Ronald Reagan Presidential Library
Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Blackwell, Morton: Files
Folder Title: Voting Rights Act (1 of 3)
Box: 28

To see more digitized collections visit:
https://reaganlibrary.gov/archives/digital-library

To see all Ronald Reagan Presidential Library inventories visit:
https://reaganlibrary.gov/document-collection

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: https://reaganlibrary.gov/citing

National Archives Catalogue: https://catalog.archives.gov/

Copies to EHD
Red
Diana
Thelma D
Bill T

Morton Blackwell
Voting Rights File

APR 15 1982

DOCUMENT NO. 068002PD

Voting Rights

OFFICE OF POLICY DEVELOPMENT STAFFING MEMORANDUM

DATE: 4/14/82   ACTION/CONCURRENCE/COMMENT DUE BY: FYI

SUBJECT: Dole Bill

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	SMITH	☐	☐
PORTER	☐	☐	UHLMANN	☐	☐
BANDOW	☐	☐	ADMINISTRATION	☐	☐
BAUER	☐	☐	DRUG POLICY		
BOGGS	☐	☐	TURNER	☐	☐
BRADLEY	☐	☐	D. LEONARD	☐	☐
CARLESON	☐	☐	OFFICE OF POLICY INFORMATION		
FAIRBANKS	☐	☐	GRAY	☐	☐
FRANKUM	☐	☐	HOPKINS	☐	☐
HEMEL	☐	☐	OTHER		
KASS	☐	☐	✓ Elizabeth Dole	☐	X
B. LEONARD	☐	☐		☐	☐
MALOLEY	☐	☐		☐	☐

REMARKS:

Sent copy to M. Wallace

EDWIN L. HARPER
ASSISTANT TO THE PRESIDENT
FOR POLICY DEVELOPMENT
(X6515)

THE WHITE HOUSE
WASHINGTON

April 14, 1982

Elizabeth Dole
Assistant to the President for
Public Liaison

Ed Harper asked that I send the attached to you for your information.

Emily H. Rock
EMILY H. ROCK

MEMORANDUM April 13, 1982

Subject: Dole Bill

This will confirm my original view, following further research, that the Dole proposal is quite acceptable, but needs tightening in two areas indicated to you last night:

- The provision on line 17 of page 1 to the effect that the Voting Rights Act protects "minority groups" protection should be amended. The words "minority groups" should be replaced with "citizens of the United States." The "minority group" language probably comes from a segment of the Supreme Court decision in White v. Register, but that quote immediately modified by references to "its members" — who must continue to be the sole focus of protection under the Voting Rights Act. The shift of focus to group protection could have exceedingly adverse consequences on the development of the law.

- The list of factors set forth from line 20 of page 1 to line 23 of page 2 involves one major addition/revision to the factors cited in the two leading pre-Mobile v. Bolden cases cited in the Dole legislative history. Neither White v. Register nor Zimmer v. McKeithen, addresss the Section "G" factor, (lines 16 - 18 of page 2), and should be deleted. Section "G" invites, indeed mandates the courts to engage in an extraordinarly wide-ranging inquiry into matters extraneous to the voting process — the alleged existence of "invidious discrimination in such areas as education, employment, economics, health, and politics." Such wide-ranging findings could serve as predicates to and proof in massive Title VI and Title VII litigations likely to follow from any Section "G" findings of "invidious discrimination." Section "G" may even permit findings of "invidious discrimination" to be made on an effects test basis, i.e. may permit findings sufficient to authorize Section 2 violations on the basis of merely statistical evidence of "discrimination" in the cited areas. As neither White nor Zimmer list the

WEAKENING OF VOTING BILL SOUGHT

President Terms Some Provisions "Pretty Extreme"

This headline appeared in the Washington Post on 19 October, just two weeks after the House voted 389 to 24 to extend the Voting Rights Act of 1965 with no changes. No amendments to the Act got more than 132 votes in the House.

When it was first signed into law in August of 1965, the Voting Rights Act affected election laws in Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and parts of North Carolina. Over the years federal jurisdiction has been extended to Arizona, Alaska, Connecticut, South Dakota, Massachusets, New York, in whole or in part.

Even after a judge suspended the New York primary in September because the New York City Council was held to be in violation of the VRA, it is still fair to say that the controversy surrounding the VRA is hottest in the areas it was originally intended to affect: the deep South.

In the early to mid 1960s, when more than half of all Americans thought that "civil rights" was the most important issue facing the country (as opposed to fewer than 10% by the late 1970s; the number one issue now, according to the polls, is "the economy," while in the late 60s and early 70s "the Vietnam War" was the most critical issue), images of Selma and Klansmen and Freedom Riders were very much on the minds of Americans, images transmitted to America as a whole from the Deep South states of Alabama, Mississippi, Georgia, and South Carolina, among others.

Thus whenever the Voting Rights Act comes up in the media, attention focuses immediately on the 6 states covered in their entirety by the VRA. One of the most popular and widely understood measures of the effect of the VRA is registration among voting age blacks. As the table below shows, the change in black registration before and after the act is dramatic:

	1964	1976
Alabama	23.1%	58.1%
Georgia	44.0	56.3
Louisiana	32.0	63.9
Mississippi	6.7	67.4
South Carolina	38.8	60.6
Virginia	45.7	60.7

Given the remarkable change in the political status of blacks in the South, and given how much of the time and energy of progressive whites was devoted to advancing civil rights in the South in the 60s, it is easy to see that even the hint of changing the VRA, especially when it is being pushed by such bete noires of the white liberal establishment as Strom Thurmond, brings a strong and vociferous reaction not only from blacks, but from the media and other opinion makers as well.

Thus the actual nature of the proposed changes in the VRA which Fred Fielding alluded to in the 19 October Post story, which have nothing to do with disenfranchising Southern blacks, but are rather technical changes in the VRA, is immaterial. The hint of change sends the alarm bells ringing in the ears of the progressive coalition that got the VRA passed in the first place, a coalition that includes most Northern Republicans.

When Coretta Scott King told the annual convention of Operation PUSH, meeting in Chicago last summer, that "the number one priority right now is extending the Voting Rights Act," she did not pause to qualify her statement or make distinctions.

One can be sure that Vernon Jordan, President of the Urban League was not taking into account possible fine tuning of the VRA when he said "The Voting Rights Act is virtually the only protection black and Hispanic citizens have to ensure their right to vote is not hampered. Take it away and we are sure to return to a system of persistent discrimination in which, by a series of overt and covert local measures, blacks are deprived of their voting rights and of representation."

This is relatively restrained rhetoric. This is not what the average black is probably hearing from local political and community leaders. The proverbial bloody shirt is no doubt being waved in black and liberal communities across the US.

Benjamin Hooks told AG William French Smith that the NAACP views the threats to the VRA, as is, as the deepest threat to American blacks. Smith is charged by President Reagan with proposing possible changes in the VRA, which expires in August, 1982.

The media have picked up on the story, pregnant as it is with memories of the civil rights struggle, rich as it is in conflict; between whites and blacks, Northerners and Southerners, the ancien regime and the New Politics, between Reagan Federalism and the Great Society.

The New York Times has called it the "most effective of all civil rights laws." It has further editorialized that "extension of the law remains crucial for the right to vote--and the other rights it ensures." The Post has supported its extension, intact, as has the Christian Science Monitor and a host of other newspapers.

In an article revealingly titled "Blacks tag voting rights as key issue," the Monitor squarely addressed the political situation in 1981:

> "Blacks can accept cuts in government spending, but not cuts in voting rights.
>
> This is the message black leaders are sending to President Reagan in meetings with administration officials, from conference halls, and from scholarly think tanks.
>
> Clearly, blacks are unhappy with federal budget cuts, which they expect will impose disproportionate sacrifices on minorities. Although they believe budget cuts will hurt them more than whites, blacks say they may be more able to cope because they are accustomed to hardships...Black leaders are not concentrating their fire on reduced federal spending for welfare programs. Instead... they say the Voting Rights Act (extension of) is a key to future progress."

Another vocal black supporter of full extension of the VRA is Rev. Ralph David Abernathy, who was a Reagan backer in 1980.

Policy should never be made on the basis of political popularity. Principle is more important, and adherence to principle was what got Ronald Reagan elected to the Presidency in 1980. However, in cases where a policy determination is a close call, politics becomes an important ancillary determining factor.

We have seen that the politics of the North, of the blacks, and of the progressive wing of the Establishment are clearly lined up behing extension of an intact VRA. Any changes in the VRA will surely cost the administration points with these groups.

But what are the political advantages of modifying the VRA? In my opinion, there are virtually no reasons of expedience for tinkering with the VRA.

The following paragraph appeared in the Post last June:

> "Opponents of extending the law's key provisions, such as Senator Strom Thurmond and many conservative Democrats in the South, object to preclearance (one of the aforementioned 'key provisions') as an insult to the South."

