The original documents are located in Box 39, folder "Voting Rights (4)" of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

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would carry upon conviction a maximum fine of $5,000, maximum imprisonment of five years or both. Retained and broadened in final bill.

Poll Taxes. The bill did not go so far as to ban poll taxes in state and local elections. It provided, however, that no voter applicant could be denied the ballot for failure to pay a poll tax if he tendered payment to an examiner during the year of the election in which he wished to vote. The examiner was authorized to collect the tax and pass it on to state or local officials. An Administration spokesman said the poll tax provision of the bill would assuage situations in which such levies had to be paid as much as 19 months before an election. A similar provision was adopted as part of a much broader final poll tax section. (See p. 535)

BILLS INTRODUCED

The Administration proposals were introduced in the House March 17 (HR 6400) by Judiciary Committee Chairman Emanuel Celler (D N.Y.) and in the Senate the following day (S 1564) by 66 co-sponsors.

Douglas Bill. An alternative voting rights bill (S 1517) was introduced in the Senate by Sen. Paul H. Douglas (D Ill.) and nine other sponsors. The bipartisan measure differed from the Administration bill in banning poll taxes and providing that the federal registration machinery could also be triggered in areas, with or without a literacy test, where less than 25 percent of voting-age Negroes (instead of less than 50 percent of the total voting-age population) were registered in 1964.

McCulloch Bill. Rep. William M. McCulloch (R Ohio), ranking minority member of the House Judiciary Committee, April 5 introduced a voting rights bill (HR 7112) backed by House Minority Leader Gerald R. Ford (R Mich.), who had called for improvement of the Administration bill drafted in cooperation with Senate Minority Leader Dirksen. The House leadership bill:

Authorized appointment of a federal voting examiner within a district whenever the Attorney General received and considered meritorious 25 or more complaints from district residents alleging discrimination against race or color in registering or voting. If the examiner found that 25 or more had been denied the right to register or vote, he would register them.

Authorized examiners to consider a sixth-grade education evidence of literacy, and in other cases to administer state literacy tests, provided the tests were fair and non-discriminatory.

Permitted actions of a federal examiner to be challenged within ten days before a federal hearing officer appointed by the Civil Service Commission. The hearing officer would have ten days to render a decision.

When a hearing officer had determined that 25 or more persons in a voting district had been denied the right to vote because of race or color, a pattern or practice of discrimination would be established. The Civil Service Commission could then appoint as many additional examiners and hearing officers as necessary to register all other persons within the county who might be subject to discrimination. The decision of a hearing officer could be appealed in the local federal court of appeals, but the motion would have to be filed within 15 days of the hearing officer's decision.

Authorized registrants in a voting district in which a pattern of discrimination had been established to bypass local registrars if they had reason to believe they would be subject to coercion and intimidation. Officials acting under color of law to coerce and intimidate qualified voters would be subject to fines up to $5,000, imprisonment up to five years, or both.

Senate

Acting on the request of President Johnson for rapid action, the Senate bipartisan leadership March 18 moved that the Senate send the bill (S 1564) to the Judiciary Committee with instructions to report the measure no later than April 9. The motion was adopted March 18 by a 67-13 roll-call vote. (For voting, see chart p. 1032)

The leadership's tactic was employed because the Committee, under Chairman James O. Eastland (D Miss.), had never willingly reported a civil rights bill. The Civil Rights Act of 1960 was reported from the Committee on the instructions of the Senate; the Senate voted to bypass the Committee altogether in considering the Civil Rights Acts of 1957 and 1964 and the 1962 constitutional amendment barring payment of a poll tax as a requirement for voting in federal elections and primaries.

DEBATE -- Eastland said it was "an unheard of thing" to give his Committee only 15 days to study "a bill as far-reaching as this."

Strom Thurmond (R S.C.), Spessard Holland (D Fla.), Lister Hill (D Ala.) and John Stennis (D Miss.) attacked the Administration measure and said it should be studied more thoroughly in committee.

Senate Minority Leader Everett McKinley Dirksen (R Ill.), one of the principal sponsors of S 1564, said that 15 working days to clear the measure was time enough after 95 years of "trying to catch up with the 15th Amendment."

Senate Majority Whip Russell B. Long (D La.) said more than two weeks of committee study was necessary to ensure "a bill that would be more reasonable and more just, a bill that would seek to strike at discrimination where it exists, and not seek to punish or impose additional power in areas where no discrimination exists."

HEARINGS

COMMITTEE -- Judiciary.

HELD HEARINGS -- March 23 - April 5 on the bipartisan-backed Administration voting rights bill (S 1564) and on S 1517, a second bipartisan measure.

TESTIMONY -- March 23 -- In a three-hour dialogue with Attorney General Nicholas deB. Katzenbach, Sam J. Ervin Jr. (D N.C.), a member of the Committee, contended that sections of the Administration bill were unconstitutional or otherwise unfair:

- Ervin said the provision that areas affected by the measure would have to prove in court that "neither the petitioner nor any person acting under color of law" had discriminated against voters in the previous ten years was "too harsh." He pointed out that an entire state or subdivision might be penalized for the acts of a single person. The Attorney General agreed that the language of the bill might be changed to eliminate the chance that "one isolated instance of discrimination" would trigger the entire act.
- Ervin said the bill was an unconstitutional ex post facto law which presumed "rascality" on the part of local voting registrars. The effect of the measure, he said, would be to "punish" states and local governments for acts committed before the pending measure became law. He also said certain states would be judged guilty by the bill while others would be arbitrarily acquitted. Katzenbach answered that since infringements of Negro rights had been illegal for almost a century, areas to which the bill was applicable could be held accountable

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[July 1975]

I see here some people that I have met before in various organization meetings where I have met with a group such as this, and I am delighted to have the chance to renew those acquaintances.

I must say that in the White House we have in Fernando DeBaca a person that is working with me and trying to keep the communication lines going with all of you and with others. We have Alex Armandaris here and we have others in the Administration.

I can add one final subfootnote. We are making a maximum effort in the various boards and commissions and other job opportunities -- an effort to see to it that the Hispanic community is fairly and properly represented, and this is essential.

QUESTION: Mr. President, one of the critical issues today that our community is very concerned about is the extension and expansion of the Voting Rights Act that for the first time will include the Spanish-speaking people in this country.

Are you supporting the expansion of that Act that would include and guarantee the same franchise to the Spanish-speaking people of the country?

THE PRESIDENT: I believe in protecting the voting rights of every American citizen, including any minority group, which in this case, of course, includes the Spanish speaking.

MORE

File Voting Rights

There is a serious problem that has developed in the United States Senate, as you well know. The Act expires August 4. I had a meeting yesterday, and again I talked with some Members of Congress this morning.

I am very concerned that the Senate, in the compressed time that is available, might not have an opportunity or won't conclude action on the extension of the legislation.

I think that legislation, its extension is of maximum importance. You really have one of four choices: The simple extension of the existing law, the approval, in the second option, of the House version, the third is to broaden the Act so it takes in everybody in all 50 States, and fourth, which is the option I would oppose most, is no action. But the last is a very serious possibility.

I can assure you that I am working with Members of the Senate to try and avoid the last option because if that takes place, you in effect have to start all over again, and with a law that has been on the statute book ten years.

It is better to extend it, to improve it, than to start really from scratch.

QUESTION: Do you accept the expansion to Spanish speaking?

THE PRESIDENT: I would accept it. Of course, I would. But I think in this period of time another option that might well be preferable to make it effective in all 50 States rather than in the eight Southern States plus the seven additional States that have been added in part by the House version.

It might be better, quicker and more certain to make it nationwide rather than the 15 States that are now included in the House version.

Thank you all.

END (AT 2:27 P.M. EDT)

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[July 1975]

Provisions of Voting Rights Act of 1965 (PL 89-110)

Following are the major provisions of the Voting Rights Act of 1965 (PL 89-110):

VOTING EXAMINERS

Authorized appointment by the Civil Service Commission of voting "examiners," federal officials who would determine an individual's qualifications to vote and would require enrollment of qualified individuals by state and local officials to vote in all elections: federal, state and local and delegates to party caucuses and state political conventions. Such appointment would be made whenever:

- A federal court, hearing a suit by the Attorney General charging a state or political subdivision with denying or abridging the right to vote on account of race or color, determined that examiners were needed to ensure voting rights. Authorized the appointment of as many examiners as was deemed necessary either during the course of a suit or as part of a final judgment finding voter discrimination.
- The Attorney General certified to the Commission that he had received meritorious complaints from 20 or more residents of a political subdivision of a state (such as a county, parish or other voting district) that they had been denied the right to vote under color of law on account of race or color, or that he had determined that general discrimination existed. Examiners would be appointed in these cases only if the area qualified statistically and otherwise as one practicing massive discrimination as defined under the triggering formula provided in the bill and had not exempted itself through the Act's provision for judicial relief (see triggering formula and appeal provisions below).

Triggering Formula. Made any state or political subdivision subject to the appointment of federal examiners if: (1) the Attorney General determined that a literacy test or similar device was used as a qualification for voting on Nov. 1, 1964; (2) and the Director of the Census determined that less than 50 percent of the persons of voting age residing in the area were registered to vote on that date or actually voted in the 1964 Presidential election.

Qualifications of Examiners. Authorized appointment of either private citizens or federal officials as examiners. Stipulated that federal officials could be appointed only when the Civil Service Commission consulted with the appropriate department or agency and secured individual consent. Stipulated that private citizens serving as examiners should be appointed, compensated and separated without regard to any civil service law, except the Hatch Act, which prohibits Government employees from engaging in partisan political activity.

Duties. Authorized examiners to interview applicants concerning their qualifications for voting and order appropriate state or local authorities to register all persons they found qualified to vote. Stipulated that the Civil Service Commission, after consultation with the Attorney General, would instruct examiners concerning state laws that would be applicable to the federal registration process. Provided that times, places and procedures for registering and the form for application and removal from eligibility lists would be prescribed by regulations promulgated by the Civil Service Commission.

Stipulated that applications to examiners should be in such form as the Civil Service Commission might require and would contain allegations that the applicant was not presently registered to vote. Empowered examiners to administer oaths in processing applicants.

Instructed examiners to certify and transmit lists of qualified voters at least once a month to the offices of the appropriate election officials, with copies to the U.S. Attorney General, and to the attorney general of the state. Directed such election officials to add lists submitted by examiners to their own official rolls. Directed examiners to provide certificates of eligibility to each voter applicant listed.

Stipulated that any voting lists transmitted by examiners should be available for public inspection on the last business day of the month, and in any event, not later than the 45th day prior to any election. Stipulated that no federally processed voter applicant would be entitled to vote in any election by virtue of the Act unless his name was transmitted to appropriate state or local officials before the 45th day prior to such election.

Directed examiners to remove from eligibility lists federally processed applicants whose qualifications had been successfully challenged (see below) or had been determined by examiners to have lost their eligibility to vote under any state voting law still in effect.

Tenure of Examiners. Provided that the appointment of examiners under the automatic triggering formula would be terminated by the Attorney General or a three-judge federal district court in the District of Columbia, when a state or political subdivision had met certain standards stipulated under the Act's procedures for appeal of federal action (see Appeal Provisions, below).

Stipulated that the appointment of examiners under federal court order would be terminated only upon order of the authorizing court.

LITERACY TESTS

Suspended literacy tests or similar voter qualification devices when the Attorney General and Director of the Census determined that a state or political subdivision came within the scope of the Act's automatic triggering formula (above). Stipulated that such determinations were not reviewable in any court and were effective upon publication in the Federal Register. (Tests and devices would be suspended for applicants approaching state registrars as well as federal examiners.)

Authorized federal courts, hearing voting rights suits brought by the Attorney General, to suspend tests or devices that they found had been used for the purpose or "with the effect" of discriminating.

Defined "test or device" for purposes of the Act as any prerequisite for registration or voting which required a person to: (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.

Provided that no test or device could be suspended if incidents of discrimination had been limited in number and effectively corrected by state and local action, the continuing effect of such incidents had been eliminated and there was no reasonable probability of recurrence.

Stipulated that a person could not be denied the right to vote because of inability to read or write in English if he demonstrated that he had successfully completed the sixth grade (or another grade level equivalent to whatever level of education a state demands) in a school under the American flag that was conducted in a language other than English.

APPEAL OF FEDERAL ACTION

Stipulated that any state or political subdivision in which tests or devices were suspended and examiners appointed under the Act's automatic triggering formula could have the tests or devices reinstated and the examiner process terminated by proving in a three-judge federal district court in the District of Columbia that no literacy tests or similar device had been used during the preceding five years for the purpose or with the effect of discriminating. Imposed an absolute prohibition against an exemption from the federal registration machinery (suspension of tests and appointment of examiners) for a period of five years after a finding by any federal court that a state or political subdivision had discriminated against voters.

Stipulated that if the Attorney General had no reason to believe that the petitioning state or local government had used its test or device to discriminate against voters, he could consent to the entry of a judgment freeing the petitioner from the bill.

Stipulated that even if the court freed a petitioner of the charge of discrimination, the court would retain jurisdiction for five years and could reopen the case upon the Attorney General's motion that the state or political subdivision had discriminated.

Also provided the following methods by which political subdivisions could free themselves from the appointment of federal examiners (however, these methods did not provide for reinstating suspended voting qualification tests and devices):

- By successfully petitioning the Attorney General that state and local election officials had enrolled all persons listed by federal examiners as qualified to vote and that there was no reasonable cause to believe that the right to vote would be denied or abridged on account of race or color.

- In the case of political subdivisions in which a Census Bureau survey shows that more than 50 percent of nonwhite voting age population residing in the area was registered to vote, by proving in a three-judge federal district court in the District of Columbia that the same voting condition existed (all eligible persons enrolled and no further discrimination) as political subdivisions petitioning the Attorney General had to show existed in their areas.

Provided that if the federal registration apparatus had been triggered by the order of a federal court in a case instituted by the Attorney General, the appointment of examiners could be terminated and tests and devices reinstated only upon order of the court.

Provided that no court except the federal district court for the District of Columbia (or a U.S. court of appeals in the case of a challenge to the decision of a hearing officer) could issue restraining orders or temporary or permanent injunctions against execution or enforcement of any provision of the Act, or issue declaratory judgments freeing a petitioning state or local government from the bill's coverage.

PRIOR APPROVAL REQUIREMENTS

Required that new voting laws enacted by state or local governments whose voter qualification laws had been nullified under the bill be approved by the Attorney General or federal courts before they could take effect. In the case of states and political subdivisions in which the automatic triggering formula had been invoked, the affected state or local government would be required to secure the approval of either the Attorney General or a three-judge federal district court in the District of Columbia that the statute did not have the purpose and would not have the effect of discriminating against voters on account of race or color. If the petitioning government chose to submit the new law to the Attorney General and if he objected to it within a 60-day period, the petitioner could still seek the court's approval. In areas to which examiners had been appointed by federal courts in voting rights cases filed by the Attorney General, the petitioning state or local government would be required to secure the approval of either the Attorney General or the authorizing court.

Subpena Power of D.C. Court. Stipulated that in actions brought by state or local governments in the federal district court for the District of Columbia to obtain approval of new voting laws (or to free themselves from the bill's coverage), subpenas could be served in any judicial district of the United States, but not at distances greater than 100 miles from the District of Columbia without permission of the D.C. court, which could be secured only upon proper application and presentation of due cause.

CHALLENGES OF VOTERS

Authorized challenges, before hearing officers appointed by the Civil Service Commission, on the qualifications of any applicant listed by federal voting examiners as eligible to vote. Required that such a challenge be filed at offices designated by the Commission and within 10 days after the listing of the challenged person had been made public. Required that such challenge be decided within 15 days of the date it was filed, but provided that challenged voters could participate in any election held in the interim.

Authorized the Commission to subpena witnesses and documentary evidence and provided enforcement machinery in case subpenas were ignored. Provided that the decision of hearing officers could be appealed in a U.S. court of appeals within 15 days after the decision of the hearing officer was served upon the petitioning party.

Specifically provided that a challenge would not be basis for a prosecution under the Act's provisions authorizing criminal penalties for voter interference.

POLL TAXES

Included a Congressional declaration that the payment of poll taxes as a condition for voting in certain states denied or abridged the right to vote. Directed the Attorney General to institute "forthwith" in the appropriate federal district courts challenges of poll taxes used as a precondition for voting or against any substitute for such taxes, enacted after Nov. 1, 1964. Stipulated that Congress, in directing the Attorney General to proceed against such taxes, was acting under authority of the 14th and 15th Amendments to the U.S. Constitution. (The 14th Amendment prohibits deprivation of liberties without due process of law and guarantees equal protection of the law. The

15th Amendment prohibits denial or abridgment of the right to vote on account of race, color or previous condition of servitude. Both amendments empower Congress to enforce their provisions by "appropriate legislation.")

Stipulated that during the period in which suits by the Attorney General were pending in the courts and following any decision ruling that a poll tax was constitutional, no citizen of a state or political subdivision in which the federal registration machinery (suspension of tests and/or assignment of examiners) was in effect could be denied the right to vote during the first year of his eligibility if he tendered payment of the tax for the current year to an examiner or appropriate state or local official at least 45 days prior to an election.

Authorized examiners to issue receipts for the payment of poll taxes. (Presentation of such receipts might be necessary to actually obtain the ballot for state and local elections in some states.) Directed examiners to transmit "promptly" all poll tax payments to the appropriate state or local officials together with the name and address of the applicant.

ENFORCEMENT MACHINERY

Authorized the Attorney General, upon notification by examiners that properly registered voters had been turned away from the polls, to seek court orders staying election results until persons entitled to vote had been allowed to do so and their ballots had been tabulated.

Provided penalties of up to $5,000 and/or five years' imprisonment upon conviction of any of the following: (1) intimidation, vote fraud or other interference with voting rights on the part of private citizens or public officials; (2) a refusal by public officials to allow a qualified voter to vote (whether or not he became qualified under the Act); (3) interference on the part of private citizens or public officials with persons aiding or urging others to vote or with persons exercising duties provided by the Act.

Provided penalties of up to $10,000 and/or five years' imprisonment upon conviction of falsifying or conspiring to falsify voting or registration information or buying votes (applicable only to federal elections, the election for the resident commissioner for Puerto Rico and elections in territories or possessions) or for making false or fraudulent statements before a federal examiner or hearing officer (applicable to any election).

Instructed the Attorney General to institute actions for injunctive relief when there were reasonable grounds to believe that any person was about to violate any provision of the Act.

Authorized the Civil Service Commission, at the request of the Attorney General, to appoint poll watchers in political subdivisions to which examiners had been assigned. Stipulated that private citizens, as well as federal officials, could be appointed.

Authorized poll watchers to enter and attend at any place at which voting or tabulation of votes was conducted in order to observe whether all persons qualified to vote were allowed to do so and that their ballots were properly tabulated. Directed such officials to report to the appropriate examiner, to the Attorney General and, if the federal registration machinery was triggered through court action, to the authorizing court.

Stipulated that all criminal contempt cases arising under the Act should be governed by the provisions of the Civil Rights Act of 1957. (That Act provided that the presiding judge in a voting rights case could decide whether the case would be tried by the court alone or by a jury. However, if he tried the case without a jury, the maximum penalty would be a fine of $300 and a jail term of 45 days; if he imposed a greater penalty, the defendant could demand a retrial with a jury.)

OTHER PROVISIONS

Directed the Attorney General and the Secretary of Defense to make a complete study to determine whether state voting laws or practices discriminated against members of the Armed Forces who seek to vote. Required that these Cabinet members make a joint report to Congress, including their findings and recommendations, by June 30, 1966.

Stipulated that if any section of the Act or its application to any person or circumstances was ruled unconstitutional by the courts, the remainder of the Act and the application of its provisions to other persons not coming under the same circumstances would not be affected.

Authorized the appropriation of necessary sums to implement provisions of the Act.

Background

The 15th Amendment to the Constitution, the basis for the 1965 legislation, became effective in 1870. It provided that neither the Federal Government nor any state could deny the right to vote because of race, color or previous condition of servitude. In May of that year, Congress enacted a comprehensive piece of legislation to enforce the right to vote. This law repeated the essence of the Amendment, provided criminal penalties for state officials who failed to provide all citizens with equal opportunity to qualify to vote and punished violence, intimidation and conspiracies to interfere with registration or voting. In February 1871, Congress enacted a second statute authorizing federal supervisors of elections. Their duties included inspection of registration books and registration, poll watching on election day, counting ballots and certifying election results. However, enforcement of these statutes proved ineffective and they were largely repealed by 1894.

Civil Rights Acts passed by Congress in 1957, 1960, and 1964 provided Negroes with legal means to obtain the ballot for federal elections when confronted by discriminatory registration or voting practices. Another hurdle to the ballot for Negroes was removed in 1964 when the 24th Amendment, outlawing the use of poll taxes as a prerequisite to voting in federal elections, was finally ratified and became part of the Constitution. Following enactment of each measure, however, civil rights groups contended that further legislation was necessary to widen the scope of the laws to include state and local elections and to speed up the pace of litigation in voting rights suits.

