are often accomplished by State and local officials through the discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision, or, absent any such political subdivisions, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

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

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971(a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the

public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district, the Commission shall notify the President of its determination, describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more complainants who met the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five

years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right to vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of registrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name appears on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular qualification results in a denial of the right to vote on account of race or color,

it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

TERMINATION

SEC. 12. (a) The Board, in consultation with the Civil Rights Commission and the Attorney General, shall conduct a continuing study of conditions in voting districts for which registrars have been assigned with a view toward determining when State and local officials may be expected to administer the laws consistently with the guarantee of the fifteenth amendment. When the Board determines that such a condition exists, it shall instruct registrars in such voting districts to examine and list only applicants who make a sworn allegation that within thirty days preceding their application they have been denied the right to register or to vote. The Board may remove this requirement if it finds that the laws are not being administered in accordance with this Act.

(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgement of the right to vote.

INTIMIDATION OF VOTERS

SEC. 15. (a) Whenever the Board, in consultation with the Civil Rights Commission and the Attorney General, determines that there is a substantial risk that an election consistent with the guarantee of the fifteenth amendment cannot be held in a voting district for which a registrar has been assigned because of threats, intimidation, or coercion of persons seeking to register or vote, the Board shall certify this finding to the President, who, if he concurs, may instruct the Board to assign election supervisors to the voting district.

(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

IMPROPER ELECTIONS

SEC. 10. (a) The Board is authorized to apply for an order enjoining certification of the results of any election which has taken place in any voting district for which a registrar has been assigned. Such application shall be made to the district court for the judicial district in which the voting district is located. Upon such application, the court shall issue such an order. If after notice to the voting district and a hearing the court determines that any persons registered to vote under this Act have not been permitted to vote or to have their votes counted, it shall where practicable provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before certification of the results. Where prior to application the results have been certified, it shall provide in addition for revision of the certification.

If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote, the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

(b) A court may invoke the power to enjoin certification and void an election under subsection (a) if it determines that persons registered to vote under State law have not been permitted to vote or to have their votes counted on account of race or color by a person acting under color of law.

(c) The President may act under section 15 to provide for the conduct by election supervisors of any new election held in place of one declared void under this section.

PROTECTION OF RIGHTS

SEC. 17. (a) Whoever shall deprive or attempt to deprive any person of any right or interfere with any right secured by section 13, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

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

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

(e) Whoever makes a challenge under section 11 knowing such challenge to be false, fictitious, or fraudulent, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

EXTENSION OF CIVIL RIGHTS COMMISSION

SEC. 18. Section 104(b) of the Civil Rights Act of 1964 (42 U.S.C. 1975c (b); 77 Stat. 271) is hereby amended by striking "January 31, 1968," and by substituting therefore: "ten years after the date of this enactment".

NONREVIEWABILITY OF FINDINGS

SEC. 10 (a) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be final and not reviewable in any court.

(b) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be effective upon publication in the Federal Register.

PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 20. Section 1114 of title 18, United States Code, is amended by inserting after "Department of Justice" the following: "any officer or employee of the National Voting Rights Board,".

PROTECTION OF FIRST AMENDMENT RIGHTS

SEC. 21. (a) Congress finds that recent events have demonstrated that effective exercise of the right to vote requires that citizens of the United States be protected in the exercise of rights guaranteed by the first amendment; and that State and local officials have often reinforced denials of the right to vote by suppressing first amendment rights through the use of threats, intimidation, and brutality.

(b) Whenever any person acting under color of law has engaged, or there are reasonable grounds to believe that such person is about to engage, in any act or practice that intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce the exercise by any other person of his right of freedom of speech or of the press, or his right peaceably to assemble, and to petition the Government for a redress of grievances; or whenever any person, acting under color of law, knows or, with reasonable diligence, should know that any other person is being intimidated, threatened, or coerced for the purpose of interfering with the enjoyment of the above rights by such other person and abstains from, fails, or refuses to protect such other person in the enjoyment of such rights, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief including an application for a permanent or temporary injunction, restraining order, or other order.

CONTEMPTS

SEC. 22. All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

EXPIRATION OF ACT

SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7100, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote.

For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(c) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

SEC. 13. (a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Any person who coerces, intimidates, or interferes with any citizen of the United States, for the purpose of infringing, on account of race or color, on his right to register or vote, shall not be entitled to receive the benefits of any Federal financial assistance or program for a period of two years.