Pinkerton

4 4 4

In my opinion that description of the VRA's opponents takes into account the depth and breadth of opposition to a simple extension of the VRA.

Conservative Southern Democrats have controlled Southern politics for a century precisely because things like the VRA did not exist for most of that period. The good ole boy Southern Democrats recognize that their control has started to unravel, and that the VRA has had a lot to do with that. Strom Thurmond, a former conservative Southern Democrat, and now a conservative Southern Republican, is correctly lumped in with his former party brethren in the aforementioned Post story. His mindset is still very much similar to that of the party he was a member of for the first 63 years of his life, at least when it comes to the political structure of race in the Deep South.

When the average person thinks of the impact of the VRA, he surely thinks of the feds coming in and eliminating poll taxes, stopping intimidation and coercion, etc. The Justice Dept. has effectively ended those sort of practices, and nothing in the changes floated publicly by Fielding two days ago in the Post would allow the nightriders to return.

Most of the litigation surrounding the VRA, not to mention the controversy, concerns federal examination of election laws and redistricting. A typical situation is a city in a Deep South state with, say, 40% blacks. This city has five city council slots. If the city were broken down into five districts, presumably two would encompass the black sections of the city, and would almost certainly elect 2 blacks to the city council. Politics being politics, the whites, with 60% of the population of the city, would elect 3 whites. In a situation like this, though, whoever gets to draw the district lines can determine who will get elected. Instead of creating 2 districts that are all or nearly all black, and three districts that are all or nearly all white, the linedrawers can draw the lines so that there are white majorities in all five districts. Thus a city with 40% blacks will have no black representatives. This is the way the Democratic Party has kept control in those areas where the blacks could even vote.

A very common tactic is the at large election. If the blacks can vote and they are not distributed conveniently in the city so as to allow the creation of 5 white majority districts, then the linedrawers can simply abolish the lines. The city, which is 60% white, becomes in effect one big district with 5 representatives, all of whom, given the nature of Southern politics, will be white.

Much is made in the papers about the tremendous growth in the

Pinkerton

5 5 5

number of black elected officials in the US. There are now more than 4500 across the US, with 60% of them in the South. While it is indeed striking that the number of black elected officials in the South has gone from near zero prior to the VRA to 2768 in 1979, it is also striking that this figure of 2768 represents about 5% of the total elected officials in the South, where blacks compose about 25% of the population.

In other words, the VRA really hasn't gone very far in terms of giving blacks equal representation in the South. To be sure, it should be noted that blacks are no better represented in other regions in the country, relative to their numbers. The problem the blacks have is that they are too spread out, geographically, to be a force in national politics. There are 110 congressional districts in the country with 15% or more blacks, but only a couple of dozen with black majorites. Even of these districts, blacks only control 18. If Congressional representation were in lockstep with their numbers, the blacks would have more than 50 seats in Congress, and a dozen Senate seats. As it stands, blacks constitute a paltry 3% of the Congress.

If the VRA were enforced with an iron hand in the South, it would be a while before blacks composed 25% of elected officials up and down the line, but there would be an explosion in the number of black elected officials, and most of the losers in this process would be the Democrats that have dominated Southern politics since Reconstruction.

I say this with confidence, not only because most people in office in the South are Democrats, but because most whites in the South are closer to the Republicans than the Democrats, in terms of national party allegiance. Even if they are nominal Democrats, white southerners share the view s of the Republicans on defense, the economy, and most social issues. A century of Democratic gerrymandering has muzzled the trend among whites toward the Republicans in national politics, so that Democratic Congressmen go to Washington and support the national party on issues that won't fly at all back home in Georgia or Alabama. If the VRA were enforced, the blacks would get their own districts, which they very much want, and the remaining white districts would start trending heavily Republican.

The point is that the VRA has the effect of helping all minorities, assuming it is enforced. The Republicans are still very much a minority in the South, just like the blacks. Thus the same process which would lead to sending a host of blacks, who unfortunately would all still be Democrats, from the South to Washington, would also lead to the election of a host of white Republicans.

As evidence for this assertion I offer the opening paragraphs of an article that appeared in the Post last 20 May, under the headline "A New Map of Texas, Voting Rights Act Is Helping GOP In Battle Over Redistricting Plan"

> "Austin--The Voting Rights Act may die in Congress next year at Republican hands, but in the redistricting battle here the act has become the party's ally in its bid to take control of Congress.
>
> The act assures minorities of the opportunity of proportional representation, if possible, and because of the demographics of Texas, what may be good for blacks and Mexican-Americans may also be good for Republicans.
>
> 'We didn't know it would turn out this way when they passed the Voting Rights Act, but it sure helps us now,' one Republican strategist said.
>
> This is because, by carving out predominantly black or Hispanic districts, Republicans would have a better chance to win the adjacent, heavily Anglo districts...
>
> The political climate is changing so rapidly that people joke about Anglo Democrats, who have controlled politics here since Reconstruction, as an endangered species...
>
> 'The law is the law,' one Republican said. 'It guarantees the rights of political minorities. We think the same principles ought to apply to the Republican Party."

The current political estimate is that Texas, whose Congressional delegation consists of 19 Democrats and 5 Republicans, could have as many as 13 Republicans after the '82 election, and at least 8. The blacks, however will be happy, because they will have a black district in Dallas next year, assuring not only that a second black Texan goes to Washington, but also that white Democrats Mattox and Frost are doomed.

Goldwater swept the Deep South in 1964, the last Presidential election held before passage of the VRA, but Republicans won only 7 of the 37 seats in the House from the 5 Deep South states. Of these, 4 were lost back to the Democrats in 1966, which was a banner year for Republicans everywhere else. The only gain was Albert Watson of SC, who switched from being an entrenched Democrat to an entrenched Republican, along with Thurmond. At the local

level, the same Democrats, who happily voted for Goldwater even as they voted for each other for all the local offices, remained in charge. Although the Republicans have carried South Carolina in four out of the last five Presidential elections, and Mississippi has gone Democratic only once in the last 16 years, the situation at the state level has hardly changed. Below is the Republican percentage of representation in the combined upper and lower houses of SC and Miss.:

	South Carolina	Mississippi
1980	12.7	4.7
1978	11.2	4.7
1976	8.9	2.9
1974	11.2	2.7
1972	14.1	2.3
1970	7.7	2.3

It is hard to see any progress taking place in either state. Such grotesque majorities for Democrats are common throughout the South, which, as I have to keep emphasizing, is still a one-party region at the state and local level.

But the Democrats are running scared. The VRA scares them, because they know that black Democrats and white Republicans will replace the George Wallace types still in charge across the South. Below are the figures for the number of proposed election law changes submitted from jurisdictions in each state to the Justice Dept. for review as per the VRA.

	# of changes sub- mitted between 1965-1970	# of changes 1971-1975	# of chang 1976-80
Alabama	16	614	1085
Georgia	158	935	1998
Louisiana	5	882	1709
Mississippi	32	503	654
South Carolina	308	834	1208
Virginia	57	1093	1780
North Carolina	2	485	711
	578	5336	9145

Clearly the good ole boy network in the South has started to comprehend what the VRA portends for the Democratic party in the South if it is not revamped. Just as the Texas Republican took a long time to understand that the VRA helped his cause in the above Post article, the mayors and state reps from Catahoula County, La. and Hoke County, NC understand that the VRA dooms the white-controlled Democratic party.

Pinkerton

8 8 8

For all the talk about the Boll Weevils and how they helped the President on the budget and tax cut votes, they are not our friends. First of all, they voted the way they did because that's what their districts demanded, which means that there should be Republicans in there in the first place. Secondly, they can be counted on by the Democratic leadership for most votes, especially procedure votes, setting rules, committees, etc. Thirdly, the will still support the national Democratic ticket, unless the presidential nominee is a real fluke, such as McGovern. I don't know of a single Southern Democrat, in office, who supported Ronald Reagan last year. Fourthly, Democrats, because they are Democrats, will continue to try and stick it to us in things like redistricting, pork barreling, etc. Finally, Southern Democrats always tend towards populism, which, while it may be congruent with this administration on some social issues, stands just as surely athwart Republican policy on taxes and many spending issues. Recall that Wayne Dowdy, who just got elected to Congress from Mississippi as a Democrat last July to take Hinson's seat, said that he was running against "the White House, the Chamber of Commerce, and every oil company in the world."

The limitation of the VRA will keep the above type Democrats in power. They will still be whites, and probably fairly conservative at heart, but they will have to trend liberal to keep the blacks happy (recall that Hinson only won in '78 and '80 in Mississippi because the blacks in the Mississippi 4th district, dissatisfied with the white Democrat, ran a black independent).