1957 Civil Rights Act. The 1957 Act affirmed the right of a citizen to go to court for injunctions to protect his voting rights and empowered the Federal Government, through the Attorney General, to seek injunctions against obstruction or deprivation of those rights. The Act also created a federal Civil Rights Commission with subpena powers to investigate and report to the President and Congress on the violation of voting rights and established a new Civil Rights Division in the Justice Department. (1957 Almanac p. 553)

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In its 1959 report, the Civil Rights Commission found that "substantial numbers of citizens qualified to vote under state registration and election laws are being denied the right to register," and "existing remedies...are insufficient to secure and protect the right to vote of such citizens." The Commission recommended that "some method...be found by which a federal officer is empowered to register voters for federal elections who are qualified under state registration laws but are otherwise unable to register." (1959 Almanac p. 293)

Later reports of the Commission in 1961 and 1963 also called for stiffer measures to eliminate voter discrimination. (1961 Almanac p. 394; 1963 Almanac p. 363)

1960 Act. The 1960 Civil Rights Act authorized the Attorney General, after winning a civil suit brought under the 1957 Act, to ask the court to hold another adversary proceeding and make a separate finding that there was a "pattern or practice" of depriving Negroes of the right to vote in the area involved in the suit. The court could then, on application from any Negro proving discrimination, issue an order that he was qualified to vote. In its most crucial provision, the 1960 Act authorized the courts to appoint referees to help Negroes register and vote, in order to insure implementation of these provisions. (1960 Almanac p. 185)

1962 Action. The Kennedy Administration in 1962 supported two proposals in the voting rights field -- a constitutional amendment outlawing the poll tax as a voting requirement in federal elections and primaries and a measure to make anyone with a sixth-grade education eligible to pass a literacy test for voting in federal elections. The poll tax amendment received Congressional approval and finally became the 24th Amendment when ratification of the required 38 states was completed in 1964. (Its only real effect was in the five states which still had a poll tax -- Alabama, Arkansas, Mississippi, Texas and Virginia.) The literacy test bill, however, died in a 1962 Senate filibuster, with liberal civil rights forces variously laying the blame on the conservative Southern Democratic-Republican coalition, indifference of civil rights organizations, and lack of aggressive leadership by the Administration. (1962 Almanac p. 371, 404; 1964 Almanac p. 381)

Southern Negro Voter Statistics by State

STATE	Total Negro Voters as of 11/1/64[1]	Increase Since 4/1/62	% of Eligible Negroes Registered	% of Eligible Whites Registered	% Negro of Total Registered	% Negro of Voting Age Population	Presidential Winner & Margin 1964		Unregistered Negroes of Voting Age
	(1)	(2)	(3)	(4)	(5)	(6)	(7)		(8)
ALA.	111,000	42,700	23.0	70.7	10.4	26.2	BG	268,353	370,000
ARK.[1]	105,000	36,000	54.4	71.7	14.6	18.4	LBJ	70,933	88,000
FLA.	300,000	117,500	63.7	84.0	12.0	15.2	LBJ	42,599	170,000
GA.	270,000	94,500	44.0	74.5	16.8	25.4	BG	94,043	343,000
LA.	164,700	13,000	32.0	80.4	13.7	28.5	BG	122,157	350,000
MISS.	28,500	4,500	6.7	70.1	5.2	36.0	BG	303,910	394,000
N.C.	258,000	47,500	46.8	92.5	11.7	21.5	LBJ	175,295	293,000
S.C.	144,000	53,100	38.8	78.5	17.0	29.3	BG	93,348	227,000
TENN.	218,000	67,100	69.4	72.9	14.4	14.9	LBJ	126,082	96,000
TEXAS	375,000	133,000	57.7	53.2	12.5	11.7	LBJ	704,619	275,000
VA.	200,000	89,900	45.7	55.9	16.0	18.8	LBJ	76,704	237,000
TOTAL[1]	2,174,200	698,000	43.3	73.2	13.0	22.4	LBJ	314,421	2,843,000

1 Arkansas figures are as of Jan. 1, 1965. Nov. 1, 1964, is date used in "massive discrimination" trigger section of the Voting Rights Act of 1965. (See p. 534)

2 Voting age 18.

SOURCE: VOTER EDUCATION PROJECT OF THE SOUTHERN REGIONAL COUNCIL

NOTE: The Civil Rights Commission March 19, 1965, issued a similar report which showed rapid increases in Negro voter registration in states not covered by the Administration bill. The increases since 1956 were as follows: Tennessee from 29 to 69 percent; Florida from 32 to 63.7 percent; Texas from 37 to 57.7 percent, Arkansas from 36 to 49.3 percent. Registration in Virginia, which was covered by the bill, rose from 19 to 45.7 percent. Increases were not appreciable in other states covered by the bill.

1963 and 1964 Action. In his first Civil Rights Message of 1963, President Kennedy Feb. 28 called for expanded voting rights measures to correct the "two major defects" of the 1957 and 1960 Civil Rights Acts --"the usual long and difficult delay which occurs between the filing of the suit and the judgment of the court...(and) failure to deal specifically with...abuse of discretion on the part of local election officials who do not treat all applicants uniformly." Mr. Kennedy proposed the following remedies to voter registration practices: (1) Prohibit for federal elections all oral literacy tests, unequal application of voting registration requirements, and denial of the right to vote because of errors or omissions on records or applications if these were not material in determining whether a person was qualified to vote; (2) Where literacy tests were given, require the presumption of literacy for anyone with a sixth grade education in a public school or accredited private school where the instruction was primarily in English; (3) In areas where less than 15 percent of the Negroes were registered and a voting suit was pending in the courts, permit court-appointed referees to register Negroes who were qualified under state law; (4) Provide for preferential and expedited treatment of voting rights suits in federal courts.

President Kennedy June 19, 1963, called for a broadened civil rights bill in his second Civil Rights Message, but the voting rights proposals remained the same.

The bipartisan version of the civil rights bill (HR 7152) reported by the House Judiciary Committee Nov. 20, 1963, eliminated the temporary voting registrar formula in favor of special three-judge federal courts which would hear voting rights suits if requested by the Attorney General. (Three-judge court decisions are immediately appealable to the Supreme Court, bypassing the circuit court stage.) The other Kennedy proposals were retained in the reported form of the bill. (1963 Almanac p. 334)

The 1964 Civil Rights Act, signed into law by President Johnson July 2, included all the voting rights provisions of HR 7152. (1964 Almanac. p. 338)

By mid-March 1965, the Justice Department had pressed 70 voting rights suits under civil rights legislation. As a result, thousands of Negroes had gained the ballot. Civil rights forces, however, continued to register their long-standing complaints that the judicial processes for attaining the intent of the legislation had moved too slowly and that voting rights laws should be expanded to include state and local elections.

Selma Campaign

The 1964 Civil Rights Act was intended by its proponents to take the civil rights struggle "out of the streets and into the courts." In many respects -- notably public accommodations -- these intended results were accomplished with speed. However, in several states the Negro was still denied the right to vote, either by strict requirements set by local officials, through administration of a stiff literacy test, or -- if he appealed to a court -- through unfavorable court action or through litigation periods so slow that in effect he was denied his vote in the election in question.

The Rev. Martin Luther King Jr., president of the Southern Christian Leadership Conference, decided to take the voting rights movement back into the streets in Selma, Ala., beginning Jan. 18 to "dramatize" to the nation the existing bars to Negro voting in many Southern states. Through the Selma campaign, King and other civil rights leaders hoped to arouse the nation's conscience by pointing out these difficulties. A similar drive begun in Birmingham in 1963 led eventually to enactment of the 1964 Civil Rights Act through a gradual buildup of pressures on the President and Congress to take action.

King chose Selma for a number of reasons. By law, registration took place only two days a month in Dallas County, of which Selma was the county seat. The actual registration process was lengthy because of the detailed requirements involved. An applicant had to fill in more than 50 blanks, write from dictation a part of the Constitution, answer four questions on the governmental process, read four passages from the Constitution and answer four questions on the passages, and sign an oath of loyalty to the United States and to Alabama. Negro registration in Dallas County had lagged substantially behind white registration. Figures from the 1960 census showed that Dallas County was 57.6 percent Negro. Its voting-age population was 29,515 -- 14,400 whites and 15,115 Negroes. Yet when the Selma campaign began Jan. 18, of those 9,877 who were registered to vote, 9,542 were white and 335 were Negro. Between May 1962 and August 1964, only 93 of the 795 Negroes who applied to register were enrolled, while 945 of the 1,232 whites who applied were enrolled.

On April 13, 1961, the Justice Department had filed a suit to enjoin the Dallas County registrars from discriminating against Negro applicants. A Federal District Court Nov. 1, 1963, issued a permanent injunction against discrimination. In response to a motion for supplementary relief, stating that discrimination still prevailed, Federal District Judge Daniel H. Thomas Feb. 4, 1965, ordered the Board of Registrars to speed its voter registration processes, adding that if all those eligible and desiring to vote were not enrolled by July 1, he would appoint a voting referee under terms of the 1964 Civil Rights Act.

The civil rights leaders, dismayed by the results of previous court orders, continued to protest in the streets and in the courts. Negroes were joined by whites from all parts of the country. Clergymen of all faiths traveled to Selma to participate in the drive. The professed goal continued to be an agreement by the Board of Registrars to remain open every day until all Negroes who wished to vote were registered. However, a larger goal -- to arouse public sentiment in favor of a new voter rights law -- was also being effectively achieved. King made no secret of his hopes for the movement. He said Feb. 5, "We plan to triple the number of registered Negro voters in Alabama for the 1966 Congressional elections, when we plan to purge Alabama of all Congressmen who have stood in the way of Negroes." He added that "a state that denies people education cannot demand literacy tests as a qualification for voting."

Although the peaceful marches, by their size and frequency, attracted public attention, it was three violent actions which most aroused public sentiment. A 26-year-old Selma Negro, Jimmie Lee Jackson, who said he was shot in the stomach and clubbed by Alabama state troopers Feb. 18, died Feb. 26. A white Unitarian minister from Boston, Rev. James J. Reeb, 38, died March 11 of skull fractures inflicted when he was clubbed on the head by white men March 9 in Selma. And Alabama state troopers March 7, acting on orders from Gov. George C. Wallace (D), used tear gas, night sticks and whips to halt a march from Selma to Montgomery, the state capital, severely injuring about 40 marchers. Attorneys for civil rights groups immediately filed petitions with the U.S. District Court in Montgomery for a temporary restraining

order against Wallace and the state troopers. On March 16, Negro leaders presented to the court a detailed plan for the proposed march. On March 17, Judge Frank M. Johnson issued the injunction requested by the Negro leaders. At the same time he denied a Justice Department request for an order to prohibit interference with civil rights demonstrations in addition to the march from Selma to Montgomery, and he denied a petition from Gov. Wallace for an injunction forbidding the march. In a strongly worded opinion accompanying the injunction, Judge Johnson said, "It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of wrongs that are being protested and petitioned against. In this case the wrongs are enormous." Admitting that the order was going to the "outer limits" of what the Constitution allowed in peaceful assembly, the Judge added that "the wrongs and injustices inflicted upon these plaintiffs... have clearly exceeded...the outer limits of what is constitutionally permissible."

In addition to sympathy marches, demonstrations and sit-ins in every part of the country, there were calls for federal action from many groups and individuals. Republicans and Northern Democrats in both houses of Congress urged strong voting rights legislation. The National Assn. for the Advancement of Colored People March 8 called on the President to send troops to Selma to guard against recurrences of brutality against the marchers by state troopers. Several clergymen criticized the President for avoiding federal intervention to assure Negro voting rights as well as freedom from police brutality. The United Steel-

States Requiring Literacy Tests or Similar Devices

The 1965 Voting Rights Act provided for suspension of literacy tests or similar devices used to test voter qualification in affected areas if they required that the prospective voter:

(1) Demonstrate the ability to read, write, understand or interpret any matter, or
(2) Demonstrate educational achievement or knowledge on any subject, or
(3) Possess good moral character, or
(4) Prove his qualifications by the voucher of registered voters or members of any other class.

A Justice Department survey determined that the following states had such tests or devices as of Nov. 1, 1964:

* **Alabama.** Devices embodying all the voting criteria that would be suspended by the bill upon appointment of federal examiners. Applicants must be able to "read and write any article of the Constitution of the United States in the English language" and must possess "good character." A test devised by the State Supreme Court -- and challenged by the Justice Department -- contained understanding, interpretation, knowledge and voucher requirements.

* **Alaska.** The "ability to speak or read English unless prevented by physical disability," or proof of having voted in the general election of Nov. 4, 1924.

Arizona, California, Maine and Massachusetts. Ability to write one's name and read in English the U.S. Constitution. (In most cases Arizonans are required only to attest that they can read the Constitution. If the registrar is in doubt, the applicant then may be asked to read from other printed papers.)

Connecticut. Ability to read in English any part of the state constitution or statutes and "good moral character."

Delaware. Ability to read the state constitution and write one's name.

* **Georgia.** All but the voucher test. The applicant is required to read aloud from either the federal or state constitution and either write English, or demonstrate "good character and his understanding of the duties and obligations of citizenship." If he chooses the latter course, he is presented a standard list of questions on government.

Hawaii. Ability to "speak, read and write the English or Hawaiian language."

Idaho. A moral character test. Persons barred from voting include prostitutes, those who keep, live in, frequent, or "habitually resort to any house of prostitution or of ill fame," homosexuals of either sex, and persons who belong to organizations that advocate or aid persons in bigamy or polygamy.

* **Louisiana.** All the devices in the bill. An applicant must prove his ability to read and write, show good moral character, "understand the duties and obligations of citizens under a republican form of government," understand and interpret any section of the federal or state constitutions, and present two voters of his precinct to vouch for him.

* **Mississippi.** All devices but the voucher requirement. An applicant must prove his ability "to read and write any section of the constitution of this state and give a reasonable interpretation thereof to the county registrar...(and) a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government." He must also show good moral character.

New Hampshire. Ability to "write and to read in such a manner as to show that he is not being assisted in so doing and is not reciting from memory."

New York and Oregon. The ability, except in the case of physical disability, to read and write the English language.

North Carolina. Ability to read and write in English any section of the Constitution.

* **South Carolina.** Ability to read and write any section of the state constitution or, proof of payment of all taxes due for the previous year on property assessed at $300 or more.

* **Virginia.** Application in one's own handwriting, "without aids, suggestions, or memorandum."

Washington. Ability "to read and speak the English language so as to comprehend the meaning of ordinary English prose."

Wyoming. Ability to read the state constitution.

** Indicates state literacy tests suspended under the Voting Rights Act. In addition, tests were suspended in 28 North Carolina counties, three Arizona counties and one Idaho county.*

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workers Union March 12 sent telegrams to Gov. Wallace asking him to protect the rights of all Alabamans and to President Johnson urging him to take all steps necessary to protect lives in Alabama. In front of the White House in Washington, pickets maintained a round-the-clock vigil. There were sit-ins at the Capitol, in the White House and during rush hour across Pennsylvania Avenue in front of the White House, as well as demonstrations at the Justice Department. It was against this backdrop that the Administration submitted to Congress its voting rights proposals.

PRESIDENT'S REQUESTS

In a televised address before an extraordinary joint session of Congress, President Johnson March 15 called for rapid enactment of strong voting rights legislation to "strike down restrictions to voting in all elections -- federal, state and local -- which have been used to deny Negroes the right to vote." The President declared that "...the time for waiting is gone...outside this chamber is the outraged conscience of a nation -- the grave concern of many nations -- and the harsh judgment of history on our acts." (For text, see p. 1365)

The Administration bill, submitted March 17, was accompanied by a letter from the President, noting that the legislation would "help rid the nation of racial discrimination in every aspect of the electoral process and thereby insure the right of all to vote." (For text, see p. 1367)

Basis and Scope. The Administration proposal was based on the 15th Amendment to the Constitution, which provided that no person shall be denied the right to vote "on account of race, color, or previous condition of servitude" and gave Congress the power to enforce its terms by "appropriate legislation."

In subsequent action on the measure, Congress retained and, in some cases, broadened the major Administration proposals.

Following are the major provisions of the original Administration voting rights bill and action taken on them by Congress:

Federal Registration Machinery. The key provision of the Administration bill was a voter registration process which called for the suspension of literacy tests or similar voter qualification devices and, in certain cases, the appointment of federal voting examiners to supervise the voter registration process in states and political subdivisions which failed to attain certain levels of voter activity. States and political subdivisions falling short of the bill's standards would be those in which literacy tests or similar devices were used as a qualification for voting on Nov. 1, 1964, and where the Director of the Census determined that less than 50 percent of the persons of voting age residing in the area were registered to vote on that date or actually voted in the 1964 Presidential election. If one condition but not the other existed in an area in November of 1964, the bill would not apply.

Federal examiners would be assigned when the Attorney General certified to the Civil Service Commission that discrimination against voters existed in a particular area to which the bill was applicable and that corrective federal action was necessary. The Attorney General would either make the certification on his own initiative or after receiving and deeming legitimate 20 or more written complaints from residents of an applicable area who claimed that they had been denied the right to vote on the grounds of race or color. The Civil Service Commission then would appoint as many federal examiners as were considered necessary to supervise voting registration in the political subdivision in which discrimination occurred.

This section of the bill, known as the "massive discrimination" trigger, was retained by Congress in the final version of S 1564.

Role of Examiners. Federal examiners were authorized to interview applicants concerning their qualifications for voting and order appropriate state or local authorities to register all persons they found qualified to vote. The Civil Service Commission, after consultation with the Attorney General, would instruct examiners concerning state laws that would be applicable to the federal registration process.

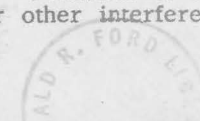
If state or local officials denied a federally processed applicant the right to vote, the Justice Department could go into a federal court and get an order impounding the ballots until persons entitled to vote had been allowed to do so and their ballots had been counted. These provisions were retained in the final bill.

Prior Approval Provisions. Before a state or local government whose voter-qualification law was nullified by the bill could enforce any new law, that government had to obtain prior approval in a three-judge court in the District of Columbia, with the right of direct appeal to the Supreme Court. Federal judges outside the District of Columbia thus were prohibited from hearing such cases. When asked during hearings March 18 before the House Judiciary Committee whether the intent of that provision was to exclude Southern judges from hearing such cases, Attorney General Nicholas deB. Katzenbach replied that the provision was added in order to simplify implementation of the Act. Katzenbach said otherwise three judicial circuits would be handling cases arising from the bill, and would establish different procedures in their adjudication. The final bill retained the Administration's prior approval provision but added language authorizing petitioning states or political subdivisions to secure approval of either the Attorney General or the D.C. court.

Appeal of Federal Action. A state or political subdivision in which the bill had been invoked would have judicial recourse. Such a state or political subdivision would be permitted to file suit in a three-judge federal court in the District of Columbia to the effect that there had been no discrimination against voters on the basis of race or color for a ten-year period preceding the filing of the suit. If such a case were successful, the Act would become inapplicable in the area represented by the petitioner. However, the Act could not be declared inapplicable in the case of any state in which a U.S. court had found voting discrimination in the preceding 10 years. Administration officials pointed out that past court judgments finding voter discrimination in Alabama, Louisiana and Mississippi cases ensured that the laws of those states could not be exempted for at least ten years. Judgments in suits regarding Georgia counties ensured that Georgia could not be exempted under the provisions of the bill for at least five years. Only Virginia and South Carolina, of the states covered by the bill, could technically seek exemption. The Government was prepared to introduce evidence that discrimination had in fact occurred in those states.

These provisions were modified in the final version to prevent the termination of the bill's applicability for five years following a finding of discrimination.

Penalties for Interference. Intimidation, vote fraud, or other interference with rights ensured by the bill



would carry upon conviction a maximum fine of $5,000, maximum imprisonment of five years or both. Retained and broadened in final bill.

Poll Taxes. The bill did not go so far as to ban poll taxes in state and local elections. It provided, however, that no voter applicant could be denied the ballot for failure to pay a poll tax if he tendered payment to an examiner during the year of the election in which he wished to vote. The examiner was authorized to collect the tax and pass it on to state or local officials. An Administration spokesman said the poll tax provision of the bill would assuage situations in which such levies had to be paid as much as 19 months before an election. A similar provision was adopted as part of a much broader final poll tax section. (See p. 535)

BILLS INTRODUCED

The Administration proposals were introduced in the House March 17 (HR 6400) by Judiciary Committee Chairman Emanuel Celler (D N.Y.) and in the Senate the following day (S 1564) by 66 co-sponsors.

Douglas Bill. An alternative voting rights bill (S 1517) was introduced in the Senate by Sen. Paul H. Douglas (D Ill.) and nine other sponsors. The bipartisan measure differed from the Administration bill in banning poll taxes and providing that the federal registration machinery could also be triggered in areas, with or without a literacy test, where less than 25 percent of voting-age Negroes (instead of less than 50 percent of the total voting-age population) were registered in 1964.

McCulloch Bill. Rep. William M. McCulloch (R Ohio), ranking minority member of the House Judiciary Committee, April 5 introduced a voting rights bill (HR 7112) backed by House Minority Leader Gerald R. Ford (R Mich.), who had called for improvement of the Administration bill drafted in cooperation with Senate Minority Leader Dirksen. The House leadership bill:

Authorized appointment of a federal voting examiner within a district whenever the Attorney General received and considered meritorious 25 or more complaints from district residents alleging discrimination against race or color in registering or voting. If the examiner found that 25 or more had been denied the right to register or vote, he would register them.

Authorized examiners to consider a sixth-grade education evidence of literacy, and in other cases to administer state literacy tests, provided the tests were fair and non-discriminatory.

Permitted actions of a federal examiner to be challenged within ten days before a federal hearing officer appointed by the Civil Service Commission. The hearing officer would have ten days to render a decision.

When a hearing officer had determined that 25 or more persons in a voting district had been denied the right to vote because of race or color, a pattern or practice of discrimination would be established. The Civil Service Commission could then appoint as many additional examiners and hearing officers as necessary to register all other persons within the county who might be subject to discrimination. The decision of a hearing officer could be appealed in the local federal court of appeals, but the motion would have to be filed within 15 days of the hearing officer's decision.

Authorized registrants in a voting district in which a pattern of discrimination had been established to bypass local registrars if they had reason to believe they would be subject to coercion and intimidation. Officials acting under color of law to coerce and intimidate qualified voters would be subject to fines up to $5,000, imprisonment up to five years, or both.

Senate

Acting on the request of President Johnson for rapid action, the Senate bipartisan leadership March 18 moved that the Senate send the bill (S 1564) to the Judiciary Committee with instructions to report the measure no later than April 9. The motion was adopted March 18 by a 67-13 roll-call vote. (For voting, see chart p. 1032)

The leadership's tactic was employed because the Committee, under Chairman James O. Eastland (D Miss.), had never willingly reported a civil rights bill. The Civil Rights Act of 1960 was reported from the Committee on the instructions of the Senate; the Senate voted to bypass the Committee altogether in considering the Civil Rights Acts of 1957 and 1964 and the 1962 constitutional amendment barring payment of a poll tax as a requirement for voting in federal elections and primaries.

DEBATE -- Eastland said it was "an unheard of thing" to give his Committee only 15 days to study "a bill as far-reaching as this."

Strom Thurmond (R S.C.), Spessard Holland (D Fla.), Lister Hill (D Ala.) and John Stennis (D Miss.) attacked the Administration measure and said it should be studied more thoroughly in committee.

Senate Minority Leader Everett McKinley Dirksen (R Ill.), one of the principal sponsors of S 1564, said that 15 working days to clear the measure was time enough after 95 years of "trying to catch up with the 15th Amendment."

Senate Majority Whip Russell B. Long (D La.) said more than two weeks of committee study was necessary to ensure "a bill that would be more reasonable and more just, a bill that would seek to strike at discrimination where it exists, and not seek to punish or impose additional power in areas where no discrimination exists."

HEARINGS

COMMITTEE -- Judiciary.

HELD HEARINGS -- March 23 - April 5 on the bipartisan-backed Administration voting rights bill (S 1564) and on S 1517, a second bipartisan measure.

TESTIMONY -- March 23 -- In a three-hour dialogue with Attorney General Nicholas deB. Katzenbach, Sam J. Ervin Jr. (D N.C.), a member of the Committee, contended that sections of the Administration bill were unconstitutional or otherwise unfair:

- Ervin said the provision that areas affected by the measure would have to prove in court that "neither the petitioner nor any person acting under color of law" had discriminated against voters in the previous ten years was "too harsh." He pointed out that an entire state or subdivision might be penalized for the acts of a single person. The Attorney General agreed that the language of the bill might be changed to eliminate the chance that "one isolated instance of discrimination" would trigger the entire act.
- Ervin said the bill was an unconstitutional ex post facto law which presumed "rascality" on the part of local voting registrars. The effect of the measure, he said, would be to "punish" states and local governments for acts committed before the pending measure became law. He also said certain states would be judged guilty by the bill while others would be arbitrarily acquitted. Katzenbach answered that since infringements of Negro rights had been illegal for almost a century, areas to which the bill was applicable could be held accountable

Voting Bill Criticized for a Variety of Reasons

A variety of criticisms, from civil rights advocates as well as constitutional authorities and opponents of civil rights legislation, were made as Judiciary Committees of both House and Senate studied the Administration voting rights proposal.