(c) Any person acting under color or law who coerces, intimidates, or threatens any citizen of the United States for the purpose of causing any such citizens to vote for the candidate or candidates of any political party, or for the purpose of inducing any such United States citizen to vote in the primary election of a particular political party under a promise to provide the benefits of any Federal assistance or program or threatening the denial of any such Federal assistance or program to which such United States citizen is or might be entitled, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

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

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

SEC. 15. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 16. 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.

[H.R. 7107, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made

within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(e), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

SEC. 13. (a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Any person who coerces, intimidates, or interferes with any citizen of the United States, for the purpose of infringing, on account of race or color, on his right to register or vote, shall not be entitled to receive the benefits of any Federal financial assistance or program for a period of two years.

(c) Any person acting under color of law who coerces, intimidates, or threatens any citizen of the United States for the purpose of causing any such citizen to vote for the candidate or candidates of any political party, or for the purpose of inducing any such United States citizen to vote in the primary election of a particular political party under a promise to provide the benefits of any Federal assistance or program or threatening the denial of any such Federal assistance or program to which such United States citizen is or might be entitled, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

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

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

SEC. 15. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 16. 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.

[H.R. 7198, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto

Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to

have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the

oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

SEC. 13. (a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Any person who coerces, intimidates, or interferes with any citizen of the United States, for the purpose of infringing, on account of race or color, on his right to register or vote, shall not be entitled to receive the benefits of any Federal financial assistance or program for a period of two years.

(c) Any person acting under color of law who coerces, intimidates, or threatens any citizen of the United States for the purpose of causing any such citizen to vote for the candidate or candidates of any political party, or for the purpose of inducing any such United States citizen to vote in the primary election of a particular political party under a promise to provide the benefits of any Federal assistance or program or threatening the denial of any such Federal assistance or program to which such United States citizen is or might be entitled, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

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

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

SEC. 15. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 16. 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.

[H.R. 7100, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting, (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person

shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall, in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

SEC. 8. No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 9. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as

provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

SEC. 10. Consistent with State law and the provisions of this Act, persons appearing before an examiner shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places, and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

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

SEC. 11. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 12. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 13. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 14. (a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Any person who coerces, intimidates, or interferes with any citizen of denied or deprived of the right to register or to vote on account of race or color

on his right to register or vote, shall not be entitled to receive the benefits of any Federal financial assistance or program for a period of two years.

(c) Any person acting under color of law who coerces, intimidates, or threatens any citizen of the United States for the purpose of causing any such citizen to vote for the candidate or candidates of any political party, or for the purpose of inducing any such United States citizen to vote in the primary election of a particular political party under a promise to provide the benefits of any Federal assistance or program or threatening the denial of any such Federal assistance or program to which such United States citizen is or might be entitled, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 15. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

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

SEC. 16. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 17. 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.

[H.R. 7200, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote,

as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

SEC. 13. (a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Any person who coerces, intimidates, or interferes with any citizen of the United States, for the purpose of infringing, on account of race or color, on his right to register or vote, shall not be entitled to receive the benefits of any Federal financial assistance or program for a period of two years.

(c) Any person acting under color of law who coerces, intimidates, or threatens any citizen of the United States for the purpose of causing any such citizen to vote for the candidate or candidates of any political party, or for the purpose of inducing any such United States citizen to vote in the primary election of a particular political party under a promise to provide the benefits of any Federal assistance or program or threatening the denial of any such Federal assistance or program to which such United States citizen is or might be entitled, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

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

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

SEC. 15. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 16. 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.

[H.R. 7201, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his appliction within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State

law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(c) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7202, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1071(e)).

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

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

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

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

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been

denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7203, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 10 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7204, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7205, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied

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

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5 (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(e), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed

or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7206, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made

within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

SEC. 15. If any provisions 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.

[H.R. 7207, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

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

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

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4 (e), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(e), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not

properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the

provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7208, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person

has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literary test requirements, if not disregarded by the examiner as provided for in section 4(e), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply

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

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notifications the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7209, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7210, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1071 (e)).

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school, in or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply for a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

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

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

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7211, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2)

any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5 (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local regis-

tration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which

the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7212, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as

determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

(H.R. 7213, 89th Cong., 1st sess.)

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(e), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

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

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

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7214, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a

felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

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same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

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

penses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7215, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote, within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly

erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

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

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

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

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act, the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

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

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

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

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

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

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

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

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

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

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

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

[H.R. 7216, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

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

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

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

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

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

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

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

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

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

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

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

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

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

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

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

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

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

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

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act) the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7217, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate any educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under

State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his finding as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however,* That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstance shall not be affected thereby.