For the administration to oppose any part of the VRA plays into the hands of the white Democratic party. When Jamie Whitten votes to keep the VRA intact, it is clear that even the most venerable man in Congress is scared to alienate the black vote (30%, by pop. in his district). Their strategy is to let the Republicans be the heavies. Hopefully this administration will take out the onerous provisions, or enforce them half-heartedly at Justice, and thus the Democrats in power in the South will continue to gerrymander themselves into perpetual power, while the blacks heap their obloquy on Ronald Reagan.

Let the last word on this particular point be said by Harry Dent, a Republican operative from South Carolina, who was quoted in the Post last July as follows:

> "The whole question is kind of passe in the South. But the question of voting rights is not passe for black people."

Pinkerton

~~10~~ ~~10~~ ~~10~~
9 9 9

Dent went on to say that most white southerners have "learned to live with it (the VRA)," meaning there is not much to be gained among them by an attempt to kill the act or seriously weaken it. But blacks do care deeply about the law, which in 15 years has greatly enhanced their political power throughout the South.

For all the consideration we have give to the VRA and its effect on Southern politics, some thought must be given to the impact any change in the VRA instituted by this administration would have on a marginal Republican constituency, the moderates and liberals.

Ronald Reagan got only a negligible number of black votes in the 1980 election, but that was not for lack of trying. The President worked hard to get his message across to blacks and other minorities, unfortunately with only limited success. However, the fact that he did try was widely noted and approved of by the media, which in turn communicated this image to the voters. Here is part of an article that appeared in the NY Times on 5 October.

> "Similarly, well advertised Republican Party appeals to blacks and black endorsements of Mr. Reagan were important to the party, according to Senate Majority Leader Howard H. Baker Jr. of Tenn. They may have won only a few votes, he said, but they 'made Republicans decent and acceptable to a lot of whites.' It erased 'that remnant of racism in the Republican image,' he added."

In my opinion the VRA is a key symbol to John Anderson-type voters, who are socioculturally of Republican stock. "Andersonism" has its roots in precisely the places where the Republican party took root 125 years ago--in Wisconsin, Illinois, Massachusets, Vermont, and Connecticut. I like to think of them as "post-industrial liberals;" that is, they are relatively conservative on economics, but liberal on social issues.

Most government programs that help blacks have a price tag, and the Andersonites flinch at the cost. But the VRA is essentially free, at least in the short run, and I'd be willing to bet that Andersonites support the VRA in numbers greater than even Northern Democrats.

These voters can be turned out for the right kind of Republican, such as Sen. Percy or Governor Thompson of Illinois. Both of them did very well in the black areas of Chicago, which enhanced

their status with the suburban Andersonites, who might otherwise be tempted to vote Democratic.

file – Voting rights act

Dear Mr. Attorney General:

We have already discussed on several occassions my views on the existing Voting Rights Act and the amendments reported by the Judiciary Committee. I will not review at great length the thoughts expressed in my letters of June 17, August 4, and September 16, 1981. I do, however, want to offer just a few reflections in light of this week's passage by the House of the Committee amendments.

I should first note the amendments that were made upon the floor. The House alleviated the problems presented by the pending case language by providing that a bailout suit need await the resolution of only those case pending at the time of the filing of the bailout. However, the House aggravated provisions of the Committee bill which had provided that bailout could be revoked for subsequent judgments only at the discretion of the court. The floor language will make recapture mandatory, a provision which I find needlessly punitive, especially in light of the discretionary approach taken toward the rest of the country in Section 3 (c) of the Act.

I know that you have already carefully considered your position on the existing Act, but I invite you to review the serious consequences of the House action. Not only are the bailout provisions unfair to covered jurisdictions, but I expect they will significantly increase the burdens upon your Department.

The House bill provides that a single Section 5 objection, final judgment, consent decree, settlement, or agreement will bar bailout for ten years. This will remove any possible reason for covered jurisdictions to settle disputes short of complete vindication. Any litigation in which the Department is involved may be confidently expected to continue through the last possible appeal, placing new strains on your resources. Moreover, it will become difficult to resolve Section 5 disputes through negotiation, as was done in the recent Virginia redistricting case. Rather than altering the original submission, a jurisdiction will have to proceed directly to the District Court in order to avoid the bar of the Act.

The House bill provides that a state may not bailout if any governmental unit within its territory is ineligible. Thus, a state will be compelled to litigate not only its own issues, but also those of all its subdivisions. There may be some small benefit in this, despite its basic unfairness, if states educate their subdivisions to avoid voting rights disputes. However, to the extent those disputes exist, states will have a strong incentive to force them to litigation when the subdivision in question might prefer to settle.

You should also realize that, under the House bill, the mere sending of examiners to a jurisdiction will bar bailout, regardless of their actual findings. This will greatly complicate the making of your decision to send in examiners in individual cases. The collateral consequences of that decision will be so devastating that officials and citizens in the affected area will quite reasonably expect you to have practically incontrovertible proof of wrongdoing before dispatching examiners. I am sure you will agree with me that you should be free to use examiners to investigate claims of violations without having to worry about these unfair consequences to possibly innocent jurisdictions.

The bailout test also provides that a jurisdiction must eliminate practices which "inhibit or dilute equal access to the electoral process. You will recall that in my letter of September 23, 1981, I asked you to explain your Department's definition of "dilution." Whether or not your Department has a clear understanding of the meaning of this concept, it is plain that neither the courts nor the Congress do, and that can only be a formula for additional litigation.

Finally, I direct your attention to Section 2 of the Act as mended by the House. The bill provides a nationwide, retroactive effects test whereby fully constitutional procedures, no matter when enacted, may be attacked on the basis that they result in some disadvantage to black voters. If there is in fact an implied private right of action under Section 2, there will undeniably be a massive increase in electoral litigation around the country.

I appreciate your attention to my thoughts on this matter. I am confident that the House will accede to changes in these areas if your Department effectively and forcefully explains these concerns before the Senate. I look forward to discussing these matters with you further as the debate proceeds.

With kind regards and best wishes, I am

cc: The Honorable Ronald Reagan

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 7, 1981

TO: Elizabeth H. Dole

FROM: Morton C. Blackwell

RE: Voting Rights Act

The October 2 letter to the President from the Attorney General regarding the Voting Rights Act outlines five possible actions for amending the Act. All of these options are much better than the outrageous bill passed by the House. The House bill has no termination date and extraordinarily complex bail out procedures which will almost certainly prove unworkable.

If the House bill is enacted it will almost certainly be the last Voter Rights Act. The federal bureaucrats will for the entire foreseeable future be dictating to states and counties through the pre-clearance provisons of the law. Any attempt to amend the law once enacted would surely fall to a left-wing filibuster.

The proponents of amending the House bill, in their various efforts, got 180 different House Members from 42 different states to support one or more proposed amendments.

Of the possible options discussed by the Attorney General, either of the first two options would be desirable.

No option should be seriously considered which does not have a statutory termination date for pre-clearance provisons.

We should not support any bail out provision which would (as the House bill would) make the mere sending of federal examiners into a state or county reason to stop the running of time on a bail out provision.

The closer we get to August, 6, 1982 the more anxious the radical civil rights activists will be to accept the best arrangement for extension they can get. Thus delay now would be in the interest of the eventual freeing of local governments from unnecessary and onerous pre-clearance provisions.

MEMORANDUM

file

THE WHITE HOUSE

WASHINGTON

October 7, 1981

Sent to Paul Wyrick
PWF
M.16 Wallace

TO: Elizabeth H. Dole

FROM: Morton C. Blackwell MB

RE: Voting Rights Act

The October 2 letter to the President from the Attorney General regarding the Voting Rights Act outlines five possible actions for amending the Act. All of these options are much better than the outrageous bill passed by the House. The House bill has no termination date and extraordinarily complex bail out procedures which will almost certainly prove unworkable.

If the House bill is enacted it will almost certainly be the last Voter Rights Act. The federal bureaucrats will for the entire foreseeable future be dictating to states and counties through the pre-clearance provisons of the law. Any attempt to amend the law once enacted would surely fall to a left-wing filibuster.

The proponents of amending the House bill, in their various efforts, got 180 different House Members from 42 different states to support one or more proposed amendments.

Of the possible options discussed by the Attorney General, either of the first two options would be desirable.

No option should be seriously considered which does not have a statutory termination date for pre-clearance provisons.

We should not support any bail out provision which would (as the House bill would) make the mere sending of federal examiners into a state or county reason to stop the running of time on a bail out provision.

The closer we get to August, 6, 1982 the more anxious the radical civil rights activists will be to accept the best arrangement for extension they can get. Thus delay now would be in the interest of the eventual freeing of local governments from unnecessary and onerous pre-clearance provisions.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release November 6, 1981

STATEMENT BY THE PRESIDENT

Several months ago in a speech, I said that voting was the most sacred right of free men and women. I pledged that as long as I am in a position to uphold the Constitution no barrier would ever come between a secret ballot and the citizen's right to cast one. Today I am reaffirming that commitment.