Objections to the bill fell into the broad categories of constitutional questions, inadequacies of coverage, and practical problems posed by the measure. Virtually no one was prepared to accept the Administration bill as drafted.

Following is a summary of major objections to the measure, together with Administration rebuttals.

CONSTITUTIONAL OBJECTIONS

1. Contention: Congress has no constitutional power to abolish state prerogatives to set voter qualifications. A number of constitutional authorities, many of whom supported voting rights legislation, contended that the federal registration machinery provided by the bill would violate Article 1, Section 2 of the Constitution, which provides that "electors (voters) in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." (When the federal registration apparatus provided in the Administration bill was invoked, it would annul all state voting qualifications other than those pertaining to age, length of residence, conviction of a felony without subsequent pardon, and mental incompetence.) (For testimony, see p. 543)

Dr. Robert G. Dixon Jr., professor of constitutional law at the George Washington University Law School, told CQ March 30 that "there is a critical and indeed tragic problem of Negro voter discrimination in the South. A strong and broad federal law is needed and should reach discrimination wherever practiced. However, it should be directed squarely to the discriminatory application of literacy tests -- many of which are themselves concededly valid and have been upheld by the Supreme Court."

Administration Position. The 15th Amendment outlawing discrimination in voting, supersedes Article 1 of the Constitution with regard to state-enacted voter qualification laws when those laws violated the 15th Amendment. (See testimony p. 543)

2. Contention: The Administration bill is an unconstitutional ex post facto law and bill of attainder which "punished" states and localities for acts committed before the pending legislation became law. (See p. 541)

Administration Position. Rather than a form of "punishment," the federal registration apparatus was merely an effort to implement the 15th Amendment by establishing a formula for redressing instances of "massive discrimination." During hearings before committees of both chambers, Attorney General Nicholas de B. Katzenbach said that because infringement of Negro rights had been illegal for almost a century, areas to which the bill was applicable could be held accountable for the previous ten years.

INADEQUACIES

1. Contention: The triggering device set up by the bill would not reach "pockets of discrimination" in a number of states. (See p. 543, 557)

Administration Position. The Administration bill was aimed only at areas of "hardcore" discrimination. After enactment, Katzenbach maintained, the machinery provided by previous civil rights legislation could deal effectively with pocket discrimination because a task force of Justice Department attorneys would be freed from present cases in hardcore areas.

2. Contention: A comprehensive voting rights measure should eliminate the use of poll taxes altogether. Civil rights leaders and supporters of the bipartisan Senate bill (S 1517) contended in hearings that the poll tax was still a major obstruction to Negro registration in the Southern states in which the tax was still levied for state and local elections.

Administration Position. The 15th Amendment basis of the proposed act probably would not support a clause to outlaw poll taxes. For such a provision to stand up in court it would have to be proven that the tax had been used to discriminate against voters in violation of the 15th Amendment. (See p. 543)

3. Contention. The bill's requirement that Negro voters must first approach state or local registrars before they might obtain federal assistance could subject them to intimidation. During Congressional hearings, civil rights advocates were insistent that Negro voter registrants either be able to avoid state registrars or receive on-the-spot protection from intimidation under the bill.

Administration Position. Under terms of the bill, the Attorney General could waive the provision for attempted state registration in areas where Negroes were subjected to intimidation, long delays, or odd hours at which they must register.

PRACTICAL OBJECTIONS

1. Contention: It is unjust and pointless to require that states and localities seeking relief from the federal registration apparatus must come to a three-judge federal district court in the District of Columbia rather than similar federal courts in their own areas. (See p. 543)

Administration Position. It had been necessary to establish a single district for adjudicating such cases so that procedural complications would not arise. (See p. 543)

2. Contention: The bill's arbitrary formula brings under coverage a number of areas that have not discriminated against voters. Spokesmen for groups representing a wide divergence of political persuasions asserted during hearings that it was an over-sight of the bill to establish a formula that would include the state of Alaska and other localities which they said had obviously not been guilty of voter discrimination. The Justice Department had conceded that those areas were "special cases" and would probably be exempted from the measure.

for infringements of the previous ten years. He said the federal voter registration mechanism was not a form of "punishment" but only an effort to implement the 15th Amendment by establishing a formula for redressing instances of "massive discrimination."

- States and localities in which the bill is invoked should be able to seek recourse in nearby federal courts, Ervin said, rather than being required to bring their cases to the District of Columbia. He said he recognized certain advantages in requiring a three-judge federal court but asked why such panels could not be convened in various Southern cities. The Attorney General replied that the intent of the provision was to avoid procedural complications by bringing all the cases into one district. He said the choice of the "seat of government" for the court "seemed like a good way of doing it." Regarding Ervin's complaint that witnesses in some instances might have to travel "a thousand miles" to Washington, Philip A. Hart (D Mich.), a member of the Committee, interjected that it was often "easier for states to come to Washington than for some voters to walk a block down to their courthouse."

March 24 -- Sen. Jacob K. Javits (R N.Y.), a member of the Committee, called for a strengthening of the proposed Administration bill to include provisions abolishing all poll taxes and providing an additional triggering device that would ensure a wider application of the bill. The additional triggering mechanism, embodied in S 1517, of which Javits was a co-sponsor, would invoke the federal registration machinery in an area where less than 25 percent of Negro voting-age population, based on Civil Rights Commission figures, was registered or voted in the 1964 general election.

Attorney General Katzenbach said that he agreed with the intent of both suggestions; however, he added that it was uncertain whether either proposal could survive a legal challenge. If the poll tax were abolished under the 15th Amendment, Katzenbach said, it would have to be proved that the use of the tax was discriminatory. Such proof would be difficult to make, he said, because a number of Southern states used devices more effective than the poll tax to discriminate against Negro voters. Rather than add additional poll tax provisions to S 1564, the Attorney General suggested that a separate statute be adopted to eliminate the tax as a violation of the 14th Amendment. Turning to the 25 percent triggering mechanism Javits had proposed, Katzenbach said that the Administration had considered that approach but had rejected it because "we did not consider the (Civil Rights Commission) figures accurate.... We feared the figures might be litigated."

Resuming his attack of the day before, Senator Ervin contended that the Administration bill's provisions to strike down certain voter qualifications in states covered by the measure were unconstitutional. Pointing out that the Constitution empowered the states to fix voter qualifications, Ervin argued that Congress had no power to annul those provisions. Katzenbach retorted that he had "judicial support" in past court decisions to uphold his position that the 15th Amendment superseded Article 1, Section 2, which gives states the power to set their own voter qualifications. "Let me be crystal clear," Katzenbach said. "I have no desire to alter the Constitution. I have only a desire to enforce its provisions."

DIRKSEN TESTIMONY

Senate Minority Leader Everett McKinley Dirksen (R Ill.), another member of the Committee, said he would offer an amendment to reduce the requirement that a state or political subdivision must have a ten-year record of non-discrimination before coverage of the proposed law would lapse. Dirksen said the requirement should be set up on a "carrots and stick basis -- that there be some inducement" for compliance. Katzenbach countered that 10 years was "eminently reasonable." The Attorney General added: "Forty years is unreasonable, and I'd say somewhere between 10 and 40 years the law would be upheld." Something must be done, he said, if "past practices are to be cured -- not punished." Katzenbach, however, said that he was willing to amend the measure in order to clarify that areas covered by the bill would be able to free themselves of the federal registration machinery after 10 "clean" years, regardless of the date the bill took effect. The Attorney General explained that if a state had not discriminated for nine and one-half years before the bill's enactment date, it would be free of the law's provisions six months after enactment.

Committee Chairman James O. Eastland (D Miss.) proposed that the lending of money to pay a poll tax be made a criminal violation. Eastland contended that large organizations such as the AFL-CIO spent thousands of dollars to cover the taxes. Katzenbach answered that the proposed legislation was not in any broad measure concerned with the poll tax.

March 25 -- Eastland contended that the Administration bill had been shaped so that the President's home state of Texas would not be brought under its terms. Katzenbach assured Eastland that specific exemption of Texas was not the intent of those who drafted the bill.

Eastland further contended that the measure would provide heavier criminal penalties for violation of the proposed law in several states than are provided for the same crime in other states. Dirksen replied that the criminal penalties of the bill would apply equally to all 50 states since the measure reiterated the 15th Amendment requirement that no voting qualification or procedure be imposed to deny or abridge the right to vote on account of race or color.

Katzenbach said that President Johnson was "terribly interested" in lowering the voting age to 18 and also wanted to eliminate the poll tax altogether. Katzenbach said he had advised the President, however, that both changes would require a constitutional amendment.

March 29 -- Charles J. Bloch of Macon, Ga., a former president of the Georgia Bar Association, contended that there were already sufficient laws on the books to deal with voter discrimination. Bloch also said the Administration bill was unconstitutional because Congress had no power to "presume" the guilt of the states covered by the bill by applying an "arbitrary percentage" to an "arbitrary past date."

March 30 -- Leander H. Perez, of Plaquemines Parish, La., contended that the Administration bill was a "hand-in-glove" part of a Communist conspiracy to control the Deep South by setting up "Negro rule." Dirksen retorted that the contention was "a reflection on the Senators and lawyers who participated" in drafting the measure. Dirksen added that Perez' charge had been "about as stupid as anything I ever heard." Perez replied that he considered the persons who had participated in the drafting of the bill "good American citizens" and that he hoped his remarks would not be taken as personal.

Perez told the Committee that he was representing Louisiana Gov. John J. McKeithen. However, McKeithen told the press that he had authorized Perez only to present his position that voter qualifications be left to the states.

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March 31 -- A. Ross Eckler, acting director of the Census Bureau, said he did not consider it necessary for the Census to compile voter registration figures to determine whether a state or locality should come under the Administration bill. Eckler said that voting figures gave "completely responsible answers" to which areas should be covered by the measure.

Sen. Sam J. Ervin Jr. (D N.C.), a member of the Committee, asked Eckler if this meant that a state could register 100 percent of eligible voters and still be covered by the bill if less than 50 percent voted in 1964. Eckler replied, "That's my interpretation."

Civil Service Commissioner John W. Macy Jr. said that he estimated only "about 100" federal voting examiners would be appointed under the proposed legislation. Macy said the examiners would have to be people of "maturity, unquestioned impartiality and integrity." The Commissioner said that local residents would be used wherever feasible and added that he hoped federal employees could be appointed for short-term tenures.

Committee Chairman James O. Eastland (D Miss.) asked if Macy would appoint examiners from the Mississippi Freedom Democratic Party, which Eastland charged was Communist-influenced. Macy replied that examiners would not be subjected to "political tests" and that only "loyal qualified American citizens" would be appointed.

April 1 -- Sen. John J. Sparkman (D Ala.) called the Administration measure "hasty, stringent, and ill-advised legislation," which "carries with it more fundamental harm to our form of government than the little good that might be accomplished in the long run by its enforcement." Sparkman said he thought existing law could be broadly applied to deal effectively with voter discrimination.

April 5 -- Sen. John J. Williams (R Del.) proposed an amendment to the Administration bill to provide federal penalties for fraudulent registration or voting. Williams said that while he strongly favored equal voting rights for all, he felt "just as strongly that this guarantee is meaningless if that vote is not counted properly, or if that vote is effectively cancelled by a vote that is illegally cast, or if another person illegally registers to vote."

ADMINISTRATION-DIRKSEN AMENDMENTS

The Administration, in consultation with the Senate Republican leadership, April 5 agreed to additional provisions suggested by critics of the bill. (See box, p. 542) These amendments:

- Authorized federal courts, in suits brought by the Attorney General, to order the appointment of federal voting examiners if needed to enforce the 15th Amendment and to suspend literacy tests and other devices used to discriminate against voters.
- Exempted from the bill's triggering mechanism a state or political subdivision where less than 20 percent of the voting-age public was non-white.
- Permitted federal courts, on suits filed by the Attorney General, to suspend indefinitely any state poll tax they determined had been used to discriminate against voters. (Non-discriminatory poll taxes would remain in force.)

These amendments were embodied in a substitute for the original Administration bill. Although a new text was submitted for consideration by the Judiciary Committee, the number of the bill, S 1564, remained unchanged.

BILL APPROVED

The Judiciary Committee April 9 reported a voting rights bill (S 1564 -- S Rept 162) substantially stronger than the one submitted by the Administration. The bill was ordered reported by a 12-4 vote. Voting against approval were four Southern Democrats: Committee Chairman James O. Eastland (Miss.), Sam J. Ervin Jr. (N.C.), John L. McClellan (Ark.), and Olin D. Johnston (S.C.), who was absent but requested that he be recorded in opposition to the measure.

The major change approved by the Committee was the addition of a ban on the use of poll taxes in state and local elections. Other key amendments:

- Added a second "automatic" trigger which would provide for appointment of voting examiners to states and political subdivisions in which fewer than 25 percent of the voting-age persons of Negro race or any other race or color were registered to vote. (This was intended to cover areas where no discriminatory tests were used.)
- Authorized the use of poll watchers to observe election procedures in states and localities to which examiners had been assigned.
- Authorized examiners to order registration of applicants without requiring them to show they first had been turned down by local registrars within the past 90 days.
- Made private citizens, as well as public officials, criminally liable for interfering with voter rights.

These amendments were proposed by a nine-man liberal group on the Committee: Sens. Hart (D Mich.), Long (D Mo.), Kennedy (D Mass.), Bayh (D Ind.), Burdick (D N.D.), Tydings (D Md.), Fong (R Hawaii), Scott (R Pa.), and Javits (R N.Y.).

Two limitations, sponsored by Senate Minority Leader Dirksen, were written into the bill. These amendments provided:

- A reduction from 10 to 5 years in the period it would take a state or political subdivision to purge itself of a finding of discrimination.
- An "escape" provision for states and political subdivisions which could prove in court that their percentage of voting-age population voting in the most recent Presidential election exceeded the national average <u>or</u> that at least 60 percent of their voting age residents were registered to vote, <u>in addition</u> to proving that they had not discriminated.

The Committee, which had been under instructions from the Senate to report a voting bill by midnight April 9, completed action on the measure only minutes before the deadline. Because proponents of the bill were unable to reconcile differences on the poll tax and escape provisions, the committee bill went to the floor "without recommendation."

COMMITTEE STATEMENTS

In view of the tight deadline on reporting the bill, additional time was granted for submission of views. Individual views were submitted April 20 by opponents (S Rept 162 -- Part 2) and April 21 by proponents of the measure (S Rept 162 -- Part 3).

View of Opponents. Three Committee members from Southern states who had voted against S 1564 in committee adopted as individual views statements made during Senate hearings by two Southern attorneys -- Charles J. Bloch of Macon, Ga., and Thomas H. Watkins of Jackson, Miss. Signing the statement were Committee Chairman James O. Eastland (D Miss.), Sam J. Ervin Jr. (D N.C.) and John L. McClellan (D Ark.).

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The bill was unconstitutional, the statements contended, because Congress had no power to abolish state prerogatives to set voter qualifications as provided by Article 1, Section 2 of the Constitution. The statements disputed the contention that the 15th Amendment took away the exclusive right of states to establish voting qualifications. They asserted that the 17th Amendment had reaffirmed the original language of Article 1, Section 2, providing that "the electors in each state shall have the qualifications requisite for the most numerous branch of the state legislatures."

Joint Statement of Proponents. The 12 non-Southern members of the Committee filed a statement supporting the bill as a strong measure "to eradicate once and for all the chronic system of racial discrimination which has for so long excluded so many citizens from the electorate because of the color of their skins, contrary to the explicit command of the 15th Amendment." They said that existing law could not solve the problem of voting discrimination because of "the intransigence of local officials and dilatory tactics, two factors which have largely neutralized years of litigating effort by the Department of Justice."

Because of differences of view, their report did not include endorsements of the bill's provisions outlawing state and local poll taxes and establishing an escape mechanism for states which could prove that they had attained adequate levels of voter activity. Committee members signing the statement were Dodd (D Conn.), Hart (D Mich.), Long (D Mo.), Kennedy (D Mass.), Bayh (D Ind.), Burdick (D N.D.), Tydings (D Md.), Dirksen (R Ill.), Hruska (R Neb.), Fong (R Hawaii), Scott (R Pa.), and Javits (R N.Y.).

Additional Views of Proponents. The same members of the Committee, except for Dirksen and Hruska, submitted additional views supporting the committee amendment which would abolish the poll tax.

They contended that poll taxes were discriminatory in placing "a far heavier economic burden on Negroes than on whites." According to the Census of 1960, they pointed out, median income for white families in Texas and Virginia was almost twice as great as that of non-white families, 2-1/2 times as great in Alabama and three times as great in Mississippi. "A Negro in Mississippi... whose income reaches the non-white state median would have to pay over 12 percent of one week's income in order to vote." The 10 members also based support for the poll tax amendment on a contention that the collection of such taxes had been undertaken in a "blatantly discriminatory manner."

The bipartisan group also endorsed a provision authorizing the appointment of federal voting examiners to states and voting districts in which less than 25 percent of the Negro voting-age population was registered to vote.

The group opposed a Dirksen amendment which provided an escape mechanism to states and voting districts which proved in federal court that their voter turnout in the 1964 Presidential election exceeded the 1964 national average (62 percent) or that their voter registration had been above 60 percent of eligible voters, in addition to showing that they had not discriminated. The 10 members asserted that the amendment would have "the net effect of stimulating additional litigation sooner after the enactment of the bill than would have been the case" had it not been added.

Javits Additional Views. Javits submitted additional individual views endorsing an amendment that he had not been able to introduce in the Committee's sessions because of the time limitation on reporting the measure. The amendment, he said, provided that education in any language in an accredited school in any state, territory, or the Commonwealth of Puerto Rico be considered equivalent to education in English for the purpose of determining literacy.

Floor Action

The Senate May 26, by a 77-19 roll-call vote, passed S 1564 with amendments and sent it to the House. A debate-limiting cloture motion, adopted the day before by a 70-30 roll-call vote, set the stage for passage of the bill on the 25th day of debate. (For voting, see chart p. 1042)

Prior to passage, the Senate adopted, by a 78-18 roll-call vote, a leadership substitute for the version of the bill reported by the Judiciary Committee. In its major variation from the committee bill, the substitute dropped the controversial poll tax ban and provided instead for court tests of discriminatory levies. (For other details of substitute, see below)

In debate on the measure, Southern opponents of S 1564 argued vehemently that the bill was unconstitutional in circumventing a state's rights to impose its own voting criteria. But an expected filibuster never developed. Instead, the Southerners attempted to alter the bill's main provisions by proposing numerous amendments. None of the major amendments was adopted, and most were overwhelmed by margins of 2-1 and 3-1.

Much of the five week debate was consumed by the bill's supporters, who disagreed among themselves on the poll tax issue. One group of Senators pushed to retain the flat ban contained in the committee bill. Another group, which had the Administration's support, contended that a ban might be unconstitutional because of doubtful Congressional powers to impose such action. To ensure safe constitutional footing, this group proposed to direct the Attorney General to initiate court proceedings against such levies.

A crucial test on the ban issue came May 11 after Senate Majority Leader Mike Mansfield (D Mont.) and Minority Leader Everett McKinley Dirksen (R Ill.) had deleted it from the leadership substitute and provided instead for court tests of discriminatory levies. By a narrow 45-49 roll-call vote, the Senate blocked a move by Edward M. Kennedy (D Mass.) to write the ban back into the bill. On May 19, the Senate by a 69-20 roll call adopted another Mansfield -- Dirksen proposal adding a Congressional declaration that poll taxes infringed on the right to vote. (For voting, see charts p. 1037, 1039)

In further contrast to action on civil rights legislation in previous years, the leadership interspersed the debate on S 1564 on several days with routine business and never called early or late sessions until the day of passage. This procedure was criticized by a Northern Republican, Jack Miller (Iowa), who said before cloture was invoked May 25 that there had been no "concern on the part of the leadership for speeding up action." Miller submitted a detailed table indicating that opponents of the measure had used only 23-1/2 hours of debate time on the bill and amendments.

As the debate continued, however, Senate leaders tried to limit it and bring the bill to a vote. Mansfield three times sought unanimous consent to limit debate. Each time, his motion was blocked by Allen J. Ellender (D La.), a leader of the Southern faction. On May 21, a petition for a cloture motion was filed by Philip A. Hart (D Mich.), the bill's floor manager. It was signed by 29 Democrats

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and 9 Republicans (16 signatures were needed). Approval of the cloture motion four days later marked only the second time in its history -- but the second time in two years -- that the Senate had voted to close off debate on a civil rights statute. (See box, p. 551)

Following is a chronological account of highlights in floor action on S 1564:

DEBATE OPENS

Senate debate on the voting bill began April 22. Opening debate on the measure centered on the means by which states and localities could avoid being subject to the provisions of the bill, the constitutionality of a provision to suspend literacy tests in certain states and political subdivisions, and a proposed amendment to provide

Controversy Centers on Poll Tax Ban

A major controversy of the session resulted from an attempt by Congressional liberals to include a flat ban on poll taxes in the voting bill.

Sentiment for the ban increased during hearings on the measure, when civil rights leaders vigorously criticized the Administration bill for not prohibiting state and local poll taxes. Use of such levies, they said, had prevented thousands of low-income persons from participating in elections.

The Judiciary Committees of both House and Senate later reported bills with the ban. In the Senate, however, the provision was dropped when its constitutionality was questioned. Proponents of the ban attempted to restore it, but their amendment was rejected by a narrow 45-49 roll-call vote.

Outcome of the provision remained in doubt for two weeks while House-Senate conferees sought agreement on a final bill. A compromise provision was finally adopted when civil rights groups urged House conferees to drop the ban and agree to court tests of poll taxes.

BACKGROUND

The 1965 attempt to include a flat ban on poll taxes in the voting bill marked the first time that Congress had given serious consideration to prohibiting the tax in state and local elections. It was only after 30 years of futile efforts that anti-poll tax forces in 1962 gained approval for a constitutional amendment (ratified as the 24th Amendment in 1964) banning the tax in federal elections. Similar statutes had been passed by the House in 1942, 1943, 1945, 1947 and 1949, but the bills never came to a vote in the Senate. (1964 Almanac, p. 381)

Twenty-seven states in 1965 imposed a poll tax, but it was used as a voter qualification in only four Southern states -- Alabama, Mississippi, Texas and Virginia.

Poll taxes as a requirement for voting in the United States occurred in two different eras. The levies were introduced in some states during the early days of the nation as a substitute for property qualifications, which had been enacted as voting prerequisites. The intent of the early levies was to enlarge the electorate. These taxes were gradually eliminated, and by the time of the Civil War, few states still had them.