[H.R. 7218, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall meanny any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further find that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has

been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, where instruction is carried on predominantly in the English language, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth-grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the prosions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with

this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of sections 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places, and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regula-

tions promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7219, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be know as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on accout of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in

any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer my be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his

listing under this subsection, or fails or refuses to properly count such person's votes, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7220, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement of knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto

Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic

standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other

service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7221, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be know as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer my be filed in the United States Court of Appeals for the circuit in which the person chal-

lenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7222, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person

shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote,

or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certifications. Examiners shall subscribe to the oath of office required by section 10 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7223, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for

voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the

same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel

expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7224, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant

satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence

unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13(a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7225, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate elections officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on

such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, de-

faces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7226, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate

the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials,

the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(c) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7227, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such

complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district who have been placed on the list of eligible

voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmits lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall after consulatation with the Attorney General, instruct examiners concerning the qualifiactions required for listing.

(b) Notwithstanding time limiations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that

such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, of (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18 United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7228, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any persons acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted

on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropiate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7229, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied voting or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall

certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth-grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(c) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenge to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7230, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been

denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was no properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence

unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7244, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be know as the Voting Rights Act of 1965.

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good-faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons, as a prerequisite for voting or registration for voting, (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting, (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons possessing less than a sixth-grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on

such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

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(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys,

defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places, and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission, shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however,* That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7258, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that tweny-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have

been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(c) A finding by the examiner that tweny-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, multilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7250, 89th Cong., 1st sess.]

A BILL To protect voting rights secured by the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Rights Act of 1965".

FINDINGS

SEC. 2. Congress finds that despite the enactment of the Civil Rights Acts of 1957, 1960, and 1964 large numbers of citizens of the United States are being denied the right to vote on account of race or color; that such denials are often accomplished by State and local officials through the discriminatory use of literacy tests, interpretation tests, the poll tax, and other devices; that such denials have also been effected through threats, intimidation, violence, and economic coercion; and that such serious violations of the fifteenth amendment necessitate that Congress act to enforce that constitutional guarantee.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(a) The term "election" means any general, special, or primary election held in any State or political subdivision thereof solely or partially for the purpose of electing or selecting any candidate to public office or to decide a proposition or issue of public law.

(b) The term "voting district" means any county, parish, or similar political subdivision of a State, or any political subdivision of a State which is independent of the political jurisdiction of a county, parish, or similar political subdivision, or, absent any such political subdivisions, the State itself.

(c) The phrase "denied the right to register or to vote" means that a person acting under color of law (1) has failed to provide an applicant with an opportunity to apply for registration to vote or to qualify to vote, (2) has found an applicant not qualified to vote, (3) has not notified an applicant of the results of his application to register within seven days of the date of application, or (4) has not permitted an individual to vote or have his vote counted despite the fact that he is registered or otherwise entitled to vote.

(d) The term 'vote" shall have the same meaning as in section 2004 of the Revised Statutes, as amended (42 U.S.C. 1971(e)).

(e) The term "Board" shall mean the National Voting Rights Board provided for in section 5 of this Act.

(f) The term "literacy test" shall have the same meaning as in section 2004 of the Revised Statutes as amended (42 U.S.C. 1971 (a)(3)(B)).

(g) The phrase "possessing a sixth grade education" shall mean having completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

ABOLITION OF THE POLL TAX

SEC. 4. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax.

NATIONAL VOTING RIGHTS BOARD

SEC. 5. (a) There is hereby established a National Voting Rights Board which shall consist of six members appointed by the President with the advice and consent of the Senate. No more than three of the members shall be of the same political party. The President shall designate the Chairman of the Board.

(b) The term of office of members of the Board shall be five years. A member appointed to fill a vacancy shall serve for the unexpired duration of the term.

(c) The Chairman shall receive an annual salary of $28,500; each other member shall receive $27,000.

(d) The principal office of the Board shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Board may hold special sessions in any part of the United States.

(e) The Board shall appoint an executive director and such other personnel as performance of its duties requires. The Board shall appoint registrars pursuant to the provisions of this Act without regard to the civil service laws and the Classification Act of 1949, as amended. Such appointments may be terminated by the Board at any time. Registrars shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). Registrars shall have the power to administer oaths.

(f) The departments and agencies of the Federal Government are authorized to make available to the Board such additional personnel as may be required by the Board to carry out its functions under this Act.

(g) The Board shall make such rules and regulations as are necessary to carry out its functions.

(h) The Board shall have the power to compel at any designated place the attendance and testimony of witnesses and the production of papers and documents relevant to its powers and duties through the use of the subpena. Upon refusal to obey a subpena, the Board may apply for its enforcement to the court of appeals for the circuit in which the inquiry is being held. The court shall forthwith order full compliance with the subpena and shall cite a refusal to do so as a contempt unless it determines that the issuance of the subpena is not reasonably related to the exercise of the Board's powers or duties under this Act.