For this Nation to remain true to its principles, we cannot allow any American's vote to be denied, diluted or defiled. The right to vote is the crown jewel of American liberties, and we will not see its luster diminished.

To protect all our citizens, I believe the Voting Rights Act should and must be extended. It should be extended for ten years -- either through a direct extension of the Act or through a modified version of the new bill recently passed by the House of Representatives. At the same time, the bilingual ballot provision currently in the law should be extended so that it is concurrent with the other special provisions of the Act.

As a matter of fairness, I believe that states and localities which have respected the right to vote and have fully complied with the Act should be afforded an opportunity to "bail-out" from the special provisions of the Act. Toward that end, I will support amendments which incorporate reasonable "bail-out" provisions for States and other political subdivisions.

Further, I believe that the Act should retain the "intent" test under existing law, rather than changing to a new and untested "effects" standard.

There are aspects of this law, then, over which reasonable men may wish to engage in further dialogue in coming weeks. As this dialogue goes forward, however, let us do so in a spirit of full and total commitment to the basic rights of every citizen.

The Voting Rights Act is important to the sense of trust many Americans place in their Government's commitment to equal rights. Every American must know he or she can count on an equal chance and an equal vote. The decision we are announcing today benefits all of our citizens by making our democracy stronger and more available to everyone.

###

cc: EHD
RC
DL
TD

file

Document No. 018871CS

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/5/81 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. 10/7/81

SUBJECT: DOJ REPORT ON THE VOTING RIGHTS ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	HARPER	☐	☐
MEESE	☐	☐	JAMES	☐	☐
BAKER	☐	☑	MURPHY	☐	☐
DEAVER	☐	☑	NOFZIGER	☑	☐
STOCKMAN	☐	☐	WILLIAMSON	☑	☐
ALLEN	☐	☐	WEIDENBAUM	☐	☐
ANDERSON	☑	☐	HICKEY	☐	☐
BRADY/SPEAKES	☐	☐	MC COY	☐	☐
CANZERI	☐	☐	CEQ	☐	☐
DOLE	☑	☐	OSTP	☐	☐
FIELDING	☑	☐	USTP	☐	☐
FRIEDERSDORF	☑	☐	ROGERS	☐	☐
FULLER *(For Cabinet)*	☐	☑	______	☐	☐
GARRICK	☐	☐	______	☐	☐
GERGEN	☑	☐	______	☐	☐

Remarks:

Attached is the Attorney General's report on "Amending the Voting Rights Act."

Please review the materials and provide us with your views and recommendations by c.o.b. Wednesday, October 7, 1981.

NOTE: Several attachments were provided by Justice. They are listed on the "contents" page, but not attached. They will be made available upon request.

Richard G. Darman
Assistant to the President
and
Deputy to the Chief of Staff
(x-2702)

Office of the Attorney General
Washington, D.C. 20530

October 2, 1981

The President
The White House

Re: Amending the Voting Rights Act

Dear Mr. President:

In response to your letter of June 15, 1981, we have prepared the accompanying report on the question of amending the Voting Rights Act of 1965. Based on extensive review and analysis of (1) the Department's 16 years' experience in enforcing the Act, (2) the record of hearings before the Subcommittee on Civil and Constitutional Rights and resulting House bill, and (3) the views expressed by civil rights and other organizations and by federal, state, and local governmental officials and their staffs, we have concluded that, while the Voting Rights Act is responsible for substantial, indeed dramatic, progress toward the national goal of full political equality for all Americans, there remain areas of the country in which continued application of the Act's "special provisions" is warranted.

We have narrowed the host of possible options for amending the Act to five alternatives deserving of your serious consideration. Briefly summarized, these alternatives are:

(1) Substantial modification of the Act's "bail-out" standards and procedures so as to permit immediate bail-out for any covered jurisdiction with a record of compliance with the law for a period of years (five, six, or seven); a provision calling for automatic termination of the Act's special provisions in August 1992 could be included as a feature of this alternative.

(2) Substantial modification of the bail-out formula so as to permit automatic bail-out for any jurisdiction demonstrating that for a period of years (five, six, or seven) it made no change in its voting laws with a racially discriminatory purpose, nor otherwise denied or abridged voting rights in violation of the Fourteenth or Fifteenth Amendments; this alternative also could be coupled with automatic termination of the Act's special provisions in August 1992.

(3) Extension of the special provisions of the Act for an additional five years, with an automatic bail-out provision for utility and special service districts and for jurisdictions with either low minority population or high minority voter registration.

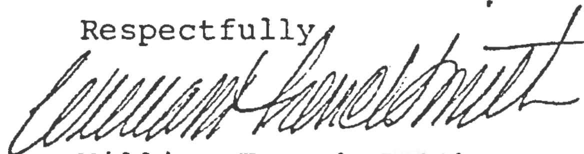
(4) Extension of the Act, without alteration, for a period not exceeding five years.

(5) Nationwide extension of the Act's special provisions for a period of years.

Attached to the report are supporting materials, including a memorandum summarizing the Act's salient provisions and reviewing the Department's experience in enforcing the Act.

We in the Department of Justice share fully in your commitment to equality in the political process for Americans of all races and we believe that thoughtful consideration of the enclosed report and supporting materials will contribute to the development of a just and sound Administration position on this important issue.

Respectfully,



William French Smith
Attorney General

CONTENTS

REPORT TO THE PRESIDENT ON AMENDING THE VOTING RIGHTS ACT

SUPPLEMENTAL MATERIAL

I. Act and summary

The provisions of the Voting Rights Act of 1965, as amended
- Attachment A - Text of the Act

II. Enforcement of the Act

Experience of the Department of Justice under the Act
- Attachment B - Jurisdictions covered under Section 4(b)
- Attachment C - Section 5 declaratory judgment actions since 1975
- Attachment D - Number of changes submitted under Section 5 and reviewed by the Department of Justice, by type
- Attachment E - Number of changes submitted under Section 5 and reviewed by the Department of Justice, by state
- Attachment F - Number of changes to which objections have been interposed, by state
- Attachment G - Listing of objections under Section 5, from 1965 to December 31, 1974
- Attachment H - Listing of objections under Section 5, from 1975 to September 18, 1981
- Attachment I - Final judgments since August 6, 1975, in which a federal court made a finding of discrimination in voting

III. Legislative activity

Bills to amend the Act

Office of the Attorney General
Washington, D.C. 20530

October 2, 1981

REPORT TO THE PRESIDENT

Re: Amending the Voting Rights Act

In order to comply with your request for a report on the question of amending the Voting Rights Act, we have reviewed the Department's experience over the past 16 years in enforcing the Act, have examined the record of the recent hearings of the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee and analyzed the bill reported by the House Committee, have considered the views of civil rights groups and other organizations, and have met with Members of Congress and their staffs, Governors and other state and local representatives.

Based on our analysis of the voluminous materials considered and the disparate views stated, certain general conclusions are readily apparent. First, substantial progress has been made since 1965, when the Act first took effect, in guaranteeing the right to vote to minority voters residing within the "covered" jurisdictions. Second, there has not yet been developed a record sufficient to demonstrate such a pervasive disregard for, or antipathy toward, minority voting rights in "noncovered" jurisdictions to support a nationwide extension of the Act's "special provisions". 1/ Third, there remains the need with respect to some--but certainly not all--of the presently "covered" jurisdictions to continue for an extended period the existing preclearance provisions of the Act, while at the same time providing a meaningful mechanism to provide other "covered" jurisdictions the opportunity to remove themselves from Section 5 coverage.

1/ While we later discuss nationwide application of the Act's "special provisions" as a possible alternative, such legislation would require full development of such a record.

With these considerations in mind, we have examined a number of possible options for amending the Act. The five alternative approaches set forth below seem to us to be most deserving of your consideration.

Alternative One calls for substantial modification of the current bail-out standards and procedures so as to make it possible for a jurisdiction with a record of compliance with the law for a period of years (e.g., five, six or seven) to "bail out." Any jurisdictions obtaining release from the "special provisions" under this amendment could, on a showing thereafter of a violation of the Act or the Fourteenth or Fifteenth Amendments, be brought back under the Section 5 preclearance provision by court order. This alternative could include as well a provision for automatic termination of the "special provisions" in August, 1992, with respect to those jurisdictions unable in the preceding ten years to avail themselves of the modified bail-out provision; however, automatic termination need not be a part of the first alternative.