During the second era of the poll tax, which began in the early 1890s, levies were imposed by Southern states as one of a number of devices to restrict suffrage. Poll taxes tied to the right to vote were adopted in 11 Southern states -- Florida (1889), Mississippi and Tennessee (1890), Arkansas (1892), South Carolina (1895), Louisiana (1898), North Carolina (1900), Alabama (1901), Virginia and Texas (1902) and Georgia (1908).

The levies were ostensibly adopted to "cleanse" elections of mass abuse, but the records of constitutional conventions held in five Southern states during the period contained statements praising the poll tax as a measure to bar the Negro as well as the poor white from the franchise. Many historians have asserted that these measures were taken to limit the popular base of agrarian revolution inspired by the Populist party.

Since the turn-of-the-century imposition of the poll taxes, seven Southern states dropped the levies. North Carolina, which repealed its poll tax with the granting of womanhood suffrage in 1920, was the first. Other states repealing the tax, all during periods of keen interest in political races, were: Louisiana (1934), Florida (1937), Georgia (1945), South Carolina (1951), Tennessee (1953) and Arkansas (1964). In each of the first six states to drop the tax, voter participation increased sharply in the next election following repeal, decreased in subsequent elections and then rose again. In a widely respected 1958 study entitled "The Poll Tax in the South," Frederic D. Ogden of the University of Alabama political science faculty estimated that 5 percent of the initial increase in each state could be attributed to the repeal of the poll tax.

Of the four Southern states which still levied poll taxes as a voter qualification, attempts had been made in all but Mississippi to repeal or alter them.

Constitutional amendments to repeal poll taxes were rejected by Virginia voters in 1949 and Texas voters in both 1949 and 1963. Alabama voters in 1953 amended the state constitution to reduce the cumulative effect of the poll tax from a maximum of 24 years and maximum payment of $36 to two years with a ceiling of $3. In May 1965, the Alabama State Senate voted overwhelmingly to approve a constitutional amendment repealing the tax. Action on a similar measure in the Alabama House was deferred until a later session. The Texas legislature in May 1965 approved a 1966 referendum to repeal the tax.

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penalties for falsifying voting or registration information or buying votes.

The voting rights proposal became the pending business of the Senate on April 13; unlike 1964, when a motion to take up the civil rights legislation then before Congress was not agreed to until the 16th day of debate, Southerners in 1965 did not attempt to delay immediate consideration of the voting bill itself. Debate on S 1564 was scheduled to begin April 21 after the Senate returned from an Easter recess, but was delayed another day when the Senate adjourned, after conducting little business, as a token of respect for Sen. Olin D. Johnston (D S.C.), who died April 18. (1964 Alamanac, p. 357)

While debate continued on the floor, supporters of voting rights legislation attempted in meetings to resolve differences among themselves about controversial amendments to the bill that were added in the Judiciary Committee. The amendments were to:

- Outlaw poll taxes in state and local elections.
- Exempt from the bill's "massive discrimination" trigger a state or locality which could prove in federal court that its voter activity had reached certain specified levels and that it had not discriminated against voters.

The Senate leadership of both parties opposed the poll tax amendment after the Justice Department expressed doubt about its constitutionality. (President Johnson at his April 17 news conference said he was advised "by constitutional lawyers that we have a problem in repealing the poll tax by statute." He said he had asked the Attorney General to meet with Senate and House Members who were interested "and, if possible, take every step that he can within constitutional bounds to see that the poll tax is not used as a discrimination against any voter anywhere.")

The "escape" amendment was strongly opposed by some Senators who contended that it might enable Southern states to avoid the bill's requirements by increasing white voter registration.

STRATEGY SHAPED

Supporters of S 1564 began a series of conferences April 27 to resolve their differences. At the request of Senate Majority Leader Mansfield, Vice President Hubert H. Humphrey met with the supporters.

Whether or not the debate would develop into a long Southern filibuster against the bill was not yet clear. In the first week of debate, the Senate was convening at its normal hour of noon. Debate on one day was minimal as the Senate considered an appropriations bill.

Both sides were still shaping strategy throughout the week. It was generally believed that the proponents of the bill had more than enough votes to invoke cloture and bring the bill to a vote if the Southerners attempted to prevent action by filibustering. The powerful group of Southern Senators which -- until the 1964 civil rights cloture was invoked -- possessed extensive bargaining power to obtain changes in proposed civil rights laws, was considerably diminished in strength by 1965. Their long-time leader, Richard B. Russell (D Ga.), was ill and away from the Senate. In addition, there were indications that some Southerners might not oppose the bill. For instance, there were reports that George A. Smathers (D Fla.) and J.W. Fulbright (D Ark.) might vote for a voting rights bill, although probably not the one reported from committee. Russell B. Long (D La.), majority whip, while opposed to the voting rights bill as reported from committee, told reporters that there was no reason for a Southern filibuster if two-thirds of the Senate were prepared to end debate by invoking cloture.

But indications of lengthy debate were present. Allen J. Ellender (D La.), the Southern leader in Russell's absence, promised at one point to talk against the bill "as long as God gives me breath." A spokesman in his office told Congressional Quarterly April 27 that while over-all Southern strategy had not yet been mapped out, the plan probably would be to take various amendments of the measure under "lengthy discussion" rather than filibuster the entire bill. He added, however, that no final decision on strategy would be made until backers of the proposed legislation had formed the united front they were seeking and had determined their own strategy.

DEBATE

Debate on S 1564 was initiated April 22 by Mansfield, followed by Dirksen.

Opening the debate, Mansfield said the legislation was necessary to fulfill a constitutional promise and "to redeem the rekindled hopes of millions of Americans." Dirksen added that it was "quite clear that additional legislation is needed if the unequivocal mandate in the 15th Amendment to the Constitution... is to be enforced and made effective and if the Declaration of Independence is to be made truly meaningful."

Suspension of Literacy Tests. Southern opponents of S 1564 argued that the bill was unconstitutional in suspending state-administered literacy tests and similar devices in areas to which federal voting examiners had been assigned. Article 1, Section 2 of the Constitution, they said, had guaranteed the states the exclusive right to set voter qualifications, and the 17th Amendment (direct election of Senators) had reaffirmed that prerogative. The suspension of tests also was unconstitutional, they contended, in that the bill abolished the literacy requirement in various Southern states while leaving similar tests in other states undisturbed.

Proponents of S 1564 contended that the authority for the suspension of literacy tests as provided by the bill was based on "specific, expressly granted constitutional authority, delegated to Congress in no uncertain terms" by the 15th Amendment, which prohibits denials of the right to vote on account of race or color and grants Congress the power to enforce that prohibition by "appropriate legislation."

Philip A. Hart (D Mich.) April 22 said that "as long as state laws or practices erecting voting qualifications do not run afoul of the 14th or 15th Amendment, they stand undisturbed. But when state power is abused, the Constitution calls a halt. There is no magic in the words 'voting qualifications.' " Hart also listed several reasons why he said it should be presumed that states and voting districts brought under the bill had violated the 15th Amendment through the use of tests and devices. These were: (1) the coincidence of low Negro voter activity and the use of literacy tests in states with large Negro populations; (2) the known adoption of various tests for the sole purpose of denying Negroes the ballot; (3) judicial findings of discrimination in violation of the 15th Amendment in these states; and (4) the known public policy of racial segregation in such states. "It follows," Hart said, "that it is not irrational for the Congress to conclude that suspension of such tests or devices in the affected areas is an

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appropriate measure for enforcing the 15th Amendment."

Judicial Recourse. Sam J. Ervin Jr. (D N.C.), an opponent of the bill, contended April 22 that the rapid appointment of federal voting examiners to states and voting districts in which the bill had been invoked would "condemn without judicial trial the states of Alabama, Mississippi, Louisiana, Georgia, South Carolina, and Virginia and 34 counties in North Carolina." Proponents of the measure countered that the bill was not "punitive," but merely set up a process for enforcing the 15th Amendment. If states and localities to which examiners had been assigned had not been guilty of discrimination, they said, such areas would be able to go into a federal court in the District of Columbia and obtain a declaratory judgment freeing them from the federal voting machinery.

"Clean Elections" Amendment. John J. Williams (R Del.) April 13 introduced the first floor amendment to S 1564. It provided for penalties of up to $10,000 in fines and/or five years in prison for falsifying voting or registration information or buying votes. "If local officials do not or will not,...it becomes necessary for Congress to act," Williams said. He argued that election fraud was "a way of life in too many parts of the country today...." The amendment was adopted April 29 by an 86-0 roll-call vote after being modified by Sam J. Ervin Jr. (D N.C.) to apply only to federal elections. Williams accepted the modification. An earlier vote had been delayed by Senators who wanted the Justice Department to appraise its constitutionality. Hart contended that the amendment as introduced, which applied to all elections, might subject the bill to judicial challenge because it was not based on the 15th Amendment, as were the other sections of S 1564. Hart supported the amendment as modified. (The Williams amendment later was embodied in the Mansfield-Dirksen substitute for the committee bill. See below) (For voting, see chart p. 1038)

MANSFIELD-DIRKSEN SUBSTITUTE

Majority Leader Mansfield and Minority Leader Dirksen April 30 introduced a revised voting rights proposal which deleted the controversial provisions of the Judiciary Committee's bill. These provisions banned state poll taxes and authorized a procedure that would free from the bill's federal voter registration apparatus any state or local government which could prove in federal court that at least 60 percent of its adult residents were registered.

The outright ban on the poll tax was opposed by the bipartisan Senate leadership on the grounds that it might be unconstitutional. Supporters of stronger legislation argued that the 60-percent "escape clause" should be eliminated because it would allow states to avoid the bill's requirements by sharply increasing their white registration.

The Mansfield-Dirksen version of the bill drew qualified praise from the group of Senators seeking stronger legislation; however, members of this group said they planned to propose amendments to strengthen the substitute, including one to ban poll taxes. Philip A. Hart (D Mich.) said the "leadership substitute is stronger and better-balanced than the original legislation sent to Congress. But it is our intention to improve it."

The Mansfield-Dirksen substitute became the pending business of the Senate April 30 as a proposed amendment to the amended version of S 1564 that was reported by the Judiciary Committee. The Mansfield-Dirksen amendment was open to further amendments, which would be voted upon first. These further amendments would be disposed of before the Mansfield-Dirksen amendment was voted on.

Southern opponents of voting rights legislation continued to press their attacks on the bill throughout the second week of debate. Herman E. Talmadge (D Ga.) April 30 called the bill "grossly unjust and vindictive in nature." Strom Thurmond (R S.C.) May 3 said that "if we destroy the provisions of the Constitution...with regard to the fixing of voter qualifications," which he contended the bill would do, "we have a totalitarian state in which there will be despotism and tyranny."

Cloture Proposal. The Senate bipartisan leadership meanwhile indicated on May 4 that an early cloture motion to end debate might be filed. Mansfield announced that he and Dirksen had come to the "tentative conclusion" that they might file the cloture motion on May 10. Under Senate rules, the motion would automatically go to a vote on May 12. If cloture were invoked, each Senator would be limited to one hour of debate on the bill. (For later cloture action, see p. 550)

Mansfield May 5 said, however, that "developments," such as votes on amendments, would determine whether the cloture motion would be introduced early in the week of May 10. Dirksen May 6 added that if the Senate adopted an amendment abolishing state poll taxes he himself would "find it hard" to vote for cloture. Dirksen opposed the poll tax ban on the grounds that Congress had no constitutional authority to eliminate such taxes.

Mansfield's May 4 announcement that he and Dirksen might move for early cloture came after Allen J. Ellender (D La.) had blocked a leadership request for a unanimous consent agreement to limit debate on the bill and its amendments. Ellender noted that only "four or five" Southern opponents of the bill had spoken on the version of the measure reported by the Judiciary Committee and that there had been "very little" debate on the Mansfield-Dirksen substitute. He contended that it would be "in bad grace" to limit debate at that point.

The agreement would have provided four hours of debate on the major pending amendments to the bill, two hours of debate on any other amendments; six hours of debate on the bill itself prior to voting on passage and such additional time as might be added by later agreement.

KEY AMENDMENT REJECTED

Enforcement. The Senate May 6, by a 25-64 roll-call vote, rejected a key Southern amendment which would have altered the intended enforcement procedures set up by the bill. The amendment, introduced by Sam J. Ervin Jr.(D N.C.), would have struck out the bill's automatic triggering formulas and substituted a system authorizing the appointment of federal voting examiners only after the U.S. District Court in the area in question had made a finding of discrimination in that area. Voting against the amendment were five Southern Democrats: Bass (Tenn.); Gore (Tenn.); Harris (Okla.); Monroney (Okla.); and Yarborough (Texas). (For voting, see chart p. 1036)

The Senate April 30, by voice vote, adopted the first amendment to the Mansfield-Dirksen substitute -- a proposal by J.W. Fulbright (D Ark.) and John L. McClellan (D Ark.) which provided that no federal voting examiners could be appointed until 30 days prior to the first primary or general election in calendar 1966, in any state which

had amended its constitution or enacted a law ordering a complete new registration of voters. The amendment stipulated, however, that only states whose electorate had ordered the re-registraton between Nov. 1, 1964, and March 1, 1965, would be covered. This would grant Arkansas an exemption from the bill until the specified date. Arkansas voters on Nov. 3, 1964, adopted an amendment to the state constitution outlawing poll taxes and ordering a complete re-registration.

POLL TAX BAN DEFEATED

During the third week of debate, a crucial test came on the poll tax issue. After several days of heated discussion, the Senate May 11, by a 45-49 roll-call vote, defeated an amendment to ban such levies as a condition for voting in state and local elections. (For voting, see chart p. 1037)

Defeat of the amendment, which was sponsored by Edward M. Kennedy (D Mass.), removed an important block to agreement among Members who supported the bill and unified the drive to passage.

Before the vote on Kennedy's proposal, Senate Majority Leader Mike Mansfield (D Mont.) read a letter from Attorney General Nicholas deB. Katzenbach opposing the amendment. Katzenbach said that the voting rights bill would be construed by the courts as a Congressional finding of evidence that the poll tax had been used to discriminate against voters. Inclusion of the Kennedy amendment, the letter contended, would only present "constitutional risks" because it was not clear whether Congress had the power to legislate a ban on such taxes.

A coalition of 25 Republicans and 24 Democrats voted to reject the ban. Voting for the amendment were five Southern Democratic Senators: Bass (Tenn.); Gore (Tenn.); Harris (Okla.); Long (La.); and Yarborough (Texas). Only six Republicans voted for the proposal: Boggs (Del.); Case (N.J.); Fong (Hawaii); Javits (N.Y.); Kuchel (Calif.); and Smith (Maine). A total of 39 Democrats voted in favor. Among Northern Democrats, the division was 34-9 in favor of the amendment. One of the amendment's 39 co-sponsors, Edward V. Long (D Mo.), voted against the measure.

Poll Tax Debate. Backers of the Kennedy anti-poll tax amendment contended that the outright ban of the tax was justified because the tax represented "in a broad enough area and in enough circumstances an abridgement upon the right to vote." Imposition of the tax, they said, was not a qualification for voting but rather a "burden upon the right to vote," which they contended was clearly in violation of the 15th Amendment to the Constitution.

Supporters of the bill who favored judicial proceedings against the poll tax countered that a Congressional ban might be unconstitutional because the mere imposition of the tax was not discriminatory; Congress, therefore, would have no authority to ban the payment of such taxes as a qualification to vote. Discrimination, they contended, resulted from the prejudicial application of the tax, which should be contested through the federal courts. Opponents of the amendment further asserted that the constitutional footing of the poll tax ban was "all the more infirm because of the fact that we have deemed it wisest to abolish the poll tax in federal elections by the route of constitutional amendment."

Debate Limitation Request

As the third week of debate drew to a close, Mansfield again sought to limit debate on the bill as he unsuccessfully had done May 4. Although Mansfield and Dirksen May 4 had indicated they might file a cloture petition during the third week of debate, they sought instead to limit debate by agreement. Mansfield May 12 requested unanimous consent to limit debate to one hour on each amendment and six hours on the bill itself, but the request was again blocked by Ellender. While opposed to the general limit on debate, Ellender said he would "not object to a limitation of debate on amendments as they are offered." A total of 71 amendments were pending on May 12, although many were duplicates.

After Mansfield's motion to limit debate was blocked, Dirksen revealed that he had made a "nose count" to determine what the sentiment of the Senate was regarding cloture. "...If we have not the votes," he said, "obviously we cannot invoke cloture." He did not specifically say the votes were not available. Dirksen also noted that the leadership had considered offering tabling motions to every amendment. Such motions are not debatable. "However, for the moment at least, we have backed away from that," he said.

OTHER AMENDMENTS, BILL CHANGES

As debate on the bill continued through the third and fourth weeks, the Senate by decisive margins continued to reject Southern-sponsored amendments. These amendments were considered under unanimous consent agreements which limited debate and set a specific time for a vote. Obtaining this type of agreement was the strategy followed by the leadership in handling the voting rights bill. The Senate May 12, by a 28-62 roll-call vote, defeated a Southern amendment which shifted the jurisdiction in judicial proceedings, arising from the bill's triggering formulas, from the three-judge federal district court in the District of Columbia to the federal district court for the district in which the capital of a delinquent state was located or such political subdivision was situated. This amendment, introduced by Sam J. Ervin Jr. (D N.C.), pertained to both the judicial procedures for seeking relief from the provisions of the bill and for court review of a new voting law prior to its taking effect in states and voting districts whose voter qualification laws had been nullified by the proposed act. (For voting, see chart p. 1037)

The Senate May 13 rejected, by a 19-66 roll-call vote, an amendment by John J. Sparkman (D Ala.) that deleted language which required a federal examiner to place on a list of eligible voters any person meeting state law qualifications not inconsistent with the U.S. Constitution or U.S. law. His amendment required the person to be put on the list if he simply met state law requirements. (For voting, see chart p. 1038)

The Senate May 13 rejected, by a 34-44 roll-call vote, an amendment by Winston L. Prouty (R Vt.) to specify that a Government court challenge of poll taxes would have to be based on the use of the tax to deny or abridge the right to vote because of race or color. The bill already directed the Attorney General to undertake court action against enforcement of any poll tax which, as a condition of voting in a state or local election, denied or abridged the right to vote. Prouty's amendment added the stipulation that the court challenge would be only of poll taxes that were used for racial discrimination in voting. In offering the amendment, Prouty said that the Vermont poll tax on voting in town meetings was "not susceptible to the objections to poll taxes raised in these debates" and should not be covered by the bill.

(Continued on next page)

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(Opponents of the poll tax said that extensive discrimination occurred in the other four states that levied poll taxes as a requirement for voting -- Alabama, Mississippi, Texas and Virginia.)

The Senate also rejected two important Southern amendments which would have altered or deleted key sections of the bill. Rejected May 14, by a 14-53 roll-call vote, was a proposal by Sam J. Ervin (D N.C.) to prevent the suspension under the bill's provisions of literacy tests or similar voting requirements that were administered fairly and required only that a voter be able to read and write in English any section from either the state or U.S. Constitution. Rejected May 17, by a 19-60 roll-call vote, was an amendment by Herman E. Talmadge (D Ga.) to eliminate language in the bill which required states or political subdivisions which had become subject to the bill's provisions to obtain approval of a proposed new voting law from the Attorney General and, if he disapproved, from the court having jurisdiction, before the change could go into effect. (For voting, see chart p. 1038)

Unanimous Consent Changes

The bipartisan leadership May 17 obtained a unanimous consent agreement to modify the pending Mansfield-Dirksen substitute bill to include:

- A stipulation that if the courts upheld the constitutionality of poll taxes, voter applicants in states or voting districts where the bill's provisions had become effective could not be denied the right to vote if they paid the current year's poll tax to the examiner at least 45 days before an election.

- A provision giving the Attorney General discretion to require voter applicants coming before federal examiners to allege that they had been denied the right to vote by state officials within the past 90 days.

POLL TAX DECLARATION VOTED

During the fourth week of debate, the Senate accepted important amendments adding a Congressional declaration that poll taxes infringed on the constitutional right to vote and authorizing the appointment of poll watchers to observe election procedures in states and political subdivisions to which federal examiners had been assigned. Both amendments were approved May 19. The poll tax proposal, sponsored by Mansfield and Dirksen, was accepted by a 69-20 roll-call vote, while the poll watchers amendment, offered by Hiram L. Fong (R Hawaii), was approved by a 56-25 roll call. (For voting, see chart p. 1039)

Approval of the poll tax declaration ended two weeks of debate about alternate methods to provide relief from discriminatory use of these taxes, which had divided the supporters of the bill.

Poll Tax Provisions. Approval of the Mansfield-Dirksen changes in the wording of the poll tax provision left only one difference in the version finally included in the leadership's bill and the flat ban on poll taxes provided in an amendment by Edward M. Kennedy (D Mass.) which was rejected by a 45-49 roll-call vote on May 11. The wording included in the bill did not contain an outright ban on poll taxes.

The change in wording adopted May 17 by unanimous consent agreement included the provision of the Kennedy amendment which extended the time for the payment of poll taxes if federal courts upheld the constitutionality of the levies. The amendment voted into the bill May 19 embodied the Kennedy amendment's Congressional declaration that the poll tax infringed on the right to vote. The Kennedy amendment, like the poll tax provision contained in the leadership's bill, also directed the Attorney General to institute suits against the enforcement of such taxes.

Attorney General Nicholas deB. Katzenbach, who had opposed the Kennedy amendment on grounds that Congress might not have the constitutional authority to ban poll taxes, endorsed the new language providing the Congressional poll tax declaration. In a letter to Mansfield, which the Majority Leader read into the record before the May 19 vote on the measure, Katzenbach said, "Without question, this declaration and the direction to bring suit encompass the 14th and 15th Amendments as well as any other provisions of the Constitution which might be relevant to an adjudication of the constitutionality of the poll tax. This solemn declaration of Congress should be very important in guiding the courts to a resolution of the ultimate constitutional question."

Supporters of stronger voting rights legislation expressed confidence that final Congressional action on the bill would include an outright ban on poll taxes. The measure approved May 12 by the House Judiciary Committee included a flat ban, and the provision was endorsed by House Speaker John W. McCormack (D Mass.).

Judiciary Committee Chairman James O. Eastland (D Miss.), an opponent of the bill, contended May 18 that supporters of the Congressional declaration against the poll tax had not shown "one scintilla" of proof to sustain the basis for the amendment; he said Congress had not been presented "evidence" of the use of the poll tax to deny the right to vote.

Throughout hearings on the bill, Eastland said, Katzenbach "repudiated the argument of those who sponsor the amendment." Eastland said the Attorney General had testified that "he could not support an amendment to a bill prohibiting the use of a state poll tax as a requirement to vote, for the reason that he had no evidence that such requirement had been used in a discriminatory manner."

Cloture Petition, Third Debate Limit Request

Mansfield May 19 indicated that the bipartisan leadership would file a cloture petition on May 21. Before announcing the leadership move, however, Mansfield for the third time requested unanimous consent to limit debate on the bill. Ellender, a leader of the Southern bloc of Senators opposing S 1564, blocked the motion as he had the other two May 4 and 12.