INITIATION OF PROCEEDING BY CIVIL RIGHTS COMMISSION

SEC. 6. (a) Whenever the Commission on Civil Rights determines that there has been a substantial denial or abridgment of the right to vote of citizens of the United States on account of race or color in any voting district, the Commission shall notify the President of its determination, describing the circumstances in which the denial or abridgment took place.

(b) If the President, upon such notification, concludes that the assignment of Federal registrars is necessary to enforce the guarantee of the fifteenth amendment, he shall instruct the Board to assign as many registrars to the voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election.

PRIVATE INITIATION OF PROCEEDING

SEC. 7. (a) Any resident of any voting district may file a sworn complaint with the Board alleging (1) that he meets the valid qualifications to vote under State law, as limited by section 10, (2) that he has been denied the right to register or to vote within ninety days, and (3) that he believes that the denial was on account of race or color. If the Board receives twenty-five or more complaints with such allegation based upon denials of the right to register or to vote committed within a single six-month period, and if the Board determines that such complaints are meritorious, it shall order a hearing to be held in such voting district. If the hearing examiner finds that within a single six-month period twenty-five or more complainants who met the valid qualifications to vote under State law, as limited by section 10, were denied the right to register or to vote in that district, he shall find that such persons were denied the right to vote on account of race or color. For this purpose he may administer a literacy test in the same manner as registrars are authorized to do under section 9.

(b) Exceptions may be filed with the Board within twenty days of the examiner's findings of facts. The decision of the Board shall be final and not reviewable in any court.

(c) Upon confirmation by the Board of findings by the examiner against a voting district, the Board shall assign as many registrars to such voting district as are necessary to prepare and maintain lists of persons eligible to vote in any election. After the assignment of registrars, those persons found qualified to vote pursuant to this section shall be placed on a list of eligible voters and shall receive a certificate of eligibility pursuant to section 9(a).

JUDICIAL REVIEW

SEC. 8. (a) Within thirty days after publication in the Federal Register of notice of assignment of registrars for a voting district under section 6 or 7, the voting district may file an action with the Board alleging that neither the district nor any persons acting under color of law have engaged during the five years preceding the filing of the action in a pattern or practice of denials of the right to vote on account of race or color. A hearing examiner appointed by and responsible to the Board shall hear and determine the case, and an appeal to the Board from this decision may be taken within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States courts of appeals for the circuit in which the voting district is located. On appeal, the findings of the Board, if supported by substantial evidence, shall be conclusive.

(b) No judgment in favor of any petitioner shall issue under this section for a period of five years after the entry of a final judgment of a court of the United States, whether entered prior to or after the enactment of this Act, determining that there has been a pattern or practice of the denial of the right to vote on account of race or color committed anywhere within the territory of such petitioner.

(c) If the petitioner obtains a final judgment in its favor in an action authorized under this section, the registration procedure established by this Act shall, after such judgment, be inapplicable to the petitioner.

(d) No action taken by the Board under this Act shall be stayed pending judicial review under this section. The action provided by this section shall be the exclusive method of judicial challenge to the assignment of registrars.

REGISTRATION PROCEDURE

SEC. 9. (a) Any person whom a registrar finds to have the valid qualifications for registering and voting under State law, as limited by section 10, shall promptly be placed on a list of eligible voters. The registrar shall certify and transmit two copies of such list to the offices of the appropriate election officials. Supplements to this list shall likewise be filed at the end of each month and forty-five days before an election. These lists shall be available for public inspection. After the lists have been certified there shall be issued to each person appearing thereon a certificate evidencing his eligibility to vote. Any person whose name apepars on such a list shall be entitled to vote in the voting district unless and until the appropriate election officials are notified that such person has been removed from such list in accordance with subsection (b): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless a list containing his name was received at the office of the appropriate election officials at least forty-five days prior to such election.

(b) A registrar shall remove from an eligibility list the name of any person (1) who is successfully challenged under section 11, or (2) who the registrar determines has lost his eligibility to vote under State law, but no name shall be removed for failure to vote during any period less than three years.

QUALIFICATIONS

SEC. 10. (a) The Board shall provide registration forms consistent with the policies of this Act, which shall include a statement that the applicant is not otherwise registered to vote. The Board shall also instruct registrars concerning the valid qualifications for registering and voting under State law.

(b) Valid qualifications for registering and voting under State law shall not include any requirement that a person as a prerequisite for voting or registration for voting (1) prove his qualifications by the voucher of registered voters or members of any other class, (2) possess good moral character, or (3) demonstrate educational achievement or knowledge of any particular subject.