Under the second alternative, the bail-out formula would differ to the extent that it permits a jurisdiction to obtain release from the special provisions on a showing that, for the past five, six or seven years, it made no change in its voting laws with discriminatory purpose and that it had not otherwise denied or abridged voting rights on the ground of race or membership in a language minority group, in violation of the Fourteenth or Fifteenth Amendments. Again, any jurisdiction able to bail out under this standard could be returned to Section 5 "coverage" by court order on a finding of a violation of the Act or the Constitution. Also, an automatic termination date in August 1992 would be optional.

The third alternative would extend the special provisions of the Act for an additional five years and would provide for automatic bail out for utility and special service districts, as well as for those jurisdictions determined to have low minority population or significantly high minority voter registration.

Fourth, mindful of the expressions of support among civil rights groups for a straight extension of the Act, without alteration, we have addressed below the option of simply adding three to five years to the life of the Act as it is now written. While this is, in our view, an unattractive alternative, it deserves consideration as part of your evaluation of the entire question.

Finally, we have included as a fifth alternative the proposal advocating nationwide application of the special provisions of the Act. While this option has the strong virtue of evenhanded treatment of all states with respect to enforcing the fundamental right to vote, it poses serious legal and practical questions which will require separate attention should the Administration determine to pursue this course.

BACKGROUND STATEMENT

a. Provisions of the Act. The Voting Rights Act consists of (1) permanent provisions that apply nationwide and (2) temporary, "special" provisions that apply to states and counties that come within the Act's coverage formulas. The most significant special provision is Section 5, which requires covered jurisdictions to obtain federal preclearance, from the Attorney General or the U.S. District Court for the District of Columbia, before implementing any changes in voting laws. 2/

2/ Six southern states (Alabama, Georgia, Louisiana, Mississippi, South Carolina and Virginia), one-half of the counties of North Carolina, and scattered jurisdictions elsewhere became subject to the special provisions in 1965 and are still covered.

In 1970, the coverage formula was amended, with the result that certain counties in Arizona, California, and New York became subject to the special provisions.

As a result of 1975 amendments, the States of Alaska, Arizona, and Texas and a number of jurisdictions in other states are subject to the special provisions.

Contrary to a common misunderstanding of the legislation, operation of the special provisions does not automatically expire next year. Rather, to terminate their operation, a jurisdiction which became covered in 1965, or thereafter, must--as the law presently provides--obtain a "bail-out" judgment from the U.S. District Court for the District of Columbia upon a showing that there has been no discriminatory use of a "test or device" in connection with voting activities over an extended period--which effectively dates back to when the jurisdiction first became "covered."

The cause for current attention to the Voting Rights Act is that, unless Congress enacts an amendment, those states that became subject to the special provisions in 1965 will be able to make the requisite showing to end coverage soon after August 1982 (i.e., not having used a prohibited "test or device" for the prescribed period). Faced with this prospect, the legislators are now wrestling with the question whether to extend the duration of coverage of Section 5 and the other special provisions and, if so, in what manner.

b. House Judiciary Committee bill. On July 31, 1981, the House Judiciary Committee voted to report a bill that would extend the duration of the Act and modify the bail-out provision in a way that would make it extremely difficult for a "covered" jurisdiction to obtain a bail-out judgment. The Committee bill went to the floor of the House on October 2, 1981. Because the bail-out standards of the bill, as reported, would be exceedingly difficult to meet, we do not favor it.

THE NEED FOR SECTION 5

A basic purpose of the 1965 Act was to provide remedies to those being deprived of their right to vote that would not be dependent upon prolonged and unduly expensive Government-initiated litigation. The preclearance requirement of Section 5 is the key mechanism for achieving that end. 3/ The significance of Section 5 is that it shifts to the "covered" jurisdictions the burden of justifying proposed changes in voting laws. Unless the jurisdiction

---

3/ In 1970, Congress extended the duration of the special provisions and did so primarily to continue the protections of Section 5. Congress acted on the basis of evidence that, in many covered jurisdictions, as black registration increased, efforts were made through other techniques (i.e., redistricting, annexations, etc.) to dilute the voting strength of blacks. Section 5 proved to be an effective means of preventing or remedying such efforts.

In 1975, Congress determined that the risk of attempts to dilute the votes of members of minority groups still existed and that further extension of Section 5 was needed.

These same witnesses also referred to past and pending lawsuits to enforce Section 5 (*i.e.*, suits by this Department or by private persons to enjoin implementation of changes that have not been precleared or to bar implementation of changes objected to by the Attorney General) as compelling evidence that the provision is still necessary. In addition, they looked to the nature of the changes that were the subject of Department objections as support for continuing Section 5. More than 80 percent of the objections are to redistrictings, annexations, or changes in method of election (*e.g.*, an at-large requirement for election to a particular office). These voting changes, it was argued, bear directly on the nature and quality of representation which elected officials afford to citizens, including minority citizens, within their districts, and therefore require the closest scrutiny to ensure that they do not have the effect of diluting the minority vote. Because a large portion of the reapportionments made necessary by the 1980 Census will occur after August 1982, particularly at the county and city levels, there was strong resistance to abandonment of Section 5 preclearance of such changes. Extension of the Act beyond 1982 was thus considered necessary to insure full application of Section 5 to reapportionments in the 1965-covered states.

The Department is of the view that the above concerns have merit, and therefore it seems inappropriate to repeal Section 5 or, by congressional inaction, to permit all 1965-covered states to bail out under the existing statutory formula soon after August 1982. Rather, extension of Section 5 with a modified bail-out standard seems to us to be a more sensible and fair approach. In this way, the stated concerns expressed at the House hearings can be fully answered with respect to those "covered" jurisdictions whose past behavior has fostered such concerns, without requiring continued preclearance for other "covered" jurisdictions which have demonstrated by their conduct that they are not properly the subject of such concerns.

RECOMMENDATIONS FOR AMENDING THE ACT

I. Modified bail-out provisions.

The first two alternatives that we recommend endorse the general concept of the House Committee bill--adding a bail-out standard that seeks to measure compliance with the Act, and per-

meets this burden and thereby obtains preclearance from the Attorney General, or from the U.S. District Court for the District of Columbia, of the particular change submitted for review, that change is not to be implemented. 4/

The number of changes submitted to this Department since enactment of the statute in 1965 has exceeded 35,000. The vast majority of these submissions received preclearance. 5/ Even so, we think it is inappropriate to point to the relatively small number of objections as indicating that Section 5 preclearance should be totally abandoned. A recognized value of Section 5 is its prophylactic effect; state and local officials in "covered" jurisdictions often do take pains to structure their voting changes to avoid a possible objection. This deterrent aspect of the special provisions was highlighted by witnesses in the recent House hearings who argued strongly for continuing Section 5. They described problems in the electoral process in a number of "covered" jurisdictions--problems suggesting a risk that, without the requirement of preclearance, discriminatory changes in voting laws could be expected. 6/

4/ Suits to enforce Section 5 may be brought by this Department or by private persons. Such actions seek to enjoin implementation of a change that has not been precleared. The issues are whether the law is subject to Section 5 and, if so, whether it has been precleared. The merits of the proposed change are not adjudicated in such a suit.

5/ The total number of changes objected to by this Department is 684, or less than two percent of the changes submitted. Some 400 of these objections have occurred since 1975. (These statistics do not include objections which, absent any modification of the proposed change, were withdrawn by the Attorney General.)

6/ Of course, the objections made by this Department, as well as court decisions denying preclearance of changes, indicate that, even with coverage by Section 5, some jurisdictions fail to address with racial fairness key aspects of the electoral process.

These same witnesses also referred to past and pending lawsuits to enforce Section 5 (*i.e.*, suits by this Department or by private persons to enjoin implementation of changes that have not been precleared or to bar implementation of changes objected to by the Attorney General) as compelling evidence that the provision is still necessary. In addition, they looked to the nature of the changes that were the subject of Department objections as support for continuing Section 5. More than 80 percent of the objections are to redistrictings, annexations, or changes in method of election (*e.g.*, an at-large requirement for election to a particular office). These voting changes, it was argued, bear directly on the nature and quality of representation which elected officials afford to citizens, including minority citizens, within their districts, and therefore require the closest scrutiny to ensure that they do not have the effect of diluting the minority vote. Because a large portion of the reapportionments made necessary by the 1980 Census will occur after August 1982, particularly at the county and city levels, there was strong resistance to abandonment of Section 5 preclearance of such changes. Extension of the Act beyond 1982 was thus considered necessary to insure full application of Section 5 to reapportionments in the 1965-covered states.

The Department is of the view that the above concerns have merit, and therefore it seems inappropriate to repeal Section 5 or, by congressional inaction, to permit all 1965-covered states to bail out under the existing statutory formula soon after August 1982. Rather, extension of Section 5 with a modified bail-out standard seems to us to be a more sensible and fair approach. In this way, the stated concerns expressed at the House hearings can be fully answered with respect to those "covered" jurisdictions whose past behavior has fostered such concerns, without requiring continued preclearance for other "covered" jurisdictions which have demonstrated by their conduct that they are not properly the subject of such concerns.