Under Senate rules, the cloture petition was automatically to go to a vote the following week, on May 25. Dirksen May 20 asserted that the leadership would have "sufficient votes" to invoke cloture.

'AMERICAN FLAG' AMENDMENT

The Senate May 20, by a 48-19 roll-call vote, accepted an amendment sponsored by Robert F. Kennedy

(D N.Y.) and Jacob K. Javits (R N.Y.) which specified that a person cannot be denied the right to vote because of an inability to read or write in English if he demonstrates that he has successfully completed the sixth grade (or another grade level equivalent to whatever level of education a state demands) in a school under the American flag that is conducted in a language other than English. The amendment was directed primarily at natives of Puerto Rico who had moved to New York City. (Dirksen May 20 said he feared that approval of the Kennedy "American flag" and Fong "poll watchers" amendments would cause the Supreme Court to rule the entire voting rights bill unconstitutional.) (For voting, see chart p. 1039)

CLOTURE VOTED, BILL PASSED

The Senate May 26, by a 77-19 roll-call vote, passed S 1564 with amendments and sent it to the House. A debate-limiting cloture motion, adopted May 25 by a 70-30 roll-call vote, set the stage for passage of the bill on the 25th day of debate. Approval of the cloture motion marked only the second time in its history -- but the second time in two years -- that the Senate had voted to close off debate on a civil rights issue.

Civil Rights Cloture Votes

Of the 31 cloture votes taken since Rule 22 was adopted in 1917, 13 were on civil rights legislation. The first 11 failed. On only four of these were the supporters of cloture able to produce a simple majority in favor of the motion. The 13 civil rights cloture votes:

Issue	Date	Vote	Yea Votes Needed
Anti-lynching	Jan. 27, 1938	37-51	59
Anti-lynching	Feb. 27, 1938	42-46	59
Anti-poll tax	Nov. 23, 1942	37-41	52
Anti-poll tax	May 15, 1944	36-44	54
FEPC[1]	Feb. 9, 1946	48-36	56
Anti-poll tax	July 31, 1946	39-33	48
FEPC[1]	May 19, 1950	52-32	64*
FEPC[1]	July 12, 1950	55-33	64*
Civil Rights Act	March 10, 1960	42-53	64
Literacy tests	May 9, 1962	43-53	64
Literacy tests	May 14, 1962	42-52	63
Civil Rights Act	June 10, 1964	71-29	67
Voting Rights Act	May 25, 1965	70-30	67

**Between 1949 and 1959 the cloture rule required the affirmative vote of two-thirds of the Senate membership rather than two-thirds of those Senators who voted.*
[1] Fair Employment Practice Commission.

In addition to these cloture votes on civil rights bills, the Senate has twice voted on cloture motions to stop filibusters against proposed changes in the filibuster rule. Each was rejected:

Rule 22	Sept. 19, 1961	37-43	54
Rule 22	Feb. 7, 1963	54-42	64

Prior to passage, the Senate May 26 adopted, by a 78-18 roll-call vote, the Mansfield-Dirksen substitute for the version of the bill that had been reported by the Judiciary Committee. The only Senator changing positions on the two votes was John G. Tower (R Texas), who voted for adoption of the substitute but against passage of the bill.

President Johnson later in the day called Senate action "triumphant evidence of this nation's resolve that every citizen must and shall be able to march to a polling place and vote without fear or prejudice or obstruction...."

Voting for passage was a coalition of 30 Republicans and 47 Democrats. Among Democrats voting for the measure were five from Southern states -- Ross Bass (Tenn.), Albert Gore (Tenn.), Fred R. Harris (Okla.), A.S. Mike Monroney (Okla.) and Ralph W. Yarborough (Texas). Of these, Monroney, Yarborough and Bass, then a House Member, voted in favor of the Civil Rights Act of 1964 (which passed by a 73-27 roll-call vote). Gore voted against the 1964 measure and Harris was not yet a member of the Senate. Three Southern Democrats who had indicated they might support voting rights legislation -- J.W. Fulbright (Ark.), Senate Majority Whip Russell B. Long (La.) and George A. Smathers (Fla.) -- voted against the measure.

In addition to Gore, three other Members of the Senate in 1964 who opposed the Civil Rights Act in that year voted for the voting bill in 1965: Norris Cotton (R N.H.), Bourke B. Hickenlooper (R Iowa) and Milward L. Simpson (R Wyo.). No Senators who voted for the 1964 legislation opposed the 1965 bill.

Two Republicans joined 17 Southern Democrats in opposing passage. Both Republicans -- Tower and Strom Thurmond (S.C.) -- voted against the 1964 civil rights bill. A Northern Democrat who voted against the 1964 Act, Robert C. Byrd (W.Va.), was paired against the voting rights bill with Howard W. Cannon (D Nev.), who favored the measure. Two Northern Democrats who were absent, Alan Bible (Nev.) and Frank Church (Idaho), announced that they would have voted in favor of the bill.

On the May 25 cloture vote, 23 Republicans and 47 Democrats voted in favor. With all 100 Senators present and voting, 67 votes were needed. Nine Republicans joined 21 Democrats in opposing cloture. The Republicans were Wallace Bennett (Utah), Paul J. Fannin (Ariz.), Hickenlooper, Jack Miller (Iowa), George Murphy (Calif.), Simpson, Thurmond, Tower and Milton R. Young (N.D). Also voting against the motion were four Northern Democrats -- Bible, Byrd, Cannon and Carl Hayden (Ariz.). The five Southern Democrats who voted for passage -- Bass, Gore, Harris, Monroney and Yarborough -- also voted in favor of cloture.

(Comparing the cloture votes, Hickenlooper, Cannon and Miller voted for cloture in 1964 but opposed it in 1965; Gore opposed cloture in 1964 but supported it in 1965.)

Approval of the cloture motion marked only the seventh time such a move had succeeded since the cloture procedure was adopted in 1917. It was the third time in four attempts, however, that cloture had been invoked since 1962. (For list of all cloture votes since 1917, see p. 590.)

PROVISIONS -- Following are the major provisions of S 1564, as passed by the Senate:

Authorized appointment by the Civil Service Commission of voting "examiners," federal officials who would determine an individual's qualifications to vote and would require enrollment of qualified individuals by

state and local officials to vote in all elections -- federal state and local. Such appointment would be made whenever:

- A federal court, hearing a suit by the Attorney General, charging a state or political subdivision with denying or abridging the right to vote on account of race or color, determined during the course of the suit that examiners were needed to ensure voting rights or delivered a final judgment finding voting discrimination.
- The Attorney General certified to the Commission that he had received complaints from 20 or more residents of a political subdivision of a state (such as a county, parish or other voting district) that they had been denied the right to vote on account of race or color, or that he had determined that general discrimination existed. Examiners would be appointed in these cases only if the area qualified statistically and otherwise as one practicing massive discrimination as defined under the triggering formulas provided in the bill. (See next item)

Triggering Formulas. Made any state or political subdivision subject to the appointment of federal examiners if: (1) a literacy test or similar device was used as a qualification for voting on Nov. 1, 1964, and (a) the Director of the Census determined that less than 50 percent of the persons of voting age residing in the area were registered to vote on that date or actually voted in the 1964 Presidential election, and also (b) more than 20 percent of the persons of voting age, according to the 1960 Census, were non-white; or, (2) notwithstanding the criteria of (1), the Director of the Census, in a survey conducted at the request of the Attorney General, determined that less than 25 percent of the voting age population of the Negro race or any other race or color, was registered to vote.

Qualifications of Examiners. Stipulated that to the extent practicable, examiners should be residents of the area to which they were appointed. Stipulated that persons other than federal officials serving as examiners should be appointed, compensated and separated without regard to the civil service laws.

Duties. Authorized examiners to interview applicants concerning their qualifications for voting and order appropriate state or local authorities to register all persons they found qualified to vote. Stipulated that the Civil Service Commission, after consultation with the Attorney General, would instruct examiners concerning state laws that would be applicable to the federal registration process. Provided that times, places and procedures for registering and the form for application and removal from eligibility lists would be prescribed by regulations promulgated by the Civil Service Commission.

Stipulated that examiners would require applicants to submit allegations that they were not presently registered to vote and such additional allegations as the Attorney General might require, including one that, within 90 days of the application, the applicant had been denied the opportunity to register by a state or local official.

Instructed examiners to certify and transmit lists of qualified voters at least once a month to the offices of the appropriate election officials, with copies to the Attorney General and to the attorney general of the state. Stipulated that no federally processed voter applicant could be listed after 45 days prior to any election in which he wished to vote.

Tenure of Examiners. Stipulated that the appointment of examiners would be terminated by the Attorney General or a federal court, under the bill's procedures for appeal of federal action, when the delinquent state or political subdivision had corrected incidents of past discrimination and there was no reasonable cause to believe that such incidents would recur. (For appeal machinery, see below)

LITERACY TESTS

Suspended literacy tests or similar voter qualification devices when the Attorney General and Director of the Census determined that a state or political subdivision came within the scope of the Act's automatic triggering formulas (above). Stipulated that such determinations were not reviewable in any court and were effective upon publication in the Federal Register. (Tests and devices would be suspended for applicants approaching local registrars as well as federal examiners.) Stipulated that tests or devices suspended under the triggering formulas could be reinstated only after the delinquent state or political subdivision had obtained exemption from coverage under the bill's provisions for judicial recourse. (See below).

Authorized federal courts, hearing voting rights suits brought by the Attorney General, to suspend tests and devices that it found had been used for the purpose of denying or abridging the right to vote on racial grounds. Stipulated that such tests and devices would remain suspended for such "definite and limited" period as the court deemed necessary.

Defined "test or device" for purposes of the Act as any prerequisite for registration or voting which required a person to: (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.

Provided that no test or device could be suspended under the automatic triggering formulas, however, if incidents of discrimination had been limited in number and promptly and effectively corrected by state and local action, the continuing effect of such incidents had been eliminated and there was no reasonable probability of recurrence. Stipulated that a person could not be denied the right to vote because of inability to read or write in English if he demonstrated that he had successfully completed the sixth grade (or another grade level equivalent to whatever level of education a state demands) in a school under the American flag that was conducted in a language other than English.

APPEAL OF FEDERAL ACTION

Stipulated that any state or political subdivision in which the federal registration machinery (suspension of tests and/ or appointment of examiners) had been invoked under the bill's automatic triggering formulas could free itself of coverage by proving in a three-judge federal district court in the District of Columbia that (1) the effects of denial or abridgment of the right to vote, if any, had been effectively corrected by state or local action and (2) that there was no reasonable cause to believe that any literacy test or similar device sought to be used by the petitioning state or local government would deny or abridge the right to vote on account of race or color.

Stipulated that if the Attorney General under such proceedings determined that he had no reason to believe that the petitioning state or local government had used its test or device to discriminate against voters, he could consent to the entry of a judgment freeing the petitioner from the bill.

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Provided that a final judgment rendered by any federal court during the five years, preceding an appeal, in which the petitioning state or political subdivision was found to have discriminated, could be introduced as prima facie evidence, sufficient to raise a presumption of fact or establish the fact, against the petitioner. Also stipulated that even if the court freed a petitioner of the charge of discrimination, the court would retain jurisdiction for five years and could reopen the action upon the Attorney General's motion that the state or political subdivision had discriminated.

Also provided additional escape mechanisms for political subdivisions, as follows:

- Relief by successfully petitioning the Attorney General that state and local election officials had enrolled all persons listed by federal examiners as qualified to vote and that there was no reasonable cause to believe that the right to vote would be denied or abridged on account of race or color.
- Relief, in the case of political subdivisions in which a Census Bureau survey had determined that more than 50 percent of non-white voting age population residing in the area was registered to vote, by proving in a three-judge federal district court in the District of Columbia that the same voting condition existed (all eligible persons enrolled and no further discrimination) as political subdivisions petitioning the Attorney General had to show existed in their areas.

Provided that if the federal registration apparatus had been triggered by the order of a federal court in a case instituted by the Attorney General, the appointment of examiners would be terminated only upon order of the court.

Provided that no court except the Federal District Court for the District of Columbia (or a U.S. Court of Appeals in the case of a challenge to the decision of a hearing officer) could issue restraining orders, or temporary or permanent injunctions against execution or enforcement of any provision of the Act, or issue declaratory judgments freeing a petitioning state or local government from the bill's coverage.

PRIOR APPROVAL REQUIREMENT

Required that new voting laws, enacted by state or local governments whose voter qualification laws had been nullified under the bill, be approved by the Attorney General or federal courts before they could take effect. In the case of states and political subdivisions in which the automatic triggering formulas had been invoked, the delinquent state or local government would be required to secure the approval of either the Attorney General or a three-judge federal district court in the District of Columbia that the statute did not have the purpose and would not have the effect of discriminating against voters on account of race or color. If the petitioning government chose to submit the new law to the Attorney General and he objected to it, the petitioner could still seek the court's approval. In areas to which examiners had been appointed by federal courts in voting rights cases filed by the Attorney General, the petitioning state or local government would first be required to submit the new law for the Attorney General's approval. If the Attorney General, within a 60-day period, filed objection to the statute in the court holding jurisdiction (not necessarily the District of Columbia court), the new law could not be enforced until approved by the court.

In case of approval under either procedure, subsequent action could still be taken to strike down new voting statutes if enforcement deviated from the law's intent.

Subpena Power of D.C. Court. Stipulated that in actions brought by state or local governments in the federal district court for the District of Columbia to obtain approval of new voting laws (or to free themselves from the bill's coverage), subpenas could be served in any judicial district of the United States, but not at distances greater than 100 miles from the District of Columbia without permission of the D.C. court, which could be secured only upon proper application and presentation of due cause.

CHALLENGES OF VOTERS

Authorized challenges, before hearing officers appointed by the Civil Service Commission, on the qualifications of any voter applicant listed by federal voting examiners as eligible to vote. Authorized the Civil Service Commission to subpena witnesses and documentary evidence and provided enforcement machinery in case subpenas were ignored. Provided that the decision of hearing officers could be appealed in the appropriate federal court of appeals within 15 days after the decision of the hearing officer was served upon the petitioning party.

POLL TAXES

Included a Congressional declaration that, in view of evidence presented, the payment of poll taxes as a condition for voting in certain states denied or abridged the right to vote. Directed the Attorney General to institute "forthwith" court action against the enforcement of poll taxes or any substitute for such taxes enacted after Nov. 1, 1964, which had the purpose or effect of denying or abridging a person's right to vote.

Stipulated that during the period in which suits by the Attorney General were pending in the courts and after any decision ruling a poll tax constitutional, no citizen of a state or political subdivision covered by the "massive discrimination" provisions of the bill could be denied the right to vote for the failure to pay a poll tax if he tendered payment of the tax for the current year to an examiner at least 45 days prior to an election. Provided that the examiner would transmit the payment to the appropriate state or local official together with the name and address of the applicant.

ENFORCEMENT MACHINERY

Authorized federal examiners, upon determining that properly registered voters had been turned away from the polls, to go into a U.S. District Court and get an order impounding the ballots until persons entitled to vote had been allowed to do so.

Provided that intimidation, vote fraud, or other interference with voting rights on the part of private citizens or public officials, would carry upon conviction a maximum fine of $5,000, a maximum prison sentence of five years, or both. Provided penalties of up to $10,000 in fines and/or five years imprisonment for falsifying voting or registration information or buying votes (applicable only to federal elections).

Instructed the Attorney General to institute actions for injunctive relief when there were reasonable grounds

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to believe that any person was about to engage in any act or practice prohibited by the bill.

Authorized the Attorney General to initiate actions to permit federally approved voter applicants to vote whenever, at least 20 days prior to an election, he received a complaint signed by 20 or more such applicants to the effect that they had not been registered.

Authorized the Attorney General to appoint poll-watchers in political subdivisions to which examiners had been assigned. Authorized such persons to enter and attend any place at which voting or tabulation of votes was conducted in order to observe whether all persons qualified to vote were allowed to do so and that their ballots were properly tabulated. Stipulated that private citizens, as well as federal officials, could be appointed.

OTHER PROVISIONS

Directed the Attorney General and the Secretary of Defense to make a complete study to determine whether state voting laws or practices discriminated against members of the Armed Forces who seek to vote. Required that these Cabinet members make a joint report to Congress, including their findings and recommendations, by June 30, 1966.

Stipulated that if any section of the bill or its application to any person or circumstances was ruled unconstitutional by the courts, the remainder of the bill and the application of its provisions to other persons not coming under the same circumstances would not be affected.

Stipulated that no federal voting examiners could be appointed until 30 days prior to the first primary or general election in calendar 1966 in any state whose electorate, through constitutional amendment or enactment of any new law, had ordered a complete new registration of voters between the dates of Nov. 1, 1964, and March 1, 1965. (The provision was added to the bill to assist Arkansas.)

Authorized the appropriation of whatever sums necessary to implement provisions of the bill.

AMENDMENTS ACCEPTED

April 29 -- John J. Williams (R Del.) -- as modified by Sam J. Ervin Jr. (D N.C.) -- Provide for penalties of up to $10,000 in fines and/or five years imprisonment for falsifying voting or registration information or buying votes; applicable only to federal elections. (Original Williams amendment applied to state and local, as well as federal, elections.) Roll-call vote, 86-0.

April 30 -- J.W. Fulbright (D Ark.) -- John L. McClellan (D Ark.) -- Stipulate that no federal voting examiners could be appointed until 30 days prior to the first primary or general election in calendar 1966, in any state whose electorate, through constitutional amendment or enactment of a new law, had ordered a complete new registration of voters between the dates of Nov. 1, 1964, and March 1, 1965. Voice vote.

May 19 -- Mike Mansfield (D Mont.) -- Everett McKinley Dirksen (R Ill.) -- Add to the bill a declaration of Congress that, in view of the evidence presented, the requirement of the payment of poll taxes in certain states as a condition of voting denied or abridged the right to vote; in addition, direct the Attorney General to institute court action against the enforcement of any poll tax or any substitute for a poll tax enacted after Nov. 1, 1964. (The amendment was a substitute for a section which directed the Attorney General to institute court action against the enforcement of poll taxes.) Roll call, 69-20.

Hiram L. Fong (R Hawaii) -- Authorize the Attorney General to assign poll-watchers in political subdivisions to which federal examiners were assigned; authorize such officials to enter and attend any place at which voting or tabulation of votes was conducted, in order to observe whether all persons entitled to vote were allowed to do so and that their ballots were properly tabulated. Roll call, 56-25.

May 20 -- Robert F. Kennedy (D N.Y.) -- Jacob K. Javits (R N.Y.) -- Specify that a person can not be denied the right to vote because of an inability to read or write in English if he demonstrates that he had successfully completed the sixth grade (or another grade level equivalent to whatever level of education a state demands) in a school under the American flag that is conducted in a language other than English. Roll call, 48-19.

Sam J. Ervin Jr. (D N.C.) -- as modified by Norris Cotton (R N.H.) -- Stipulate that the Attorney General may consent to a judgment by a court freeing states and political subdivisions from the federal registration machinery if he determined that literacy tests or similar devices were not being used to discriminate against voters at the time the state or local government brought action to free itself of coverage. (The amendment was a substitute for language making the Attorney General's consent mandatory if he determined that a test or device had not been used in the petitioning state or political subdivision during five years preceding the filing of such an action. The original Ervin amendment made the consent of the Attorney General mandatory when he had determined that the petitioning government was not using discriminatory tests or devices at the time the action was filed.) Voice.

May 24 -- Gordon Allott (R Colo.) -- Stipulate that in actions brought in the federal district court for the District of Columbia by state or local governments seeking to free themselves from the federal voting machinery, subpenas could be served on witnesses in any judicial district of the United States but not at a greater distance than 100 miles without permission of the court. Voice.

John G. Tower (R Texas) -- Order a complete study by the Attorney General and the Secretary of Defense to determine whether state voting laws or practices discriminate against members of the Armed Forces who seek to vote; require these Cabinet members to make a joint report to Congress, including their findings and recommendations, by June 30, 1966. Voice.

Norris Cotton (R N.H.) -- Stipulate that suspension of literacy tests or similar devices under proceedings instituted by the Attorney General, separate of the bill's automatic triggering formulas, should be for "definite and limited" periods, as determined by the courts. Voice.

May 25 -- Russell B. Long (D La.) -- as modified by Philip A. Hart (D Mich.) -- Allow political subdivisions with more than 50 percent of voting age Negroes registered to free themselves from coverage by proving in the federal district court in the District of Columbia: (1) that all persons ordered registered by examiners had been placed on voting lists; (2) and that there was no longer reasonable cause to believe that persons would be denied the ballot on grounds of race or color. (The original Long amendment authorized political subdivisions of entire states that had come under the bill --

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without regard to the 50-percent stipulation -- to free themselves from coverage by proving in court that they had remedied any discrimination against voters.) Voice.

May 26 -- Joseph D. Tydings (D Md.) -- Delete language exempting aliens and persons in active military service and their dependents from the population count used to compute percentages of voter registration and turnout as elements of the bill's primary triggering formula. Voice.

Philip A. Hart (D Mich.) -- Authorize political subdivisions covered by the bill to petition the Attorney General to request the Director of the Census to take a survey to determine whether the percentage of non-white persons registered to vote in the area was sufficiently high to allow the local government to institute a court action to free itself of coverage; authorize the federal district court for the District of Columbia to require such survey to be made by the Director of the Census when requested by the Attorney General or to require the survey if the Attorney General had arbitrarily or unreasonably refused to request it. Voice.

Mansfield - Dirksen -- Substitute for the version of the bill reported April 9 by the Senate Judiciary Committee revised language which included a Congressional declaration that state poll taxes discriminated against the right to vote and dropped certain provisions allowing states to free themselves from the bill. Roll call, 78-18.

AMENDMENTS REJECTED

May 6 -- Sam J. Ervin Jr. (D N.C.) -- Delete sections of the bill establishing "automatic" triggering formulas for suspension of literacy tests and/or the appointment of federal voting examiners and a system of judicial review of new voting laws enacted by state or local governments that had come under the provisions of the bill; substitute for the deleted wording a provision authorizing the appointment of federal examiners (but not suspension of tests) when the federal court in the area in question had made a finding that the state or political subdivision had discriminated against voters. Roll-call vote, 25-64.

May 11 -- Edward M. Kennedy (D Mass.) -- Prohibit the collection of a poll tax as a condition for registration or voting in state or local elections and authorize enforcement machinery; stipulate that if the Congressional ban on poll taxes were upset in court, no person could be denied the right to vote during the period of a year after the entry of a final judgment in such an action because of his failure to pay a poll tax or to make timely payment if he had paid the tax due for one year, within a period of 45 days prior to an election; delete Section 9 of the bill, which authorized the Attorney General to institute proceedings for relief against enforcement of poll taxes as a condition for voting when such tax had the purpose or effect of denying a person the right to vote. Roll call, 45-49.