(c) Valid qualifications for registering and voting under State law may include a literacy test. The Board shall provide for administration by the registrar of the literacy test employed by the State to all residents of the voting district, whether or not otherwise registered under this Act, and no person shall vote in a voting district for which a registrar has been assigned who has not satisfied the literacy test administered by the registrar. The Board shall provide for issue by the registrar of a certificate evidencing that a resident has satisfied the literacy test. Such certificate may be issued either upon proof that the resident possesses a sixth grade education or upon successful completion of the literacy test.

(d) The Board shall maintain continuing surveillance of the qualifications for registering and voting in States where any voting district is located for which it has assigned a registrar. Where it determines that a particular qualification results in a denial of the right to vote on account of race or color, it shall so inform the State and instruct registrars assigned in the State that such qualification is not a valid qualification for registering and voting under State law. Such determination shall be reviewable in the court of appeals for the circuit in which the State is located. The decision of the Board, if supported by substantial evidence, shall be conclusive.

CHALLENGES

SEC. 11. (a) Any challenge to a listing on an eligibility list must be made to the registrar who certified the list and be supported by the affidavit of at least one person having personal knowledge of the facts constituting grounds for the challenge. Challenges with which the registrar disagrees shall be heard by a hearing examiner appointed by and responsible to the Board. A challenge shall be determined within fifteen days after it has been made, and appeal to the Board from the examiner's decision must be made within fifteen days after receipt of such decision. A petition for review of the decision of the Board may be filed in the United States court of appeals for the circuit in which the voting district is located within fifteen days after the decision. The decision of the Board, if supported by substantial evidence, shall be conclusive. Any person listed shall be entitled to vote pending final determination by the Board and the court.

TERMINATION

SEC. 12. (a) The Board, in consultation with the Civil Rights Commission and the Attorney General, shall conduct a continuing study of conditions in voting districts for which registrars have been assigned with a view toward determining when State and local officials may be expected to administer the laws consistently with the guarantee of the fifteenth amendment. When the Board determines that such a condition exists, it shall instruct registrars in such voting districts to examine and list only applicants who make a sworn allegation that within thirty days preceding their application they have been denied the right to register or to vote. The Board may remove this requirement if it finds that the laws are not being administered in accordance with this Act. . ..

(b) Within six months after the first general election following action taken pursuant to subsection (a), the Board shall, if it finds that it is reasonable to believe that registration and voting in the voting district will be conducted by the State and local officials consistent with the guarantee of the fifteenth amendment, certify that finding to the President who may, if he concurs, order the assignment of registrars for that district terminated.

DENIAL OF RIGHT TO VOTE

SEC. 13. No person, whether acting under color of law or other wise, shall fail to refuse to permit a person whose name appears on a list transmitted in accordance with section 9(a), or who is otherwise registered to vote in a voting district for which a registrar has been assigned, to vote, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce any person for voting or attempting to vote in any voting district for which a registrar has been assigned.

OBSERVERS

SEC. 14. The Board is authorized to send observers to any election held in any voting district for which a registrar has been assigned. Such observers shall have power to observe all aspects of the vote in all elections conducted by State and local officials within the voting district, including the casting and counting of ballots. Observers shall report to the Board any denial or abridgement of the right to vote.

INTIMIDATION OF VOTERS

SEC. 15. (a) Whenever the Board, in consultation with the Civil Rights Commission and the Attorney General, determines that there is a substantial risk that an election consistent with the guarantee of the fifteenth amendment cannot be held in a voting district for which a registrar has been assigned because of threats, intimidation, or coercion of persons seeking to register or vote, the Board shall certify this finding to the President, who, if he concurs, may instruct the Board to assign election supervisors to the voting district.

(b) It shall be the duty of the election supervisors to conduct such elections as are held in the voting district to which they are assigned. These elections shall be conducted according to procedures which conform as closely as practicable with those of the State in which the voting district is located.

(c) When the Board finds that State and local officials may be expected to conduct elections consistent with the guarantee of the fifteenth amendment in a voting district to which election supervisors have been assigned, it shall certify that finding to the President who may, if he concurs, order the assignment of supervisors to that district terminated.

IMPROPER ELECTIONS

SEC. 16. (a) The Board is authorized to apply for an order enjoining certification of the results of any election which has taken place in any voting district for which a registrar has been assigned. Such application shall be made to the district court for the judicial district in which the voting district is located. Upon such application, the court shall issue such an order. If after notice to the voting district and a hearing the court determines that any persons registered to vote under this Act have not been permitted to vote or to have their votes counted, it shall where practicable provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before certification of the results. Where prior to application the results have been certified, it shall provide in addition for revision of the certification.