RECOMMENDATIONS FOR AMENDING THE ACT

I. Modified bail-out provisions.

The first two alternatives that we recommend endorse the general concept of the House Committee bill--adding a bail-out standard that seeks to measure compliance with the Act, and per-

mitting separate bail-out suits by counties in a fully covered state. However, to obtain a workable bail-out provision, it is our view that substantial changes in the Committee bill are necessary. 7/

A. Alternative One.

Under this alternative, we propose an amendment to Section 4(a) of the Act--the current bail-out provision -- so as (1) to make early bail-out a realistic possibility for any state or county that has a record of compliance with the Act for the past seven years, and (2) to permit automatic bail-out by any county whose minority population is below a specified minimum and by special districts. The essential elements of this proposal are explained below.

1. Bail-out procedures. Section 4(a) would be amended to replace the present bail-out provision with one which would permit a separate bail-out action to be brought by any "covered" state or by an individual county subject to Section 5 coverage (whether as a result of being located in a "covered" state or as a result of independent "coverage"). In addition, the Act would be amended to permit such a jurisdiction to bring a bail-out suit in the local federal district court. (At present, such suits may be brought only in the District of Columbia.) 8/

7/ The bail-out provision of the Committee bill is a modified version of an approach proposed by Congressman Hyde.

8/ We do not propose amending the requirement that Section 5 preclearance suits be brought in the District of Columbia.

These changes to the bail-out procedures would be significant. No longer would the ability of a county in a "covered" state to secure a bail-out judgment depend upon the ability of all other counties and the state itself to meet the bail-out standard, which is the Supreme Court's interpretation under the current law. City of Rome v. United States, 446 U.S. 156 (1980). In addition, no longer would it be necessary for the jurisdictions seeking relief to come to the District of Columbia to file suit.

A related issue is how to handle bail out by cities and other entities below the county level. While our preference is to treat these jurisdictions in the same manner as other "covered" jurisdictions for bail-out purposes, the practicalities of administration due to the large number (over 5,000) of such localities suggest a need for some procedural differences in processing these bail-out suits.

We therefore contemplate that initially counties capable of demonstrating compliance would bring bail-out suits on behalf of themselves and other political subdivisions within the county; all entities able to satisfy the bail-out criteria would be released; the others would remain "covered." As for political subdivisions within those counties that are unable to meet the bail-out standard, they could, after some specified period following enactment of the amendment (e.g., two or three years) 9/ commence Section 4(a) litigation on behalf of themselves, the county and its subdivisions to obtain release from the special provisions; again all participating entities entitled to relief could bail-out, and the others (including the county if appropriate) would remain "covered."

9/ The "waiting period" applicable to political subdivisions in those counties that do not elect to seek a bail-out judgment in the first instance is included in our proposal in recognition of the heavy administrative burden that would be placed on the courts and this Department if access to the courts for so large a number of entities were not "staggered" in some reasonable way by the legislation.

2. Bail-out standard. Under present Section 4(a), the sole issue in a bail-out action is whether, during the specified period, there was discriminatory use of a "test or device." Our proposal would add the following new, alternative grounds for bail-out. 10/

(a) Low-minority population. The central problem now addressed by the Act is dilution of voting rights through such practices as at-large elections or racial gerrymandering. Such problems are unlikely to occur in an area whose minority population is small. In general, our experience suggests that the benefits of exempting such areas from the special provisions outweigh possible risks.

Alternative One proposes automatic bail-out on a determination by the Director of the Census--i.e., a determination, based on the 1980 Census--that neither blacks nor any language minority group accounts for more than five percent of the county's citizen voting-age population and that, for each of the respective groups, the absolute number of citizens of voting age is less than 3,000. 11/

10/ The non-use of a prohibited "test or device" would remain as one of the elements of our bail-out standard addressing the matter of compliance with the Act.

11/ Based upon available information, our best estimate is that some 107 out of 888 counties (or equivalent units) could obtain automatic bail-out under this standard. In light of the availability of bail-out based on compliance with the Act, we do not believe any useful purpose exists to attempt to expand the automatic criterion beyond the recommended limitation to counties only.

(b) Utility and Special Service Districts. Such districts are currently covered by the special provisions but no need for such coverage appears to exist. An automatic bail out, without court proceedings, for such districts would be allowed under this alternative.

(c) Compliance with the Act. In addition to (a) and (b) above, our recommended bail-out provision would permit a state or county to obtain a bail-out judgment by proving, with respect to the preceding five, six or seven years, 12/ that it meets all of the following enumerated criteria regarding compliance with the Act:

(1) no objections under Section 5, except for (i) objections relating to voting changes that subsequently received judicial preclearance or instances where, in the absence of alteration ation of the proposed change, the Attorney General withdrew the objection, and (ii) objections to redistricting plans where the jurisdiction can demonstrate that it was able to cure the objection and the original plan was not made with discriminatory intent;

(2) no unjustified implementation of voting changes which have not been precleared;

(3) no violation, with regard to registration practices or the conduct of elections, of the nondiscrimination requirements of Section 2 of the Act and the Fourteenth and Fifteenth Amendments;

(4) no use of a test or device with the purpose or effect of discriminating against any racial or language minority; and;

(5) no final judgment entered by a federal or state court determining that the jurisdiction had engaged in voting discrimination in violation of the Act or the Constitution.

A further prerequisite for bail-out under our formula would be completion, with Section 5 preclearance, of any redistricting required as a result of the 1980 Census. Some "covered" jurisdictions will have met this requirement by the time of enactment of the amendments. However, many others will not.

Bail-out suits under this standard would be complex. Still, the standards would be fair from the standpoint of both the covered jurisdiction and its minority citizens. In contrast to the present Act, which lumps all the subdivisions of a covered

---

12/ Thus, a jurisdiction which sought to bail out in 1982 would, if a seven-year period was selected, have to meet the criteria for the period beginning with the 1975 extension of the Act.

state together for the purpose of bail-out, our proposal would treat each county separately and bail-out would depend upon the compliance history of the particular county. 13/

In some cases, bail out soon after enactment of the amendments would be possible. Other jurisdictions would have an incentive to comply with the Act's requirements and thus to become eligible for bail-out. In either event, a jurisdiction released from Section 5 coverage on a showing of compliance would be subject to the jurisdiction of the court granting such relief for a period of five years, and on a showing of a subsequent violation of the Act, that court would order the jurisdiction to be placed back under the preclearance and other special provisions.

Logic suggests that there should be no compelling need under this approach to include any cut-off date, i.e. a jurisdiction would be covered until such time as it was able to demonstrate the required period of compliance. An alternative, however, would be to add to the modified bail-out requirements a "sunset" provision that coverage by the special provisions would automatically terminate in August 1992.

13/ We are not able to determine with precision what the effects of our proposed bail-out standards would be, i.e., the number of jurisdictions that would be unable, soon after enactment, to meet the various criteria. We do have the following information regarding certain of the criteria:

Since August, 1975, seven of the covered states have received a Section 5 objection or the denial of judicial preclearance with respect to a state law. The corresponding number for counties is 66; for cities or towns, 70; and for school districts, 57.

With regard to discriminatory use of a literacy test, it is unlikely that any 1965- or 1970-covered jurisdiction committed such a violation since August, 1975. For 1975-covered jurisdictions, the "test or device" issue relates to use of English-only elections; we have only limited information regarding compliance with that aspect of the Act.

According to our information, since August, 1975, judicial findings of voting discrimination have been made with respect to five of the covered counties and five units below the county level.

More detailed information with regard to the above summary is contained in the supporting materials accompanying this report.

The disadvantages of Alternative One are practical problems that may result from bail-out litigation. 14/ The issues in such suits would include compliance with Section 5 and the conduct of registration and voting over a seven-year period. Because of the nature of the issues, the processes of discovery and trial may be quite burdensome. The burdens upon this Department, which defends all such suits, would be especially great. 15/ In addition, the amendments would raise a variety of legal issues, and appeals regarding such matters seem likely. Ultimate resolution by the Supreme Court may be necessary. 16/

B. Alternative Two.

1. Bail-out procedures. This alternative looks to a different bail-out standard, but retains the same procedural elements discussed above in Alternative One.

2. Bail-out standard. Under Alternative Two, automatic release for low-minority population and for utility and special service districts would be available (see the discussion under Alternative One). In addition, a jurisdiction could bail out on proof that, during the preceding seven years, (1) it did not deny or abridge voting rights on the ground of race or member-

---

14/ These problems are aggravated by the fact that the bailout process would relate not only to covered states and counties, but also to cities and other subunits.