May 12 -- Ervin -- Shift the jurisdiction in certain judicial proceedings arising under the bill from the federal district court in the District of Columbia to the federal district court for the district in which the capital of a petitioning state was located or a petitioning political subdivision was situated. Roll call, 28-62.

May 13 -- John J. Sparkman (D Ala.) -- Delete language which required a federal examiner to place on a list of eligible voters any person meeting state law qualifications not inconsistent with the U.S. Constitution and U.S. law and to require instead that the person be placed on the list if he simply met state law qualifications; delete other wording which directed the Civil Service Commission, after consultation with the Attorney General, to instruct examiners about applicable state law in regard to qualifications required for listing and loss of eligibility to vote. Roll call, 19-66.

Winston L. Prouty (R Vt.) -- Specify that Government court challenges of poll taxes, which the bill directed the Attorney General to undertake, be based on the use of the taxes to deny or abridge the right to vote because of race or color. (The amendment added the race or color stipulation.) Roll call, 34-44.

May 14 -- Ervin -- Stipulate that nothing in the proposed law could be construed to invalidate or suspend literacy tests or other voting requirements applying equally to all citizens of all races and requiring only that applicants read and write in English any section of the state or U.S. constitutions. Roll call, 14-53.

May 17 -- Herman E. Talmadge (D Ga.) -- Delete sections of the bill which required states or political subdivisions which had become subject to the bill's provisions to obtain approval of a proposed new voting law or any similar change in voting procedures from the Attorney General and, if the Attorney General disapproved, from the court having jurisdiction before the change could go into effect. Roll call, 19-60.

May 24 -- Ervin -- Permit the federal district court for the District of Columbia to shift cases filed by state and local governments for relief from the federal registration machinery, from its jurisdiction to the jurisdiction of federal courts in the petitioners' own areas. Roll call, 32-49.

John G. Tower (R Texas) -- Authorize the Attorney General to initiate investigations of voting practices in counties or states whenever he received 25 or more written complaints from residents of such areas alleging that they had been denied the ballot and, if such an investigation revealed a pattern or practice of discrimination, authorize the appointment of federal voting examiners to order the registration of voters in the area. (The amendment substituted this procedure for the automatic triggering formulas in the bill.) Roll call, 29-49.

May 25 -- Jack Miller (R Iowa) -- Substitute for the bill's automatic triggering formulas a procedure authorizing the appointment of examiners when the Attorney General proved in federal district court for the District of Columbia that a state or political subdivision maintained a literacy test or similar device and/or had unacceptable levels of voter activity, as defined by the bill. Roll call, 30-66.

Ervin -- Require that a person applying to a federal examiner to be registered to vote include an allegation that he had been denied registration or had been found not qualified to vote because "of his race or color." (The amendment added the quoted words to the provision, which was already in the bill.) Roll call, 26-74.

Ervin -- Excuse from the federal registration machinery any political subdivision in which 95 percent of persons applying for registration in the 1964 Presidential election were literate and were registered by election officials. Roll call, 21-70.

Ervin -- Exempt states or political subdivisions from the federal registration machinery when the Attorney General certified that past denials of the right to vote had been corrected by state or local action and that there was no reasonable cause to believe that any test or device sought to be used by such state or local gov-

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ernment would be used for the purpose or would have the effect of discriminating against voters. Roll call, 28-63.

Ervin -- Stipulate that jurisdiction of the federal district court in the District of Columbia over proceedings brought by states or political subdivisions to free themselves from the bill's coverage would terminate if judgment were rendered in favor of the petitioning state or local government. (The amendment altered a provision which authorized the court to retain jurisdiction for five years in all cases brought by state or local governments to free themselves of the federal registration machinery.) Roll call, 25-68.

Ervin -- Delete language in the bill which stipulated that a determination by the Attorney General or Director of the Census that voter activity in states or political subdivisions had fallen below certain levels would be final and effective upon publication in the Federal Register. Voice.

Ervin -- Stipulate that a state or political subdivision covered by the "massive discrimination" provisions could free itself from the bill's coverage by proving in the district court in the District of Columbia that it was not discriminating against voters at the time of its appeal to the court. (The amendment was a substitute for language which required petitioning state or local governments to prove that they had corrected the effects of past discrimination and that there was no reasonable cause to believe that there would be discrimination against voters in the foreseeable future.) Roll call, 26-69.

Ervin -- Eliminate from the bill's triggering section the requirement that voter turnout of a state or political subdivision in the 1964 Presidential election had to be more than 50 percent of the voting age population in order to avoid coverage of the "massive discrimination" provisions. Roll call, 31-64.

Ervin -- Provide for judicial review by federal courts of a decision of the Attorney General to reject the petition of a political subdivision to free itself of the federal registration machinery; stipulate that if the court found the political subdivision was no longer discriminating against voters, the court would enter a judgment terminating the appointment of federal voting examiners in the area and restoring literacy tests (unless tests had been suspended on a statewide basis). Roll call, 24-72.

Ervin -- Eliminate language stipulating that only the federal district court for the District of Columbia or a federal court of appeals would have jurisdiction to issue any judgment freeing a delinquent state or local government from the federal registration machinery, or issue restraining orders or temporary or permanent injunctions under the bill. Roll call, 20-75.

John Stennis (D Miss.) -- Instruct the Attorney General, upon request of appropriate state or local governing authorities, to institute proceedings for relief against demonstrations by persons other than those who had been denied the right to vote within the area of the demonstration. Roll call, 17-74.

House

COMMITTEE -- Judiciary, Subcommittee No. 5.

HELD HEARINGS -- March 18 -- April 1 on the bipartisan-backed Adminstration voting rights bill (HR 6400) and 121 other measures dealing with voting rights.

TESTIMONY -- March 18 -- Emanuel Celler (D N.Y.), chairman of the full Committee, opened the hearings with a statement calling for summary passage of the Administration bill. Celler said "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." He said any effort to obstruct rapid passage of the bill would be "inexcusable," and promised night hearings if necessary.

William M. McCulloch (R Ohio), ranking Republican member of the Subcommittee, predicted that it would report a "good bill" but did not indicate whether he would push for major changes in the Administration bill.

Attorney General Nicholas deB. Katzenbach said the judicial remedies to voter registration set up by past legislation had been "tarnished by evasion, obstruction, delay, and disrespect." The Attorney General cited a history of "intimidation, discouragement and delay" in Selma, Ala., and elsewhere, which he said illustrated the need for strong and rapid corrective action.

The Attorney General said a 1961 voting rights suit against Dallas County, Ala., of which Selma is the seat, had not produced an order barring a complex literacy test until February 4, 1965. After four years of litigation, Katzenbach said, only 383 of 15,000 voting-age Negroes in Dallas County had been registered. Katzenbach also recounted the difficulty of obtaining judgments in voter intimidation suits in which he said the Justice Department had presented "substantial proof" of intimidation on the part of Dallas County Sheriff James Clark and other local officials. Two of the suits had been dismissed and the others not yet decided.

The proper corrective measure, Katzenbach said, was a "new approach, an approach which goes beyond the tortuous, often ineffective pace of litigation...a systematic, automatic method to deal with discriminatory tests, with discriminatory testers, and discriminatory threats." The Attorney General said the Administration bill would "translate" the intentions of past voting rights legislation "into ballots."

Katzenbach said HR 6400 was constitutional in implementing 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." He noted that "the Constitution itself expressly says with respect to the 15th Amendment: 'The Congress shall have power to enforce this article by appropriate legislation.'"

Katzenbach said the alternative remedy of guaranteeing fair administration of existing literacy tests rather than abolishing them was "unrealistic." He pointed out that 30 states conducted elections without literacy tests and said there was no "evidence that the quality of government in those states falls below that of states which impose -- or purport to impose -- such a requirement."

In reply to criticism that the bill was too broad and would be inapplicable to pockets of lesser discrimination, Katzenbach said the target of the Administration measure was "massive discrimination." He said the bill would be effective against areas practicing rank discrimination while existing legislation could be invoked in other instances.

Areas covered by the bill as presently written, Katzenbach said, would be the states of Louisiana, Mississippi, Alabama, Georgia, South Carolina, Virginia, Alaska, 34 counties in North Carolina and one county in Arizona. He said all except the first four states might win exemption by proving that they had not discriminated against voters during a ten-year period preceding the

suit. (In subsequent testimony, Katzenbach added to this list one country in Idaho and one in Maine. For states and counties actually affected, see p. 533)

'AUTOMATIC' TRIGGER CRITICIZED

March 19 -- Subcommittee members Lindsay and William C. Cramer (R Fla.) argued that the Administration bill was not broad enough to cover numerous areas in which Negroes were discriminated against and at the same time invoked penalties on areas which did not discriminate. Pointing to counties in Florida where less than 5 percent of voting-age Negroes were registered, Cramer said the Negroes would have no recourse under the bill because Florida did not have a literacy test or similar device. Lindsay said that in Newton County, Arkansas, 78.8 percent of whites were registered and not one Negro. He pointed out that HR 6400 would not affect the county because Arkansas did not have a literacy test.

Cramer said the Administration bill would not cover a county that excluded all but one Negro out of a voting-age population of 3,500 but had 4,000 of 4,500 eligible whites registered and voting. He said that such registration figures would be patent proof of discrimination, but the Administration bill would not provide remedies because more than 50 percent of the voting-age population was registered and voted.

Attorney General Katzenbach conceded that the bill could not eliminate all discrimination, but would free enough Justice Department attorneys from cases in areas covered by the bill to allow them to deal with pockets of discrimination, such as those mentioned by Cramer and Lindsay, under the Civil Rights Acts of 1957, 1960 and 1964.

William M. McCulloch objected to an Administration provision permitting federal examiners to be sent into states to which the bill was applicable. McCulloch said he didn't want to see "a horde of carpetbaggers" descend on the South. Katzenbach replied that it would be preferable to appoint local residents but said the provision should be broad enough to allow appointment of outsiders if local persons were subjected to excessive pressures.

The Rev. Theodore M. Hesburgh, president of Notre Dame University and a member of the Civil Rights Commission since it was established in 1957, said the Administration bill should not require complainants to make an attempt to register before the federal registration apparatus could be invoked. "In some areas," he said, "just attempting to vote is tantamount to suicide."

March 23 -- Celler, commenting on a variety of proposals to broaden the Administration bill, said that he did not want the measure "freighted down" with changes that might make passage difficult. Among the proposals were one by Rep. Adam C. Powell (D N.Y.) to provide for new state and local elections in areas where there was voter discrimination, and one by Rep. Sidney R. Yates (D Ill.) to implement the 14th Amendment by providing for reduction in the Congressional representation of states that discriminate against Negroes. Yates March 18 introduced a bill (HR 6264) providing for such reduction if states continued discriminatory voting practices.

March 24 -- Roy Wilkins, executive director of the National Association for the Advancement of Colored People (NAACP), said that although the Administration bill went "further than any other bill ever introduced on this subject," it still was "not enough." Wilkins called for a strengthening of the measure "to such a degree that it will not be necessary in the next two years or four years or seven years to come back and add another patch in an effort to guarantee the basic American right to vote...."

Wilkins said a sufficient bolstering of the bill would include: (1) an added provision eliminating poll taxes for state and local elections; (2) elimination of the bill's requirement that a voter applicant must first attempt to register before state officials before he may obtain federal assistance; (3) expansion of the federal registration apparatus to cover any area in which voter discrimination exists; (4) broader provisions to protect Negro registrants and voters from intimidation.

Following Wilkins' testimony, McCulloch asked the civil rights leader whether he thought the legislation should be redrafted to cover "festering pockets" of discrimination in states not covered by the bill. When Wilkins answered that he did, McCulloch asked him to draft proposed new language for the measure.

Joseph L. Rauh, counsel for the Civil Rights Leadership Conference, contended that Congress had ample power under the 15th Amendment to abolish all poll taxes. Rauh said if such taxes were used to deny Negroes the ballot, it was as proper to ban them as it was to ban literacy tests or similar devices.

Two Southerners, Rep. Claude Pepper (D Fla.) and former Rep. Brooks Hays (D Ark.), endorsed the measure. Hays said, "It's because I love the South that I want to see these (voting) doors opened. I believe the South will be happier when they are." Hays, a White House aide, had been defeated in 1958 after an attempt to mediate the Little Rock school desegregation crisis.

March 25 -- George Meany, president of the AFL-CIO, called for a broadening of the Administration bill to prevent the "night stick or night riders" from interfering with Negro voting attempts. "...A bill aimed solely at literacy tests and other formal legalistic barriers to registration will not do the whole job," Meany said.

Herman Badillo, vice president of the Legion of Voters, Inc. of New York City, called for elimination of New York State's English language requirement for voters. Badillo contended that the New York literacy test had resulted in widespread voter discrimination against Spanish-speaking Americans. Of 480,000 eligible voters of Puerto Rican extraction living in New York City, Badillo said, only 150,000 were registered to vote. "It is interesting to note that service in the Armed Forces is not limited to Americans literate in English," Badillo said, observing that one of every 42 U.S. casualties in the Korean War was a Puerto Rican.

Celler said he strongly opposed literacy tests himself, but had determined that the New York test was not administered on a discriminatory basis.

CONSTITUTIONAL OBJECTIONS RAISED

March 29 -- Virginia Attorney General Robert Y. Button contended that the Administration bill was "merely one step in a scheme for ultimate federal control of all state and local elections." "Today, it is a select minority of states which Congress is gleefully and impetuously grinding under its heel," Button said, "Tomorrow, in different circumstances, it could be other states, anywhere in the country." Pointing to the 1961 Civil Rights Commission report, which "found no discrimination in Virginia because of color," Button

contended that his state's low (41 percent) voting figure in the 1964 general election could not be attributed to discrimination.

Rep. Howard H. Callaway (R Ga.) proposed an alternative voter rights plan that would be broader in application than the Administration measure. Under the Callaway proposal: (1) When an agreed number of complaints of voter discrimination were received from any state, a three-judge circuit court would appoint an examiner to conduct hearings on the complaints; (2) If the examiner were convinced of the validity of the complaints, he would ask the court for an order requiring that the complainants be registered; (3) The complainants would have to be registered within seven days, and they would retain their status as registered voters during any appeal. Callaway said the Administration bill was discriminatory because it allowed some states to retain literacy tests while striking them down in others on the assumption that they had been used to deny Negroes the ballot.

March 30 -- Rep. Armistead I. Selden Jr. (D Ala.) said the Administration bill would violate the constitutional powers of states to fix their own voter qualifications, and South Carolina Attorney General Daniel R. McLeod called the bill "a product of political panic."

March 31 -- Rep. John Dowdy (D Texas) said a source "for whom I have high regard" had told him that Attorney General Katzenbach had told Senate leaders that he had shown the Administration bill to Chief Justice Earl Warren and four associate justices and that they had "enthusiastically approved" it. Katzenbach immediately issued a statement labeling Dowdy's charge "utterly false."

Sidney Zagri, legislative counsel of the Teamsters Union, criticized the "piecemeal approach" of the Administration bill. He said the Attorney General's power could be abused for political purposes. Zagri said that the measure should be expanded to deal with all states where voter discrimination exists; should outlaw poll taxes for all elections; and should provide for new elections in areas where there had been voter discrimination.

Rep. John H. Buchanan Jr. (R Ala.) said that the triggering formula of the Administration bill "reflected a double standard." Buchanan, however, endorsed a section of the bill which declared illegal any voting barrier based on race or color, and said he hoped to be able to support some version of the measure which was effective but still constitutional.

James Farmer, national director of the Congress of Racial Equality (CORE), said the bill should include authorization of federal voting examiners in any area where 20 or more valid complaints of discrimination had been made. Farmer also called for the outlawing of poll taxes and said that previous criminal convictions should not be allowed as a basis for denying registration. He explained that "freedom fighters," who had participated "in the dramatic demonstration of the necessity for this bill," would be denied the ballot unless this provision was changed.

April 1 -- Civil rights leaders Roy Wilkins and Joseph Rauh Jr. returned to submit nine amendments they had suggested during the previous week's hearings.

Committee Chairman Celler said that Wilkins and Rauh had "apparently...written a completely new bill which would make our work more complicated and difficult."

BILL APPROVED

Subcommittee No. 5 of the House Judiciary Committee April 9 approved an amended version of HR 6400 and voted 10-1 to send the measure to the full Committee. (The Committee declined to identify the lone Subcommittee member who voted against referral.) The Subcommittee version retained the major provisions of the original Administration bill and added new language as follows:

- Authorized federal courts, in suits brought by the Attorney General, to order the appointment of federal voting examiners if needed to enforce the 15th Amendment and to suspend literacy tests and other devices used to discriminate against voters.
- Authorized the Attorney General to appoint poll watchers to observe election proceedings in areas to which examiners had been appointed.
- Banned poll taxes as a condition for voting in state and local elections.
- Prohibited the intimidation of persons who engaged in activities to encourage persons to vote and of persons who had been assigned powers and duties under the bill.
- Amended Title I of the Civil Rights Act of 1964 (PL 88-352) to cover state and local, as well as federal, elections. (Title I barred unequal application of voting registration requirements and also: (1) required that all literacy tests be administered in writing unless approved as non-discriminatory by the Attorney General; (2) prohibited denial of the ballot because of an applicant's immaterial errors or omissions on his application form; (3) and made a sixth grade education, if in English, a rebuttable presumption of literacy.) The provision stipulated that the amended Title, as it related to literacy requirements, would apply only to the extent that such requirements were not suspended by HR 6400.
- Made private citizens, as well as public officials, criminally liable for interfering with voter rights.

The full Judiciary Committee May 12, by voice vote, ordered reported a version of HR 6400 which retained all the amendments of the subcommittee bill and embodied additional amendments. The amendments approved by the full Committee:

- Deleted a requirement that a person making a voter registration application before a federal examiner allege that he had been turned down by a state registrar within the past 90 days.
- Stipulated a Congressional finding that the payment of poll taxes as a requirement for voting violated the 14th and 15th Amendments to the Constitution.
- Prohibited intimidation of any person seeking to vote, whether or not his right to vote was secured by any provision of the bill.

HR 6400 was formally reported June 1 (H Rept 439).

Majority Views. The committee report said the federal registration apparatus provided by HR 6400 was necessary because of the "intransigence" of state and local officials in enforcing previous voting laws and "repeated delays" in the judicial process. Judicial relief under these statutes, the report asserted, "has had to be gauged not in terms of months -- but in terms of years." The report cited numerous instances in which discriminatory literacy tests and similar devices had been barred by the courts, only to reappear in different forms, necessitating further adjudication.

It had become necessary to suspend literacy tests in "hard core" areas of discrimination rather than require their fair administration, the report said, because the latter approach would "simply freeze the present disparity created by past violations of the 15th Amend-

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ment." While federal examiners would be administering tests fairly to Negroes, the report contended that state registrars would "follow their traditional practice of registering all white applicants without making them take tests or regardless of their performance, or lack of it, on the tests."

The report found constitutional authority for the flat ban on poll taxes (as well as for the bill itself) in Section 2 of the 15th Amendment, which delegated to Congress the power to enforce by "appropriate legislation" the Amendment's Section 1 guarantee of the right to vote regardless of race or color. Evidence presented Congress, the report said, had made clear that poll taxes had "nothing in common" with the "true (voter) qualifications" which states were authorized to establish under Article 1, Section 2, of the Constitution and the 17th Amendment. Such taxes, the report contended, had been designed only to keep Negroes away from the polls. The removal of other obstacles to voting such as literacy tests, the report added, might cause the poll tax to "rise in significance as a discriminatory deterrent to voting by Negroes." The report also asserted that the fact that Congress proposed abolition of poll taxes in federal elections by a constitutional amendment (ratified as the 24th Amendment in 1964) did not evidence any lack of Congressional power to abolish the poll tax in state and local elections by statute."

The report also said that the appointment of examiners to states or political subdivisions where literacy tests had been suspended was made discretionary with the Attorney General, because of instances in which affected areas may have made "substantial efforts" to rectify the effects of past discrimination. Under such circumstances, the report contemplated that the Attorney General would not appoint examiners.

Republican Views. The report contained a statement of Republican views signed by 8 of the 11 GOP members of the Committee: McCulloch (Ohio), Poff (Va.), Cramer (Fla.), Moore (W.Va.), MacGregor (Minn.), King (N.Y.), Hutchinson (Mich.) and McClory (Ill.). The Republicans criticized HR 6400 as a "hastily contrived, patchwork response to the nation's demand for social justice." The "cumbersome mechanisms" of the bill, they said, involved "grave constitutional risks" which should not be taken. Instead, the Republicans recommended their own bill (HR 7896), which they indicated would be sent to the Rules Committee as a substitute for HR 6400. The GOP measure authorized the appointment of examiners in any political subdivision from which the Attorney General received 25 or more meritorious complaints of voter discrimination. It retained non-discriminatory state voting standards and directed the Attorney General to institute proceedings against the enforcement of discriminatory poll taxes.

Minority Views. A statement of minority views was submitted by three Southern Democrats -- Basil L. Whitener (N.C.), John Dowdy (Texas) and Robert T. Ashmore (S.C.). The primary criticism of the minority was directed at the bill's triggering formula, which the three Democrats called "arbitrary and unjustifiable." The minority also criticized the flat ban on poll taxes without an adequate Congressional finding that such taxes were discriminatory. It termed "unconscionable" the Attorney General's "veto power" over new voting laws in states and political subdivisions whose voter qualifications were suspended by the bill.

Additional Views. Robert McClory (R Ill.), who signed the statement of Republican views, said he preferred the inclusion of a flat ban on the poll tax in the Republican substitute for the Committee bill.

John V. Lindsay (R N.Y.) endorsed HR 6400 but criticized the failure of the bill to assign responsibility for its implementation to an administrative agency and to authorize machinery to enforce the 1st Amendment guarantees of freedom of speech, of the press, of peaceful assembly and of the right to petition the Government for redress of grievances.

William T. Cahill (R N.J.) also endorsed HR 6400 but suggested that the Civil Rights Commission be empowered to implement the rights granted by the bill. Cahill also said the venue rule, by which certain proceedings arising under the bill could be heard only by a federal court in the District of Columbia, set a "dangerous precedent" which "may yet come back to haunt us."

Charles McC. Mathias Jr. (R Md.) said that while HR 6400 fell short of providing all necessary remedies to voter discrimination, it adopted "positive principles" which "put the world on notice that Congress intends the right to vote to be universal."

Individual Views. Edwin E. Willis (D La.) contended that the bill itself was "discriminatory" in "stripping the powers" of six Southern states to fix voter qualifications while others were allowed to retain their voting laws. Willis also asserted that the federal registration machinery was unnecessary in certain political subdivisions which came under the bill, because these areas had already attained high levels of Negro voter activity.

William M. Tuck (D Va.) asserted that HR 6400 reached a "crest in the flood of federal intrusions into matters constitutionally reserved to the states." Tuck contended that the "ill-conceived" triggering formula of the bill could "only have been arrived at by first determining that literacy tests of certain Southern states should be suspended and then coming up with a mathematical ratio that would accomplish this...."