If it is not practicable to determine how many persons have been denied the right to vote, or if it is not practicable to cast and count the ballots of those denied the right to vote, the court shall declare the election void. If after notice to the voting district and a hearing the court determines that the State in which the voting district is located has a literacy test and that persons have been permitted to vote without presenting a certificate issued by the registrar under subsection 10(c), unless the number of persons so voting is too few to affect the outcome of the election, the court shall declare the election void. No person shall be deemed to be elected and no proposition or issue determined by virtue of any election, certification of which is enjoined hereunder or which has been declared void.

(b) A court may invoke the power to enjoin certification and void an election under subsection (a) if it determines that persons registered to vote under State law have not been permitted to vote or to have their votes counted on account of race or color by a person acting under color of law.

(c) The President may act under section 15 to provide for the conduct by election supervisors of any new election held in place of one declared void under this section.

PROTECTION OF RIGHTS

SEC. 17. (a) Whoever shall deprive or attempt to deprive any person of any right or interfere with any right secured by section 13, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(b) Whoever, within a year following an election in a voting district for which a registrar has been assigned (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(c) Whoever conspires to violate the provisions of subsection (a) of this section shall be fined not more than $5,000 or imprisoned not more than one year, 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 13, 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 to honor listings under this Act.

(e) Whoever makes a challenge under section 11 knowing such challenge to be false, fictitious, or fraudulent, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

EXTENSION OF CIVIL RIGHTS COMMISSION

SEC. 18. Section 104(b) of the Civil Rights Act of 1964 (42 U.S.C. 1975c(b); 77 Stat. 271) is hereby amended by striking "January 31, 1968," and by substituting therefor: "ten years after the date of this enactment".

NONREVIEWABILITY OF FINDINGS

SEC. 19. (a) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be final and not reviewable in any court.

(b) Any finding or determination made pursuant to sections 6, 7, 12, and 15 shall be effective upon publication in the Federal Register.

PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 20. Section 1114 of title 18, United States Code, is amended by inserting after "Department of Justice" the following: "any officer or employee of the National Voting Rights Board,".

PROTECTION OF FIRST AMENDMENT RIGHTS

SEC. 21. (a) Congress finds that recent events have demonstrated that effective exercise of the right to vote requires that citizens of the United States be protected in the exercise of rights guaranteed by the first amendment; and that State and local officials have often reinforced denials of the right to vote by suppressing first amendment rights through the use of threats, intimidation, and brutality.

(b) Whenever any person acting under color of law has engaged, or there are reasonable grounds to believe that such person is about to engage, in any act or practice that intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce the exercise by any other person of his right of freedom of speech or of the press, or his right peaceably to assemble, and to petition the Government for a redress of grievances; or whenever any person, acting under color of law, knows or, with reasonable diligence, should know that any other person is being intimidated, threatened, or coerced for the purpose of interfering with the enjoyment of the above rights by such other person and abstains from, fails, or refuses to protect such other person in the enjoyment of such rights, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief including an application for a permanent or temporary injunction, restraining order, or other order.

CONTEMPTS

SEC. 22. All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

EXPIRATION OF ACT

SEC. 23. All powers granted by and procedures created under this Act except those found in sections 4 and 21, shall terminate ten years after the date of its enactment.

SEVERABILITY AND APPROPRIATIONS

SEC. 24. (a) 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.

(b) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

[H.R. 7205, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a

pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner with twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2)

he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7300, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color or law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that,

in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on acount of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any

other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report:

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act..

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7321, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification

for voting, 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.

(b) 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 intepret 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents of a political subdivision with respect to which determinations have been made under section 3(a) alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote, and that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: *Provided*, That the requirement of the latter allegation may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no

person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

(e) No person 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, 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 to make an application for listing, and shall issue a receipt for such payment. The examiner 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. 6 (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person whose name appears on a list transmitted in accordance with section 5(b) to vote, or fail or refuse to count such persons's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote under the authority of this Act.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

SEC. 9. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2 or 3 or who shall violate section 7, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more 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, or 7, 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, 7, or 8 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 to honor listings under this Act.

(c) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under this Act he has not been permitted to vote or that his vote was not counted, the examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provision of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia shall have jurisdiction to issue any declaratory judgment or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (c)).

(d) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 12. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 13. 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 effected thereby.

[H.R. 7375, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complaint has been denied or deprived of the right to register or to vote on account of race color within ninety days, and (2) that the Attorney General believes such complains to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrealted to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they

are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as pro-

vided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person

or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similary situated or to other circumstances shall not be affected thereby.