15/ The Administration should not support this approach unless it is prepared to seek the additional resources needed to carry out this Department's responsibilities under the Act.

16/ The "compliance" criterion which likely will cause the greatest amount of litigation is the one pertaining to the conduct of registration and voting over a seven-year period. While an argument can be made for eliminating this requirement from the bail-out standard, our view is that it reaches precisely the kind of conduct which occupied much of the testimony in the House hearings. The concern was that irregularities in registration and balloting were still used in "covered" jurisdictions to deny minorities the vote, and such activities are frequently not the subject of Department objections or court suits. If a "covered" jurisdiction has satisfied the other criteria and is able to demonstrate no such irregularities over the past seven years, it certainly is entitled to bail-out relief. On the other hand, where that burden cannot be met, we believe the jurisdiction should remain subject to Section 5 scrutiny.

ship in a language minority group in violation of the Fourteenth or Fifteenth Amendment and (2) it did not make any change in its voting laws with discriminatory purpose or intent. Completion of post-1980 redistricting would continue to be a prerequisite for a bail-out judgment under this option. 17/ Also, any jurisdiction obtaining release from Section 5 and the special provisions under this standard would remain subject to court jurisdiction for five years and would, on the finding of a violation, be returned to "coverage".

Alternative Two would not require a "covered" jurisdiction to demonstrate as a condition of bail out, that it had complied with the procedural requirements of Section 5 -- e.g., that it had made submissions to the Department of Justice or the District Court for the District of Columbia of all voting changes, or had a justifiable reason for failing to do so. Nor would it be fatal in a bail-out suit that the jurisdiction had received an objection under the Act, so long as it could show that the objected-to change was not based on purposeful discrimination. In addition, use of a "test or device" could escape condemnation in a bail-out suit if use of the "test or device" was shown only to have had a discriminatory effect, not a racial purpose. 18/

17/ It would be optional whether or not to include in Alternative Two a termination date of August, 1992.

18/ Regarding the 1965- and 1970-covered states, this distinction would have no practical significance. Such jurisdictions have not used literacy tests since at least 1975. For the 1975-covered states, however, a different concept of test applies, i.e., use of English-only elections. For them, permitting bail-out on the above theory could be significant.

On the other hand, the bail-out standard under Alternative Two would impose a more stringent standard than the Alternative One formula in one significant respect. Jurisdictions maintaining an at-large election system would have the difficult burden of demonstrating that the at-large system was not purposefully designed or maintained to frustrate minority voting strength. No such bar to bail-out would exist in the first alternative. 19/

It should be pointed out that Alternative Two will impose at least as many administrative burdens on this Department and the courts as Alternative One. Because each bail-out suit under the constitutional standard will require extensive litigation, the "logjam" that will inevitably result in district courts responsible for resolving the relevant issues in the large number of suits to be filed can be expected to prolong the judicial process attendant to bail-out for inordinate periods of time, and at considerable expense.

C. Alternative Three.

Proposals calling for simple extension of the Act, without alteration, have been forcefully criticized on the ground that the Act's special provisions would continue to cover certain jurisdictions as to which logic and experience indicate that such coverage is unnecessary.

Under Alternative Three, the Act would be extended for an additional five years, but would permit automatic bail-out for jurisdictions having the requisite low minority population and for utilities and special service districts (see the discussion under Alternative One).

19/ One of the elements of the standard in Alternative One is nondiscrimination in registration practices and the conduct of elections. The proposal would make clear that this criterion does not encompass maintenance of an at-large election system.

In addition, in counties and cities in which minority voter registration is high in relation to that of whites, a central aim of the Act would appear to have been accomplished. Exempting from the Act's special provisions such jurisdictions with high minority voter registration would provide an incentive to jurisdictions with poor records of minority voter registration to conduct a thorough self-examination and take affirmative steps to remove any existing barriers to minority registration.

Under Alternative Three, a county or city could bail out on a showing by the jurisdiction's voting registrar that the rates of voter registration for blacks and for language minority groups exceed 65 percent and are equal to or greater than the white voter registration rate. 20/ If at any time during the two years immediately following bail-out under this provision, the exempted jurisdiction's rate of minority voter registration falls below 65 percent, or falls below the rate of white voter registration, the exempted jurisdiction would again become subject to the special provisions of the Act.

In our view, there are discernable problems with the registration aspect of this option. Registration is no longer the central problem addressed by the Act. Since 1970, Congress' primary concern has been dilution-*i.e.*, practices, such as racial gerrymandering or use of at-large systems--that in many instances are adopted because minority registration has increased. Thus, a bail-out formula that pertains solely to levels of registration could mean ending coverage of a jurisdiction that had engaged in, or but for a denial of preclearance would have engaged in, dilution of minority voting rights.

20/ No states could avail themselves of this bail-out provision, since voter registration is conducted at the county and city level. Nor could units below the county level bail out if the county did not satisfy this requirement.

Moreover, at present, very few jurisdictions have records on the race of persons registered to vote. Of course, if the Act were amended to provide for bail-out based on registration rates, steps to obtain the racial data could be taken, e.g., by requiring re-registration, with identification of the race of each registrant. Such steps would require Section 5 preclearance and could themselves become the source of controversy.

Finally, there may be a risk that some jurisdictions would attempt to manipulate registration, either in terms of whites perhaps engaging in efforts to coerce members of minority groups to register, or, conversely, in terms of minority groups discouraging black voters from registering, so that registration levels remain sufficiently below the bail-out standard to retain coverage of a jurisdiction under Section 5. 21/

Balanced against these negative arguments is, of course, the ease of administration of such a bail-out provision, especially when compared with Alternatives One and Two. To the extent that simplicity and ease of operation are virtues, this option offers objective criteria which should cause little burden or expense to implement.

II. Simple extension or nationwide coverage.

A. Alternative Four.

Bills introduced in April, 1981, by Congressman Rodino and by Senator Mathias would extend the special provisions, without change, for ten years. A 1965-covered state would not be able to bail out until after August, 1992. Under these bills, as under the present Act, a county in a fully covered state could not bring a separate bail-out action.

21/ Another concern is that this approach might be looked on by critics as reflecting a belief that the Act requires racial balance in the electorate--i.e., effectively a quota system.

In our view, a ten-year extension of the Act, without modification, would be undesirable. It is fully agreed that the Voting Rights Act sets up a dual enforcement mechanism for safeguarding the constitutional right of all citizens to vote. In 1965, there was ample justification for enacting such legislation. Today, however, more than 15 years later, legitimate questions have been raised as to whether such duality should be perpetuated without modification. No one who has engaged in the debate has suggested a desire to legislate in a manner that would deny or abridge voting rights. But it has been observed--and properly so--that many "covered" jurisdictions that could have been faulted in 1965 cannot on the record of the past 16 years fairly be faulted today.

To continue to subject those jurisdictions to Section 5 preclearance requirements is fundamentally unfair. It not only imposes expensive administrative burdens on them not shared by "noncovered" jurisdictions similarly situated, but it subjects them, and the voting changes they wish to adopt, to a stricter standard of compliance than the Constitution demands. For such uneven treatment to continue, based on 1965 conduct that Congress cannot today say has been, or is being, repeated in all covered jurisdictions, raises serious and very legitimate concerns. "Covered" jurisdictions with a commendable voting record in recent years, therefore, have ample reason to complain about a proposed flat extension of the Act's present provisions.

Nonetheless, in view of support by some Members of Congress for a simple extension, we have also included this option for consideration. Our fourth alternative is just such a proposal, but we would limit any such extension to no more than five years. (The extension could be for three or four years.)

The advantages of such an approach are that it would eliminate subsequent controversy over statutory construction of new language, would eliminate the expenses involved under a modified bail-out provision, and would result in less of an administrative burden on the Department than would be the case under our alternative bail-out recommendations.

We prefer the shorter time frame to a ten-year extension since the shorter period would be sufficient to encompass most of the post-1980 redistricting without prolonging unneces-

sarily the unfair treatment of "covered" jurisdictions with a record of compliance. Plainly, this alternative invites Congress to address again the fundamental questions regarding Section 5 coverage in the near future.

B. Alternative Five.

The final alternative for consideration is the proposal that has been advanced in Congress and elsewhere, urging a modification of the Act to extend Section 5 and the special provisions nationwide. This change would mean that all states, and all political subdivisions within the states, would be required to preclear their voting changes with the Department or the United States District Court for the District of Columbia.