BAN SPARKS SENATE CRITICISM

Senate Majority Leader Mike Mansfield (D Mont.) June 1 predicted that if the House approved a measure embodying an outright ban on the poll tax, "...the Senate will almost certainly send that bill to conference." Senate Minority Leader Everett McKinley Dirksen (R Ill.) June 2 said he agreed with Mansfield. (During Senate consideration of S 1564, a similar voting bill, an amendment to impose the ban was rejected by a 45-49 roll-call vote. The Senate instead provided for court tests of such levies. See Senate section, above)

RULES COMMITTEE ACTION

Floor debate on HR 6400, reported June 1, was delayed for five weeks while the bill remained lodged in the House Rules Committee, under Chairman Howard W. Smith (D Va.). In the interim, Judiciary Committee Chairman Emanuel Celler (D N.Y.) initiated proceedings to have the bill discharged under the 21-day rule, but the procedure became unnecessary when an open rule (H Res 440) was granted July 1. Under terms of the rule, 10 hours of debate were authorized for the bill and amendments and a GOP voting bill (HR 7896) could be offered as a substitute for the version reported by the Judiciary Committee.

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Floor Action

The House July 9, by a 333-85 roll-call vote, passed an amended version of the Administration voting bill (HR 6400). Following passage, the House substituted the provisions of HR 6400 for a similar bill (S 1564) passed May 26 by the Senate, passed the amended S 1564 by voice vote and sent the measure to conference. (For voting, see chart p. 976)

Prior to passing HR 6400, the House rejected by a 171-248 roll-call vote a motion by Harold R. Collier (R Ill.) to recommit the bill to the Judiciary Committee with instructions to report back a Republican substitute (HR 7896). The GOP bill provided remedies to discrimination on a county-by-county basis rather than statewide as provided by HR 6400. (See below) The GOP substitute was rejected earlier by a 166-215 teller vote.

The House accepted only one amendment to HR 6400. It provided penalties for falsifying voting or registration information or buying votes in federal elections. Numerous other amendments were rejected.

President Johnson later in the day called House passage of the measure "not only a victory for the American Negro and the Democratic party" but "a victory for every American who believes the strength of our democracy rests on the right of every citizen to share in its direction." The President also praised the House for rejecting the GOP substitute, which he said "would have seriously damaged and diluted the guarantee of the right to vote for all Americans." (For Republican reaction, see p. 562)

Voting for passage of HR 6400 were 112 Republicans and 221 Democrats. Three Southern Republicans, Cramer (Fla.), Carter (Ky.) and Belcher (Okla.), and 33 Southern Democrats voted in favor of the bill. The Southern Democrats voting in favor of passage were Bennett, Fascell, Gibbons, Pepper and Rogers (Fla.); Mackay and Weltner (Ga.); Chelf, Farnsley, Natcher, Perkins, Stubblefield and Watts (Ky.); Boggs and Morrison (La.); Albert, Edmondson, Jarman, Johnson and Steed (Okla.); Anderson, Evins, Fulton and Grider (Tenn.); Brooks, Cabell, de la Garza, Gonzalez, Pickle, White, Wright and Young (Texas) and Jennings (Va.). Most of the Southern supporters represented urban areas with sizable Negro populations.

Opposing HR 6400 were 24 Republicans and 61 Democrats. Of the bill's opponents, only eight Republicans and one Democrat, Paul C. Jones (D Mo.), represented Northern states. The Northern Republicans voting against HR 6400 were James B. Utt and H. Allen Smith (Calif.); Collier and John N. Erlenborn (Ill.); George V. Hansen (Idaho); H.R. Gross (Iowa); Robert C. McEwen (N.Y); and Durward G. Hall Jr. (Mo.).

Twenty-one Republicans joined 227 Democrats in opposing recommittal. Voting in favor of the recommittal motion were 115 Republicans and 56 Democrats, 54 of them from Southern states. The only Northern Democrats voting for the motion were Walter S. Baring (Nev.) and W.R. Hull Jr. (Mo.). All 19 Southern Republicans voted in favor of the recommittal motion.

As passed by the House, HR 6400 differed from the Senate-passed bill in several major respects:

(1) The House version provided a flat ban on the use of poll taxes as a requirement for voting in state and local elections. The Senate version directed the Attorney General "forthwith" to institute proceedings against such levies.

(2) The "massive discrimination" trigger in the Senate bill exempted states or political subdivisions in which less than 20 percent of voting age population was non-white.

(3) The Senate version contained provisions which: (a) provided an additional triggering formula to bring the federal registration machinery to bear on states and political subdivisions in which less than 25 percent of the voting age population of the Negro race or any other race or color was registered to vote, and (b) waived English language literacy requirements for persons educated through the sixth grade in a school under the American flag where instruction was in a language other than English. (See p. 552)

DEBATE

Opening the debate July 6, Judiciary Committee Chairman Emanuel Celler (D N.Y.), floor manager of HR 6400, said adoption of the bill would eliminate the "legal dodges and subterfuges" that had rendered previous voting rights legislation inadequate. The provisions of the committee bill, Celler said, authorized remedies that were "impervious to all legal trickery and evasion."

Rules Committee Chairman Howard W. Smith (D Va.), a leading opponent of civil rights legislation, replied that the bill was an "unconstitutional" vendetta against the former Confederate states and was "dripping in venom." The effect of the bill, Smith said, would be to set up the Attorney General as a "czar" over states' rights and voting rights with "almost unlimited power to investigate, to prosecute and to try and convict sovereign states...."

Choice of Bills. Debate intensified as the House GOP leadership sought to substitute its own bill (HR 7896) for the stronger version reported by the Judiciary Committee. Deleting the controversial poll tax ban and automatic trigger, the GOP substitute provided an attractive alternative to supporters of voting rights legislation who feared the constitutionality of those provisions. In its major sections, HR 7896 directed the Attorney General to institute proceedings against the enforcement of discriminatory poll taxes and authorized the appointment of voting examiners when the Attorney General received 25 or more meritorious complaints of voter discrimination in any political subdivision.

William M. McCulloch (R Ohio), chief sponsor of the substitute, said July 9 that the "automatic" triggering formula which invoked the federal registration machinery under HR 6400 was "pure fantasy -- a presumption based on a presumption" that would not provide the necessary remedy to voter discrimination. McCulloch also attacked HR 6400 as a violation of a state's right to determine the qualifications of its voters. Judiciary Committee Chairman Celler replied that the Republican substitute increased "the gap between black and white."

Edward Hutchinson (R Mich.) said July 7 that HR 7896 provided a remedy "sufficient to eradicate the evil we want to root out" without "tearing down our cherished governmental systems in the process."

Opponents, however, argued that only the blanket triggering formula in HR 6400 provided a strong, rapid remedy to massive discrimination. John V. Lindsay (R N.Y.) said the "widespread campaign" to bar Negroes from the polls was a system which "breeds on itself and can be undone only by strong measures" such as those embodied in HR 6400. James C. Corman (D Calif.)

argued that the Republican substitute invited state legislatures to "circumvent" the federal registration machinery by "its failure to place a moratorium on legislative action."

Rank-and-file GOP support for HR 7896 appeared to be holding firm until a Southern Democrat, William M. Tuck (Va.), urged in a July 7 floor speech that Members opposed to civil rights legislation support HR 7896 as the less "objectionable" of the two bills. Republican defections from support of HR 7896 began as Members feared that alignment with Southerners for the GOP bill would be taken as alignment against civil rights.

House Speaker John W. McCormack (D Mass.) July 8 estimated that Tuck's call for Southern support of HR 7896 had added at least 15 Republicans to the list of supporters of the committee bill. Before Tuck's appeal to the Southerners, McCormack said, proponents of HR 6400 had counted on the backing of only 10 Republicans. Of these, only three had publicly announced their support -- John V. Lindsay (N.Y.), candidate for mayor of New York, William T. Cahill (N.J.) and Charles McC. Mathias (Md.).

Several Members from Southern states received standing ovations when they announced before the passage vote that they would support HR 6400. Majority Whip Hale Boggs (D La.) said he backed the measure because "the fundamental right to vote must be a part of the great experiment in human progress under freedom which is American." George W. Grider (D Tenn.) said that in supporting the bill he spoke for a "new South" which he said was "preserving the best of our proud past but (was) looking to the future." Charles L. Weltner (D Ga.) said that if the bill was a "drastic measure...the problem is drastic, and the need is drastic."

Amendments. The House July 9, on a 136-132 teller vote and 253-165 roll-call vote, accepted an amendment by William C. Cramer (R Fla.) to provide stiff criminal penalties for falsifying voting or registration information or buying votes in federal elections. Such violations would be punishable by fines of up to $10,000 and/or five years imprisonment.

Although a spate of amendments to HR 6400 were introduced, Cramer's was the only one accepted. Two amendments which were initially approved on non-record votes were later rejected on roll calls. One of them, a proposal by Jacob H. Gilbert (D N.Y.) to waive English literacy requirements for persons educated through the sixth grade in a school under the American flag, was tentatively approved twice, by a 110-74 standing vote and a 125-94 teller vote, before it was rejected by a 202-216 roll call. The other was a proposal by Hale Boggs (D La.) to provide a means of judicial relief for political subdivisions which had registered at least 50 percent of their voting age Negroes, could prove they had complied with the orders of federal voting examiners and could convince the court that they would not "backslide" into discriminatory practices. It was tentatively approved by a 123-77 teller vote before being rejected by a 155-262 roll call.

Most of the other amendments defeated by the House were aimed at deleting or altering the main provisions of the bill.

PROVISIONS -- The bill contained the major provisions of the original Administration bill plus several committee amendments and the Cramer floor amendment. (See President's Requests, p. 540; Bill Approved, p. 558; and Amendments, above.)

AMENDMENTS ACCEPTED

July 9 -- Robert McClory (R Ill.) -- Delete a provision of the Republican substitute (HR 7896) directing the Attorney General to institute proceedings against the enforcement of discriminatory poll taxes; insert new language imposing a flat ban on the use of poll taxes as a qualification for voting in any election. (Amendment was offered to the pending GOP substitute bill and thus was negated when the Republican bill later was rejected.) Standing vote, 82-33.

William C. Cramer (R Fla.) -- Add language to HR 6400 providing for criminal penalties of up to $10,000 in fines and/or five years imprisonment for falsifying voting or registration information or buying votes; applicable only to federal elections. Teller vote, 136-132, and roll-call vote, 253-165.

AMENDMENTS REJECTED

July 9 -- Walter Rogers (D Texas) -- Delete language in the Republican substitute (HR 7896) establishing procedures for a federal registration machinery, providing for a system of judicial recourse by affected political subdivisions and banning the use of poll taxes as a voter qualification; substitute a provision making it unlawful to deny an applicant the ballot when he was qualified to vote by non-discriminatory state standards consistent with federal law and swore or affirmed that he would support and defend the U.S. Constitution. The amendment also provided criminal penalties of up to $10,000 in fines and/or five years imprisonment for false or deceptive subscription to the oath and made such subscription by a member of the Communist party or a Communist front organization prima facie evidence of falsification and intent to deceive. Standing vote, 65-183.

(The following amendments applied to HR 6400, the amended Administration bill.)

William M. McCulloch (R Ohio) -- Substitute HR 7896, as amended by Robert McClory (R Ill.) to impose a flat ban on poll taxes, for the provisions of HR 6400. Teller vote, 166-215.

Rogers -- Add to the provisions of HR 6400 language similar to that of the rejected Rogers amendment to HR 7896. (The amendment did not change the provisions of HR 6400 except to require the loyalty oath and to add the penalty clause.) Standing, 89-152; teller, 88-148.

Basil L. Whitener (D N.C.) -- Delete the "automatic" trigger and judicial recourse provisions; substitute language making the federal registration machinery apply uniformly throughout the country, providing for recourse against the federal registration machinery in the federal district court of the petitioner's district and stipulating that no affected state or local government could purge itself for a two-year period following a finding of discrimination in a voting rights suit. Voice vote.

Jacob H. Gilbert (D N.Y.) -- Stipulate that a person could not be denied the right to vote because of inability to read or write English if he demonstrated that he had successfully completed the sixth grade (or any other grade equivalent to whatever level of education a state demands) in a school under the American flag that was conducted in a language other than English. Accepted by a 110-74 standing vote and 125-94 teller vote; later rejected by a 202-216 roll-call vote.

McCulloch -- Delete a provision of the bill authorizing persons whose voter qualifications were challenged to vote while final determination of the challenge was pending; substitute language authorizing provisional voting in such instances and providing for an impounding of ballots

FORD LIB

until voter eligibility had been determined, when the number of ballots cast provisionally was sufficient to affect the results of an election. Teller, 115-166.

Hale Boggs (D La.) -- Allow political subdivisions with more than 50 percent of voting age Negroes registered to free themselves from the bill's coverage by proving in a three-judge federal district court in the District of Columbia: (1) that all persons ordered registered by federal examiners had been placed on voting lists; (2) and that there was no longer reasonable cause to believe that persons would be denied the ballot on grounds of race or color. Accepted by a 123-77 teller vote; later rejected by a 155-262 roll-call vote.

Whitener -- Delete provisions (1) allowing challenged voter applicants to vote while final determination of the challenge was pending; (2) requiring delinquent state and local governments to gain court approval of new voting laws; (3) banning poll taxes; and (4) stipulating that all criminal cases arising under the bill should be governed by the provisions of the Civil Rights Act of 1957, which did not provide for jury trials; substitute language barring the tabulation of the vote of a challenged applicant until a federal court had overruled the challenge and authorizing jury trials for criminal cases arising under the bill when either party asked for a jury. Voice.

John V. Lindsay (R N.Y.) -- Stipulate a Congressional finding that: (1) the effective exercise of the right to vote required protection of the rights to freedom of speech, press, the right to peaceably assemble and to petition the Government for redress of grievances and (2) that state and local officials had often reinforced denial of the right to vote by suppressing these related rights; authorize the Attorney General to institute proceedings for preventive relief when persons acting under color of law suppressed, threatened to suppress, or allowed others to suppress these rights. Standing 89-91, and teller 119-134.

Clark MacGregor (R Minn.) -- Delete the judicial recourse and "prior approval" provisions; substitute language (1) authorizing affected governments to go into a three-judge federal court in their own district for a judgment terminating the federal registration process; (2) stipulating that a petitioning government need only prove that the effects of past discrimination have been effectively corrected and are not likely to recur; and (3) authorizing the Attorney General to file suit in a three-judge federal district court in the appropriate district for a declaratory judgment that a new voting law enacted by a delinquent government had the purpose or would have the effect of discriminating against voters. Standing, 64-92, and teller, 125-141.

Charles E. Bennett (D Fla.) -- Substitute for the bill's "automatic" triggering formula new language triggering the federal registration machinery in any state that used a literacy test or similar device in qualifying its electorate. Voice.

Howard H. Callaway (R Ga.) -- Add language exempting aliens, non-residents, persons in penal institutions and persons in active military service and their dependents (not registered to vote in the state or political subdivision) from the population count used to compute percentages of voter registration and turnout under the bill's primary triggering formula. Voice.

John Dowdy (D Texas) -- Delete a provision authorizing federal courts hearing voting rights suits to suspend the use of literacy tests or similar devices that it had found discriminatory; substitute language authorizing courts to enjoin the use of such discriminatory voting requirements. Voice.

JOHNSON-GOP EXCHANGE

Minority Leader Gerald R. Ford (R Mich.) and ranking GOP member of the Judiciary Committee, William M. McCulloch (Ohio), July 12 strongly criticized President Johnson's July 9 statement that Republicans had tried to "dilute" the voting rights bill. The two Republicans said the President was "obviously sensitive" to his own 'Lyndon Come Lately' Congressional record on civil rights." Before 1957, they said, the President "voted against civil rights 100 percent."

President Johnson July 13 told a news conference that he did not "single out" the House GOP leadership for criticism when he praised the House for passing the voting bill. The President said, however, that "people are allowed to comment on the relative merits of legislation before or after a vote."

In response to a question on his Congressional voting record, the President acknowledged that he was currently more interested in the issue of civil rights than he had been in past years. Mr. Johnson added that he wanted to provide all the leadership he could to solve racial problems "in the time that I am allowed."

The President also said that he would like to see poll taxes repealed for all elections, but did not indicate how it should be done.

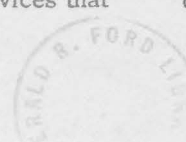
Conference Action

Compromises on most of the differences in the House and Senate versions of the voting bill were worked out at early meetings of the conference committee. A stumbling block to rapid agreement was posed by a provision to abolish the poll tax as a voting requirement in state and local elections. Agreement on a compromise bill was finally reached on July 29 after civil rights groups urged House conferees to drop a House provision imposing a flat ban on the poll tax. The final poll tax provision, similar to language in the Senate bill, provided a Congressional finding that the tax was an abridgment of the right to vote and directed the Attorney General to initiate court action against the enforcement of such levies.

The conference report on S 1564 was filed Aug. 2 (H Rept 711). On major differences between the House and Senate versions, conferees took the following actions:

Literacy Tests. Accepted the House formula for suspending literacy tests and similar devices and authorizing federal registration machinery in states and political subdivisions which used a test or device as a voter qualification on Nov. 1, 1964, and had less than 50 percent of voting age residents registered to vote on that date or actually voting in the 1964 Presidential election. The Senate version of the trigger limited federal action to states and political subdivisions which both met the House criteria and had a non-white voting age population that numbered at least 20 percent of the total persons of voting age in the area, according to the 1960 census.

Dropped a Senate provision, not in the House bill, which provided for suspension of tests in any state or political subdivision and the appointment of federal voting examiners when the Director of the Census, at the request of the Attorney General, determined that less than 25 percent of the voting age population of the Negro race or any



other race or color was registered to vote in the state or subdivision.

Agreed to a Senate provision authorizing a federal court hearing a voting rights suit brought by the Attorney General under the bill to suspend all tests and devices in a delinquent area. The House version authorized suspension of only such tests or devices actually found to discriminate.

Adopted a House provision, not in the Senate bill authorizing federal courts in voting rights suits brought by the Attorney General to suspend tests or devices when they were used "with the effect" of discriminating even if not for such purpose.

Accepted Senate language stipulating that no person could be denied the right to vote because of inability to read or write in English if he demonstrated that he had successfully completed the sixth grade (or another grade level equivalent to whatever level of education a state demands) in a school under the American flag that was conducted in a language other than English. There was no comparable provision in the House bill.

Judicial Relief. Agreed to a House provision establishing an absolute prohibition against the lifting of a suspension of tests and devices for five years after the entry of a federal court finding that a state or political subdivision had discriminated against voters. The Senate bill suspended tests and devices until the effects of discrimination had been effectively corrected and there was no reasonable cause to believe that the petitioning state or local government would "backslide" into discriminatory registration practices.

Accepted a Senate provision, not in the House bill, authorizing relief in the case of political subdivisions which had registered at least 50 percent of their voting age Negroes when they could prove in a three-judge federal district court in the District of Columbia that they had complied with all orders of federal voting examiners and that there was no reasonable cause to believe that there would be future denials of the right to vote.

Prior Approval Requirement. Accepted a Senate provision, not in the House bill, stipulating that a judgment by the three-judge court in Washington approving a new voting law enacted by a state or local government whose voter qualification laws had been nullified under the bill would not bar a subsequent lawsuit to enjoin enforcement of the new law.

Poll Taxes. Agreed to language similar to a provision in the Senate bill, which (1) provided a Congressional declaration that the use of poll taxes denied or abridged the right to vote and (2) directed the Attorney General "forthwith" to institute court action against the enforcement of any poll tax used as a precondition for voting or any substitute for such taxes enacted after Nov. 1, 1964. Added to the provision new language asserting that Congress, in sending the Attorney General into court to challenge the levying of poll taxes, was acting under authority of both the 14th and 15th Amendments to the U.S. Constitution. The House bill contained a flat ban on the use of poll taxes as a voting requirement in any election.

Other Provisions. Rejected a Senate provision, not in the House bill, permitting the Attorney General to require that an applicant appearing before a federal examiner allege that he had been denied the ballot by a state registrar within the preceding 90 days.

Accepted House provisions, not in the Senate bill, prohibiting intimidation of a person "for urging or aiding" any person to vote, bringing criminal penalties to bear on officials who denied any qualified voter the right to vote (as well as persons qualified under the Act), and stipulating that the federal registration process covered party caucuses and state political conventions as well as federal, state and local elections and party primaries.

Agreed to a Senate provision, not in the House bill, permitting the Federal District Court for the District of Columbia to issue subpenas at distances greater than 100 miles in cases brought under the bill's "massive discrimination" provisions.

Final Action

The conference report (H Rept 711) was adopted by the House Aug. 3, by a 328-74 roll-call vote, and by the Senate Aug. 4, by a 79-18 roll call. (For voting, see charts p. 984, 1063)

House. Prior to approval of the conference report on S 1564, the House rejected, by a 118-284 roll-call vote, a motion by Robert C. McEwen (R N.Y.) to recommit the report to the conference committee with instructions to House conferees to insist upon adoption of House amendments eliminating a provision of the Senate bill. That provision authorized political subdivisions to free themselves of the federal voting machinery when they had registered at least 50 percent of their voting age Negroes and could prove in federal court that there was no evidence of discrimination in the registration and voting process. The conferees agreed to retain the provision, and it was included in the final bill.

The recommittal vote came after a debate in which proponents of stronger legislation criticized the concessions made by the House conferees as "weakening" and "watering down" the voting bill and rendering it only "half a loaf." Supporters of the compromise bill retorted that the measure was the strongest possible under the circumstances.

To explain the reasoning behind the concessions, William C. Cramer (R Fla.) asked the bill's manager, Emanuel Celler (D N.Y.), for permission to read a "confidential" letter which Cramer said Celler had circulated among the conferees on July 29 just before final agreement was reached. Celler refused on grounds that it would breach a confidence. It was reported later that the letter was from Attorney General Nicholas deB. Katzenbach to Celler and said that the proposed conference agreement "was recently discussed" with civil rights leader Martin Luther King and that King had "indicated that the conference bill should be speedily enacted into law and that such prompt enactment is the overriding consideration."

Voting to adopt the conference report were 111 Republicans and 217 Democrats. Thirty-seven of the Democrats favoring adoption were from Southern states. Nine Members who voted against the original House bill voted in favor of the conference report. Those switching positions included seven Members from Southern states -- Brock (R Tenn.), Duncan (R Tenn.), Herlong (D Fla.), Mahon (D Texas), Patman (D Texas), Quillen (R Tenn.) and Trimble (D Ark.). The other two Members changing votes were Collier (R Ill.) and Erlenborn (R Ill.).

(Continued on next page)

GERALD R. FORD LI

Opposing the conference report were 20 Republicans and 54 Southern Democrats. Three Republicans who had voted for the original House bill -- Davis (R Wis.), Fino (R N.Y.) and Michel (R Ill.) -- changed their position to "nay" on the conference report.