[H.R. 7387, 89th Cong., 1st sess.]

A BILL To enforce the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. No voting qualification or procedure shall be imposed or applied to deny or abridge the right to vote on account of race or color.

SEC. 3. (a) No person 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 or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device as a qualification for voting, 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.

(b) 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.

(c) Any State with respect to which determinations have been made under subsection (a) or any political subdivision with respect to which such determinations have been made as a separate unit, may file in a three-judge district court convened in the District of Columbia an action for a declaratory judgment against the United States, alleging that neither the petitioner nor any person acting under color of law has engaged during the ten years preceding the filing of the action in acts or practices denying or abridging the right to vote for reasons of race or color. If the court determines that neither the petitioner nor any person acting under color of law has engaged during such period in any act or practice denying or abridging the right to vote for reasons of race or color, the court shall so declare and the provisions of subsection (a) and the examiner procedure established by this Act shall, after judgment, be inapplicable to the petitioner. Any appeal from a judgment of a three-judge court convened under this subsection shall lie to the Supreme Court.

No declaratory judgment shall issue under this subsection with respect to any petitioner for a period of ten years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote by reason of race or color have occurred anywhere in the territory of such petitioner.

SEC. 4. (a) Whenever the Attorney General certifies (1) that he has received complaints in writing from twenty or more residents (i) of a political subdivision with respect to which determinations have been made under section 3(a) or (ii) of a political subdivision with respect to which the Director of the Census has certified to the Attorney General that the number of persons of any race or color who were registered to vote on November 1, 1964, was less than 25 per centum of the number of all persons of such race or color of voting age residing in such political subdivisions, alleging that they have been denied the right to vote under color of law by reason of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such appointments shall be made without regard to the civil service laws and the Classification Act of 1949, as amended, and may be terminated by the Commission at any time. Examiners shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act). An examiner shall have the power to administer oaths.

(b) A determination or certification of the Attorney General or of the Director of the Census under section 3 or 4 shall be final and effective upon publication in the Federal Register.

(c) Whenever the Attorney General receives complaints in writing from twenty or more residents of a political subdivision not covered by the provisions of section 4(a), alleging that they have been denied the right to vote under color of law by reason of race or color and he believes such complaints to be meritorious, the Attorney General shall appoint a hearing officer to hold a hearing and determine whether there exists in such political subdivision a pattern or practice of denial of the right to vote on account of race or color. Whenever the Attorney General certifies that a hearing officer has determined that such a pattern or practice does exist in such political subdivision, the Civil Service Commission shall appoint examiners for such subdivision in accordance with section 4(a). The determination of the hearing officer shall be reviewable in a three-judge district court convened in the District of Columbia in an action for declaratory judgment against the United States by the affected political subdivision or by one or more of the twenty residents making the original complaint. The findings of the hearing officer, if supported by substantial evidence, shall be conclusive. There shall be no stay of any action of the examiners appointed by the Civil Service Commission unless and until the said three-judge district court shall determine that the findings of the hearing officer are not supported by substantial evidence.

SEC. 5. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 6(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 6(a) and shall not be the basis for a prosecution under any provision of this Act. The list shall be available for public inspection and the examiner shall certify and transmit such list, and any supplements as appropriate, at the end of each month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person appearing 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) he has been successfully challenged in accordance with the procedure prescribed in section 6(a), or (2) he has been determined by an examiner (i) not to have voted at least once during three consecutive years while listed, or (ii) to have otherwise lost his eligibility to vote.

SEC. 6. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, and procedures for application and listing pursuant to this Act and removal 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 the qualifications required for listing.

SEC. 7. No person, whether acting under color of law or otherwise, shall fail or refuse to permit a person to vote whose name appears on a list transmitted in accordance with section 5(b), or is otherwise qualified to vote, or fail or refuse

to count such person's vote, or intimidate, threaten, or coerce any person for registering or attempting to register, or assisting one registering or attempting to register, or for voting or attempting to vote under the authority of this Act or otherwise.

SEC. 8. Whenever a State or political subdivision for which determinations are in effect under section 3(a) shall enact any law or ordinance imposing qualifications or procedures for voting different than those in force and effect on November 1, 1964, such law or ordinance shall not be enforced unless and until it shall have been finally adjudicated by an action for declaratory judgment brought against the United States in the District Court for the District of Columbia that such qualifications or procedures will not have the effect of denying or abridging rights guaranteed by the fifteenth amendment. All actions hereunder shall be heard by a three-judge court and there shall be a right of direct appeal to the Supreme Court.