Senate. After a brief and routine debate, the Senate adopted the conference report and sent the voting bill to the President.

Voting to approve the report were 30 Republicans and 49 Democrats, six of them from Southern states. Southerners favoring the measure were Bass (D Tenn.), Gore (D Tenn.), Harris (D Okla.), Monroney (D Okla.), Smathers (D Fla.) and Yarborough (D Texas). All except Smathers had voted for the original Senate bill.

Voting against final approval were one Republican, Thurmond (S.C.), and 17 Democrats. Sixteen of the Democrats opposing the measure came from Southern states; the other was Robert C. Byrd (W.Va.) who in the past had voted with the Southern bloc against civil rights legislation.

In a surprise visit to the Capitol after Senate approval Aug. 4, President Johnson praised the "patriotic and selfless" cooperation of Senate Majority Leader Mike Mansfield (D Mont.) and Senate Minority Leader Everett McKinley Dirksen (R Ill.) in securing passage of the bill as an action worthy of worldwide appreciation. The President said the measure brought "within our immediate vision the day when every American can enter a polling booth without fear or hindrance."

BILL SIGNED

President Johnson Aug. 6 signed into law the Voting Rights Act of 1965 (S 1564 -- PL 89-110).

At the signing ceremony, broadcast by nationwide television from the U.S. Capitol rotunda, President Johnson said that the Act would "strike away the last major shackle" of the Negro's "ancient bonds."

After his speech, Mr. Johnson moved to the President's Room off the Senate chamber to sign the bill. Abraham Lincoln had used the same room on Aug. 6, 1861, to sign a bill freeing slaves who had been pressed into service of the Confederacy.

Implementation

Poll Tax. In the first move to implement the new Act, the Justice Department Aug. 7 filed a suit aimed at striking down the Mississippi poll tax. Similar actions were filed Aug. 10 against the Alabama, Texas and Virginia poll taxes. Oral arguments in the Texas case were heard Dec. 1. Arguments in the other cases were scheduled for early 1966.

Literacy Tests. The Justice Department Aug. 7 suspended literacy tests and similar voter qualification devices in the seven states and most of the separate political subdivisions covered by the Act. Tests were suspended in Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina and Virginia; 26 North Carolina counties, and one county in Arizona. Tests were subsequently suspended in two additional counties in Arizona, two in North Carolina and one in Idaho.

Federal Examiners. Attorney General Nicholas deB. Katzenbach Aug. 9 designated nine counties and parishes for the appointment of federal examiners to process Negro voter applicants and order their registration. Civil Ser vice Commission Chairman John W. Macy the same da dispatched examiners to each area: four Alabam counties -- Dallas (Selma), Hale, Lowndes and Mareng three Louisiana parishes -- East Carroll, East Feliciar and Plaquemines; and two Mississippi counties -- Le flore and Madison.

Later in 1965 examiners were dispatched to 2 additional counties and parishes, including six Alabam counties -- Autauga, Elmore, Greene, Montgomery, Perr and Wilcox; two Louisiana parishes -- Ouachita and Wes Feliciana; thirteen Mississippi counties -- Benton, Boli var, Clay, Coahoma, Desoto, Hinds, Holmes, Humphreys Jeff Davis, Jefferson, Jones, Neshoba and Wathall; an two South Carolina counties -- Clarendon and Dorcheste

Justice Department officials said in early 196 that examiners in these areas had processed and ordere the registration of 79,593 Negro voter applicants by th close of 1965. Officials said there had been no incidents c violence and in most cases local registrars had cooper ated with examiners.

Other Developments

VOTING RIGHTS SUITS

Supreme Court Test. The U.S. Supreme Court Nov. 5 by a 6-3 vote, granted a motion by South Carolina fo permission to file an original suit against the Unite States to test the validity of the Voting Rights Act. A the same time, the Court unanimously denied the Justic Department's motions for permission to file such suit against Alabama, Louisiana and Mississippi.

Acceptance of the single case, South Carolina v. Katzenbach, promised to speed up a ruling on the constitutionality of the statute. The suit was brought agains Attorney General Nicholas deB. Katzenbach for purposes of proper legal form.

In its suit, filed Sept. 29, South Carolina sought to enjoin Katzenbach from enforcing the Act on grounds that the law unconstitutionally invaded states' rights to set voter qualifications. In its countering suits, the Justice Department had sought to enjoin Alabama, Louisiana and Mississippi from failing to observe provisions of the Act.

The Justice Department Nov. 19 formally answered the South Carolina complaint. Solicitor General Thurgood Marshall signed the answer, a short document which denied South Carolina's charges that Congress exceeded its constitutional powers in passing the Act and that the Act presumed the state to be using its literacy tests to discriminate against Negroes.

Oral arguments in the suit were scheduled for Jan. 17-18, 1966. "Friend of the court" briefs supporting the Justice Department position were filed by 20 states -- California, Hawaii, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Montana, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin. Filing briefs supporting South Carolina's contention were five Southern states -- Alabama, Georgia, Louisiana, Mississippi and Virginia.

Virginia Poll Tax Suit. Virginia Oct. 13 filed its brief in Harper v. Virginia State Board Elections, a case attacking the constitutionality of poll taxes for state elections. The Justice Department had filed a brief as ami-

July 1975

I see here some people that I have met before in various organization meetings where I have met with a group such as this, and I am delighted to have the chance to renew those acquaintances.

I must say that in the White House we have in Fernando DeBaca a person that is working with me and trying to keep the communication lines going with all of you and with others. We have Alex Armandaris here and we have others in the Administration.

I can add one final subfootnote. We are making a maximum effort in the various boards and commissions and other job opportunities -- an effort to see to it that the Hispanic community is fairly and properly represented, and this is essential.

QUESTION: Mr. President, one of the critical issues today that our community is very concerned about is the extension and expansion of the Voting Rights Act that for the first time will include the Spanish-speaking people in this country.

Are you supporting the expansion of that Act that would include and guarantee the same franchise to the Spanish-speaking people of the country?

THE PRESIDENT: I believe in protecting the voting rights of every American citizen, including any minority group, which in this case, of course, includes the Spanish speaking.

MORE

[July 1975]

There is a serious problem that has developed in the United States Senate, as you well know. The Act expires August 4. I had a meeting yesterday, and again I talked with some Members of Congress this morning.

I am very concerned that the Senate, in the compressed time that is available, might not have an opportunity or won't conclude action on the extension of the legislation.

I think that legislation, its extension is of maximum importance. You really have one of four choices: The simple extension of the existing law, the approval, in the second option, of the House version, the third is to broaden the Act so it takes in everybody in all 50 States, and fourth, which is the option I would oppose most, is no action. But the last is a very serious possibility.

I can assure you that I am working with Members of the Senate to try and avoid the last option because if that takes place, you in effect have to start all over again, and with a law that has been on the statute book ten years.

It is better to extend it, to improve it, than to start really from scratch.

QUESTION: Do you accept the expansion to Spanish speaking?

THE PRESIDENT: I would accept it. Of course, I would. But I think it might well be in this period of time another option that preferable to make it effective in all 50 States rather than in the eight Southern States plus the seven additional States that have been added in part by the House version.

It might be better, quicker and more certain to make it nationwide rather than the 15 States that are now included in the House version.

Thank you all.

END (AT 2:27 P.M. EDT)

[July 1975] File

THE WHITE HOUSE

WASHINGTON

Dear Hugh:

As I said to you during our discussion yesterday, it is most important that Congress extend the temporary provisions of the Voting Rights Act before the August recess.

These provisions expire August 6, 1975, and they must not be allowed to lapse.

My first priority is to extend the Voting Rights Act. With time so short, it may be best as a practical matter to extend the Voting Rights Act as it is for five more years; or, as an alternative, the Senate might accept the House bill (H.R. 6219), which includes the important step of extending the provisions of the Act to Spanish-speaking citizens and others. To make certain that the Voting Rights Act is continued, I can support either approach.

However, the issue of broadening the Act further has arisen; and it is my view that it would now be appropriate to expand the protection of the Act to all citizens of the United States.

I strongly believe that the right to vote is the foundation of freedom, and that this right must be protected.

That is why, when this issue was first being considered in 1965, I co-sponsored with Representative William McCulloch of Ohio a voting rights bill which would have effectively guaranteed voting rights to eligible citizens throughout the whole country.

GERALD R. FORD LIBRARY

After it became clear at that time that the McCulloch-Ford bill would not pass, I voted for the most practical alternative, the Voting Rights Act of 1965. In 1970, I supported extending the Act.

Last January, when this issue first came before me as President, I proposed that Congress again extend for five years the temporary provisions of the Voting Rights Act of 1965.

The House of Representatives, in H.R. 6219, has broadened this important law in this way: (1) The House bill would extend the temporary provisions of the Act for ten years, instead of five; and (2) the House bill would extend the temporary provisions of the Act so as to include discrimination against language minorities, thereby extending application of the Act from the present seven States to eight additional States, in whole or in part.

In light of the House extension of the Voting Rights Act for ten years and to eight more States, I believe this is the appropriate time and opportunity to extend the Voting Rights Act nationwide.

This is one nation, and this is a case where what is right for fifteen States is right for fifty States.

Numerous civil rights leaders have pointed out that substantial numbers of Black citizens have been denied the right to vote in many of our large cities in areas other than the seven Southern states where the present temporary provisions apply. Discrimination in voting in any part of this nation is equally undesirable.

As I said in 1965, when I introduced legislation on this subject, a responsible, comprehensive voting rights bill should "correct voting discrimination wherever it occurs throughout the length and breadth of this great land."

I urge the Senate to move promptly--first, to assure that the temporary provisions of the Voting Rights Act do not lapse. As amendments are taken up, I urge you to make the Voting Rights Act applicable nationwide. Should the Senate extend the Act to American voters in all 50 states, I am confident the House of Representatives would concur.

GERALD R. FORD LIBRARY

I shall be grateful if you will convey to the members of the Senate my views on this important matter.

Sincerely,

The Honorable Hugh Scott
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Jim —

I suggest you get Hartmann's views on this.

Jerry

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DRAFT

July 7, 1975

For Jack Marsh

Dear Roman:

This is in response to your letter of __________, in which you request my position on the Voting Rights Act of 1965.

I strongly believe that the right to vote is the foundation of freedom ~~and equality~~, and that this right must be protected.

That is why when this issue was first being considered in 1965, I co-sponsored with Representative William McCulloch a voting rights bill which would have effectively guaranteed the Constitutional right to vote to all eligible citizens in the United States.

After it became clear that the McCulloch-Ford Bill would not pass, I voted for the most practical alternative, the Voting Rights Act of 1965; and in 1970 I supported extending the Act.

Last January, when this issue first came before me as President, I proposed that Congress again extend for five years the temporary provisions of the Voting Rights Act of 1965. Though mindful that tremendous strides had been made in the South over the past ten years in safeguarding and furthering the rights of Black voters, it was my judgment then that an additional five-year extension of the temporary provisions, which primarily affect seven Southern States, was warranted.

GERALD R. FORD LIBRARY

Since I transmitted my proposal, however, the House of Representatives has passed a bill (H.R. 6219) which differs substantially from that which I recommended. The most significant of these differences are: (1) The House bill would extend the temporary provisions of the Act for ten years, instead of five; and (2) the House bill would extend the temporary provisions of the Act so as to include discrimination against language minorities, thereby extending ~~application of the Act~~ FROM THE PRESENT SEVEN STATES to eight additional States, in whole or in part.

In light of the House extension of the Voting Rights Act for ten years and to eight more states, I believe that the time has come to ~~make~~ EXTEND the Voting Rights Act ~~permanent and to extend it~~ nationwide.

This is one nation, and what is right for ~~seven States, or~~ fifteen States is right for fifty States.

Numerous civil rights leaders have pointed out that substantial numbers of Black citizens have been denied the right to vote in many of our large cities outside of the South. We cannot permit discrimination in voting in any part of this nation.

As I said back in 1965, ~~in introducing the McCulloch-Ford House Voting Rights Bill~~ when I introduced legislation on this subject, a responsible, comprehensive voting rights bill should "correct voting discrimination wherever it occurs throughout the length and breadth of this great land."

Now, ten years later, it is even more clear to me that a Voting Rights Act should apply in the same way to all ~~voting~~ jurisdictions and safeguard the voting rights of every citizen in every State.

I recognize that extension of the temporary provisions of the Act to all States will necessitate modifications of the law. These should be accomplished promptly, since the Voting Rights Act expires August 6, 1975; and it is imperative that the Act be extended.

I shall be grateful if you will convey to the members of the Senate Committee on the Judiciary my views on this important matter.

Sincerely,

THE WHITE HOUSE

WASHINGTON

July 7, 1975

MEMORANDUM FOR: JIM CANNON

FROM: JIM CAVANAUGH

SUBJECT: Fernando E. C. De Baca Memo

At some point you or I or Parsons should get back to De Baca with some firm guides on how he should handle this. The best guidance may be for him to stay complete out of it, but that's for you to decide.

I've sent a copy of his memo to Dick Parsons FYI.

After dictating the above, I noticed that Dick Cheney has sent you a note asking you how we should handle De Baca--attached.

Attachments

P

Voting Rights

Note that an answer is in order when the President decides. Jim

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 5, 1975

MEMORANDUM

FOR: JIM CANNON

FROM: DICK CHENEY

Fred DeBaca sent me a copy of his memorandum to you on voting rights (July 3, 1975). We ought to ought to talk about this early next week.

THE WHITE HOUSE

WASHINGTON

July 3, 1975

MEMORANDUM FOR: JAMES M. CANNON

FROM: FERNANDO E. C. DE BACA

As you know, the Voting Rights Act (VRA) is due to expire in August 1975 unless extended by the Congress.

Since late last year Spanish speaking groups have been working to expand coverage of the VRA to areas with high concentrations of Spanish speaking Americans. Specifically, these groups have been seeking geographic expansion of Section 5 of the Act to the Southwest. Section 5, you will recall, is the preclearance provision that requires jurisdictions subject to the Act to preclear any changes in voting or election laws with the U. S. Attorney General prior to implementing such changes.

In the early part of 1975, various Members of Congress, including Roybal, Badillo and Jordan, introduced separate bills designed to expand Section 5 coverage to Spanish speaking citizens. While these bills shared the same goal, the amendments themselves were technically different.

After extensive hearings in the House Subcommittee on Civil and Constitutional Rights, Roybal, Badillo and Jordan worked out a compromise bill (H.R. 6219) that eventually evolved as the prime bill currently under consideration by the Congress. Following extensive debate on the measure and repeated attempts to amend *Title II of the bill, the House on June 4, 1975 overwhelmingly passed H.R. 6219 with the Hispanic provisions basically intact. The final vote was 341 to 70 (which followed a full House Judiciary Committee vote 27-7 in favor).

I believe the time has come for the President to make his position clear on this bill. The Senate is due to consider the bill following the current recess on or about July 14, 1975. The Conservative opposition expected to develop to the bill has not materialized and the Senate, according to various reliable sources on Capitol Hill, is expected to pass H.R. 6219 without major modification. Key Black and Hispanic groups have expressed support of the bill and query this office daily as to the Administration's position on the bill.

Could I please have your guidance?

(*Title II [the Hispanic amendments] of the bill introduces a new concept--language minorities--into the VRA. The bill also adds to the definition of "test or device" by saying that an election held only in English in areas with 5% or more language minorities is a "test or device."

Language minorities include Spanish heritage, Asian Americans, Alaskan Natives, and American Indians. This provision plus the new provision dealing with test or device have the effect of expanding Section 5 coverage to the Southwest, particularly Texas.)

DRAFT

July 10, 1975

Dear Roman:

This is in response to your letter of _____, in which you request my position on the Voting Rights Act of 1965.

I strongly believe that the right to vote is the foundation of freedom, and that this right must be protected.

That is why when this issue was first being considered in 1965, I co-sponsored with Representative William McCulloch of Ohio a voting rights bill which would have effectively guaranteed the Constitutional right to vote to all eligible citizens in the United States.

After it became clear that the McCulloch-Ford Bill would not pass, I voted for the most practical alternative, the Voting Rights Act of 1965; and in 1970 I supported extending the Act.

Last January, when this issue first came before me as President, I proposed that Congress again extend for five years the temporary provisions of the Voting Rights Act of 1965.

Since I transmitted my proposal, however, the House of Representatives has passed a bill (H.R. 6219) which differs substantially from that which I recommended. The most significant of these differences are: (1) The House bill would extend the temporary provisions of the Act for ten years, instead of five; and (2) the House bill would extend the temporary provisions of the Act so as to include discrimination against language minorities, thereby extending application of the Act from the present seven States to eight additional States, in whole or in part.

In light of the House extension of the Voting Rights Act for ten years and to eight more States, I believe that the time has come to extend the Voting Rights Act nationwide.

This is one nation, and what is right for fifteen States is right for fifty States.

Numerous civil rights leaders have pointed out that substantial numbers of Black citizens have been denied the right to vote in many of our large cities in areas other than the seven Southern states where the present temporary provisions apply. We cannot permit discrimination in voting in any part of this nation.

As I said back in 1965, when I introduced legislation on this subject, a responsible, comprehensive voting rights bill should "correct voting discrimination wherever it occurs throughout the length and breadth of this great land."

Now, ten years later, it is even more clear to me that a Voting Rights Act should apply in the same way to all voting jurisdictions and safeguard the voting rights of every citizen in every State.

I recognize that extension of the temporary provisions of the Act to all States will necessitate modifications of the law. These should be accomplished promptly, since the voting Rights Act expires August 6, 1975; and it is imperative that the Act be extended.

I shall be grateful if you will convey to the members of the Senate Committee on the Judiciary my views on this important matter.

Sincerely,

FOR IMMEDIATE RELEASE JULY 17, 1975

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
TO THE
SERVICE EMPLOYMENT REDEVELOPMENT/JOBS

THE INTERNATIONAL INN
ARLINGTON, VIRGINIA

2:14 P.M. EDT

THE PRESIDENT: Thank you very, very much for the opportunity of coming over and meeting with you for a very few minutes and to make some observations and comments.

I understand that you are all active participants either on the Board of Directors of SER or people who are working with SER in an effort to improve the job opportunities and the jobresponsibilities of the members of Hispanic communities, some 60 million, as I understand.

I should say to all of you that over the last several months I had hoped that I might meet with other organizations that have a very close and deep connection with the members of the Hispanic community in the United States, but for one reason or another it was not feasible.

We do hope that in the months ahead we can do something affirmatively and effectively in the way of job opportunities and job responsibilities for those that you represent.

This is a very meaningful requirement, in my judgment, because historically I think it is recognized that those opportunities and responsibilities have not been available.

The situation we find ourselves in today, unfortunately, is the economic period of recession, although the record is quite clear at the present time that we have what some people allege to be a bottoming out and we are now starting upward.

What is the significance of that development? For a period of five or six months, we had nothing but bad news. At the present time, we are seeing much much more good news than bad news.

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I am confident that in the third and fourth quarters of this year, and even beginning now, the situation is going to be considerably brighter.

What that means is that for the last five or six months, while we were in slide toward the bottom of the recession, we not only lost jobs for everybody, but for those in the minority areas of one kind or another suffered much more seriously than others.

The way that I think we can meet the challenge is in two directions: One, to make positive that our economy does recover, and I am completely and totally confident that it is going to happen. On the other hand, as we move out of the economic distress we have been in, we have to make honest and conscientious efforts to make certain that these job opportunities and these job responsibilities are available on a fair and equitable basis -- in some instances kind of make up for the discrimination that existed in the past and to insure that there is security and opportunity in the future.

If I might take just a minute or two and talk about our economy because it does involve a reduction in unemployment, but more importantly, an increase in job opportunity, at the present time, we have roughly 84 million people gainfully employed in our society. We had, as I indicated a moment ago, a substantial job loss, as well as increased unemployment.

The job loss for a period of four or five months was roughly 400,000 per month. In the last two months, we have had an upturn, and we have achieved a job increase of about 450,000.

I think this trend is going to continue, but in the meantime, we have been able to make some headway in other areas.

To refresh your memory just a bit, a year ago at this time we were suffering an inflation rate of approximately 12 to 14 percent, unbelievably high as far as by number of circumstance.

By doing the right thing, to the extent that man can control the economy, we have reduced that rate of inflation 50 percent -- it is now the annual rate of about 6 percent. That is still too high, but it is vitally important to all of the people who are employed and, just as important, if not more so, to the people who are unemployed.

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Voting Rights

What I am saying is that we have to work on a two track program, one to improve our economy with inflation, and at the same time provide greater employment.

I am confident that the American people are in a position mentally and otherwise to meet this challenge, and I can assure you that your Government is going to do everything it can to meet the challenge. I think we have made substantial headway.

But, I reiterate that just improving the economy is not enough. We do have to make certain those that you represent, whether it is in Government or whether it is in private employment, have an opportunity for a job and an opportunity for increased responsibility in the job.

I am always an optimist. I condition it with effort. People such as yourselves who are participating can make a meaningful contribution to helping others than those that you represent.

I see here some people that I have met before in various organization meetings where I have met with a group such as this, and I am delighted to have the chance to renew those acquaintances.

I must say that in the White House we have in Fernando DeBaca a person that is working with me and trying to keep the communication lines going with all of you and with others. We have Alex Armendaris here and we have others in the Administration.

I can add one final subfootnote. We are making a maximum effort in the various boards and commissions and other job opportunities -- an effort to see to it that the Hispanic community is fairly and properly represented, and this is essential.

QUESTION: Mr. President, one of the critical issues today that our community is very concerned about is the extension and expansion of the Voting Rights Act that for the first time will include the Spanish-speaking people in this country.

Are you supporting the expansion of that Act that would include and guarantee the same franchise to the Spanish-speaking people of the country?

THE PRESIDENT: I believe in protecting the voting rights of every American citizen, including any minority group, which in this case, of course, includes the Spanish speaking.

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There is a serious problem that has developed in the United States Senate, as you well know. The Act expires August 4. I had a meeting yesterday, and again I talked with some Members of Congress this morning.

I am very concerned that the Senate, in the compressed time that is available, might not have an opportunity or won't conclude action on the extension of the legislation.

I think that legislation, its extension is of maximum importance. You really have one of four choices: The simple extension of the existing law, the approval, in the second option, of the House version, the third is to broaden the Act so it takes in everybody in all 50 States, and fourth, which is the option I would oppose most, is no action -- but the last is a very serious possibility.

I can assure you that I am working with Members of the Senate to try and avoid the last option because if that takes place, you in effect have to start all over again. And with a law that has been on the statute book ten years, now, it is better to extend it, to improve it, than to start really from scratch again.

QUESTION: Do you expect the expansion to Spanish speaking?

THE PRESIDENT: I would accept it, of course I would. But I think it might well be in this period of time another option that might be preferable to make it effective in all 50 States rather than in the eight Southern States plus the seven additional States that have been added in part by the House version.

It might be better, quicker and more certain to make it nationwide rather than the 15 States that are now included in the House version.

Thank you all.

END (AT 2:27 P.M. EDT)