SEC. 9. (a)(1) Whoever shall deprive or attempt to deprive any person of any right secured by section 2 or 3 or who shall violate section 7, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(2) Whoever, in depriving or attempting to deprive any person of any right secured by section 2 or 3, or in violating section 7, shall place in jeopardy the life of another, shall be fined not more than $20,000 or imprisoned not more than twenty years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c)(1) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or in interfering with any right secured by section 2, 3, or 7, be fined not more than $5,000, or imprisoned not more than five years, or both.

(2) Whoever, in conspiring to violate the provisions of subsection (a) or (b) of this section, or in interfering with any right secured by section 2, 3, or 7, shall place in jeopardy the life of another shall be fined not more than $20,000 or imprisoned not more than twenty 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, 7, or 8 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 to honor listings under this Act.

(e) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that, notwithstanding his listing under this Act, he has not been permitted to vote or that his vote was not counted, he examiner shall forthwith notify the United States attorney for the judicial district if such allegation in his opinion appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order enjoining certification of the results of the election, and the court shall issue such an order pending a hearing to determine whether the allegations are well founded. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote or their votes were not counted, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before any person shall be deemed to be elected by virtue of any election with respect to which an order enjoining certification of the results has been issued.

(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 an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

(g) Whoever shall deprive or attempt to deprive any person of any right secured by section 2 or 3 or who shall violate section 7 shall be subject to a civil penalty in the amount of $500 for each act of deprivation, or violation, or attempt. Such penalty shall be collected on behalf of the affected individual by a civil action, brought by the United States in the district court for the district in which such act, violation, or attempt occurs or in the district in which the person responsible for such act, violation, or attempt is found. In any action

brought hereunder involving any person acting under color of law who is in the employment of any State or political subdivision, said State or political subdivision shall be jointly liable and shall be made a party.

(h) Whenever an examiner has been appointed under this Act for any political subdivision, the Attorney General may assign representatives of the Department of Justice, including agents of the Federal Bureau of Investigation and United States marshals, to observe any registration of voters, the conduct of any election, and the tabulation of votes at any election in such political subdivision. Such representatives shall be entitled to enter and to remain in any registration or voting place, or place where votes are tabulated. No person shall interfere with or refuse to admit to any such registration, or voting or tabulation place, any representative of the Department of Justice. Any person who shall violate this provision shall be fined not more than $5,000 or imprisoned not more than five years, or both. In addition, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including action for a permanent or temporary injunction, restraining order, or other order, enjoining violations of this subsection.

SEC. 10. Listing procedures shall be terminated in any political subdivision of any State whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, 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.

SEC. 11. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia shall have jurisdiction to issue any declaratory judgment or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

(d) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 12. No State or political subdivision shall deny or deprive any person of the right to register or to vote because of his failure to pay a poll tax or any other tax for payment as a precondition for registration or voting.

SEC. 13. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 14. 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.

[H.R. 7403, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971(e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to

vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or

refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7404, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from tweny-five or more residents of a voting district each alleging that (i) the complainant satifies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or

registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other persons who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in

the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of sections 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an application for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel

expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

[H.R. 7482, 89th Cong., 1st sess.]

A BILL To guarantee the right to vote under the fifteenth amendment to the Constitution of the United States, 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 shall be known as the "Voting Rights Act of 1965".

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, when he is in fact so qualified, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special, or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the fifteenth amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth-grade education possess reasonable literacy, comprehension, and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days prior to the filing of the complaint, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine each person who has filed a complaint certified by the Attorney General to determine (1) whether he was denied or deprived of the right to register or to vote within ninety days prior to the filing of such complaint and (2) whether he is qualified to vote under State law. A person's statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico, and in which school the English language is the language of primary usage, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color. In the event such presumption is not challenged according to the provisions of section 5, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall take action in accordance with section 7 of this Act.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4(d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and such challenge shall be determined within

seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligibile voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4(c), except that a person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4(d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4(f) and 4(g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States attorney may forthwith apply to the district court for an order of contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, on intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, acting under the color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with State law and the provisions of this Act, persons appearing before an examiner shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places, and procedures for application and listing

pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: *Provided, however*, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of residence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this Act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 613. Interference with elections

"(a) Whoever 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 or illegal voting, or pays or offers to pay or accepts payment either for registration or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) Whoever, acting under color of law fails or refuses to permit a person to vote, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce such person for the purpose of preventing such person from voting shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(c) Whoever, acting under color of law, within a year following an election in a voting district (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.".

(b) The table of contents of such chapter 29 is amended by adding at the end thereof the following:

"613. Interference with elections.".

SEC. 15. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 16. 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.

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