In order for this alternative to become viable, Congress would have to develop a sufficient record foundation to support nationwide application of Section 5. The duration of such a legislative amendment would necessarily depend on the evidence of need developed in congressional hearings. What is necessary is a compelling showing that voting discrimination outside the "covered" jurisdictions exists on a large-scale basis such as to justify nationwide relief. The hearings on the proposed House bill do not speak to this issue. Moreover, the tremendous administrative burden that would be placed on the Department of Justice under Alternative Five argues forcefully against any such approach. 22/

22/ While an alternative to nationwide application might be addition of a coverage formula based upon current population, voting, and registration data, it is doubtful that a satisfactory formula could be devised. A substantial practical problem is the lack of complete or accurate data on the race of persons registered to voted. Very few states keep such records.

OTHER CONSIDERATIONS

A. Standard under Section 2 of the Act.

Another issue before Congress is whether an "effects" test should be added to Section 2, which is the permanent prohibition against denial or abridgement of voting rights on account of race. The bill reported by the House Judiciary Committee includes an amendment to this effect. The objective of this amendment is to facilitate challenges to the at-large method of elections and other practices that dilute the voting rights of minority groups.

We are opposed to including in the Administration proposal any amendment of Section 2 that suggests the incorporation of an "effects" test.

B. Bilingual elections.

Under Section 203 of the Act, which was added in 1975, certain counties are required to conduct elections in the language of pertinent language minority groups, 23/ as well as in English. This requirement applies for a period of ten years (to August, 1985). The House Committee bill would extend the duration of this requirement for seven years, until August, 1992. In light of the fact that 1980 Census information on language minority groups will not be available for some time, thereby making it difficult to undertake a meaningful analysis of Section 203 at this time, we do not now recommend any amendment to that provision. 24/

23/ The Act's definition of "language minority group" includes Hispanics, American Indians, Asian Americans, and Alaskan Natives.

24/ A jurisdiction subject both to Section 4(a) and to Section 203 would, under our proposal, have to continue to meet the requirements of Section 203 for the requisite statutory period, even though it was able to obtain a bail-out judgment under Section 4(a).

We considered exempting from the bilingual-election requirements of Section 203 any jurisdiction in a state that has a state law providing equal or greater protection for language minority groups. It is our view, however, that such a provision would have little practical effect; almost half the jurisdictions subject to Section 203 requirements are also subject to Section 4 of the Act. Accordingly, they would be required to satisfy the compliance criteria for bail-out under any circumstances. 25/

C. Retention of Jurisdiction.

As earlier indicated, we propose that the current provision that a district court retain jurisdiction for five years 26/ following a successful bail out be maintained under any of the above proposals. 27/

25/ Many counties are covered by both Section 4(a) and Section 203. For example, in Alaska, Arizona, and Texas, all the Section 203 jurisdictions are also subject to Section 4. Termination of Section 203 coverage does not affect operation of Section 4(a), which also imposes a bilingual-election requirement (set forth in Section 4(f)) on 1975-covered jurisdictions. A state law requiring bilingual elections would not address concerns that caused Congress, in 1975, to extend the coverage of Section 5.

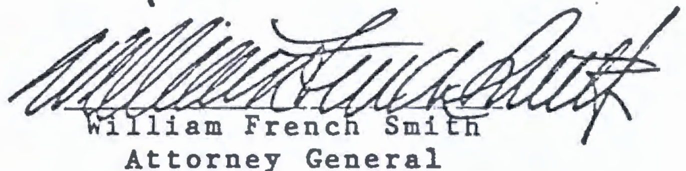
26/ The five-year period of retained jurisdiction as to each political subdivision would commence as of the date that subdivision was allowed to bail out.

27/ The House Committee bill extends the period to ten years, expands the grounds for reopening and allows any "aggrieved person" to seek such relief.

We suggest further that the present ground for reopening--use of a test or device--be expanded to include: enacting or implementing a new voting law that is discriminatory in violation of Section 2 of the Act; an adverse court decision in a voting discrimination suit; discrimination in registration practices or the conduct of elections; or any other violation of the constitutional prohibition against racial discrimination in voting. Upon a finding of a violation, the jurisdiction would again be subject to the special provisions of the Act, including Section 5. 28/

CONCLUSION

The foregoing discussion of alternatives provides sufficient flexibility to adopt any one of the above options in its entirety, or to select different features of several options. To assist you in your analysis, a summary of the Act and a description of the Department's enforcement experiences under it, with appropriate supporting materials, accompanies this memorandum. Additional information can be provided on request.



William French Smith
Attorney General

cc: Fred F. Fielding
Counsel to the President

28/ In addition, Section 3(c) of the Act permits courts to impose a Section 5-type preclearance requirement as a remedy for a violation of the Act by a "non-covered" jurisdiction. We propose certain technical changes in this provision to make the substantive remedy more effective.

I. The Provisions of the Voting Rights Act, as amended

A. Overview

The Voting Rights Acts of 1965 consisted of (1) permanent provisions of general applicability and (2) special, temporary provisions that applied only to states or counties that had used a literacy test and had low voter participation. The special provisions included Section 4(a), which suspended the use of literacy tests as a condition for voting, and Section 5, which required the covered jurisdictions to obtain federal preclearance before implementing any change in voting laws.

Under the coverage formula of the 1965 Act, the special provisions applied to certain states and counties in the South 1/ and to a few jurisdictions elsewhere. Section 4(a) provided that a covered jurisdiction could terminate application of the special provisions by bringing a declaratory judgment action against the United States (a "bail-out" action) and proving that, during the preceding five years, it had made no racially discriminatory use of a literacy test for voting.

In 1970, Congress extended for five years the period of application of the special provisions to the states that became covered in 1965. In addition, a number of other jurisdictions, including certain counties in Arizona, California and New York, were brought under the special provisions as a result of 1970 amendments to the coverage formula. Another provision added in 1970 was Section 201, which extended to all states a temporary ban on literacy tests as a condition for voting.

Under amendments enacted in 1975, the time period for bail-out suits by the jurisdictions that became covered in 1965 or 1970 was increased by seven years. In addition, the coverage formula of Section 4(b) was amended to encompass certain states or counties that conducted elections only in English and had low voter participation. The latter change applies, for example, to Texas, Arizona and Alaska and makes them subject to Section 5 and to a requirement that elections be conducted in the language of pertinent "language minority groups," as well as in English. 2/ A similar requirement of bilingual elections was added with regard to jurisdictions coming within a separate formula provided in Section 203 of the Act.

1/ The states of Alabama, Georgia, Louisiana, Mississippi, South Carolina and Virginia and approximately one-half of the counties in North Carolina became subject to the special provisions in 1965.

2/ The Act's definition of "language minority group" includes Hispanics, American Indians, Alaskan Natives and Asian Americans.

Section 201 was amended in 1975 to make permanent the nationwide prohibition against use of literacy tests as a condition for voting.

B. Summary of the provisions of the Voting Rights Act

The main provisions of the Act, as amended, 3/ may be summarized as follows:

1. Special provisions. The special provisions of the Voting Rights Act apply to the states and subdivisions that are within the 1965, 1970 or 1975 coverage formula of Section 4(b) and that have not succeeded in obtaining a bail-out judgment. 4/ For a list of covered jurisdictions, see Attachment B.

a. Section 4, 42 U.S.C. 1973b, contains the basic special provisions, *i.e.*, Section 4(a), which provides for the suspension of tests and for bail-out suits; and Section 4(b), which sets forth the coverage formulas.

b. Section 5, 42 U.S.C. 1973c, requires preclearance of changes in the voting laws of jurisdictions that are covered by Section 4(b). For example, a state or county (or a political subunit) that is covered by virtue of the 1965 formula may not implement a voting law different from that in effect on November 1, 1964, unless it obtains federal preclearance. The most frequently used form of preclearance is for a covered jurisdiction to submit a proposed change to the Attorney General; if the Attorney General does not object to the change within 60 days, it may then be implemented. The alternative is for the jurisdiction to bring, in the U.S. District Court for the District of Columbia, an action for a declaratory judgment that the change does not have the purpose and will not have the effect of denying voting rights on account of race or membership in a language minority group. See, *e.g.*, City of Rome v. United States. In such a preclearance suit, the defendant is the United States, and the plaintiff has the burden of proving the absence of discriminatory purpose and effect.

3/ The provisions of the Act are codified in 42 U.S.C. 1973 to 1973 bb-1. Attachment A is a copy of the Act, as amended.

4/ When an entire state is covered by the special provisions, only the state (not individual political subdivisions within it) can bail out. City of Rome v. United States, 446 U.S. 156, 167-169 (1980). When only some of a state's political subdivisions are covered, those subdivisions may bail out on an individual basis.

In the event that a jurisdiction subject to Section 5 attempts to implement a new voting law without obtaining preclearance, the Attorney General or a private person may sue to enjoin implementation of the law. Actions of this type by the Attorney General are expressly authorized by Section 12(d), 42 U.S.C. 1973j(d), and are brought, not in the District of Columbia, but in the local district court. The issues are limited to whether the law is within the scope of Section 5 and, if so, whether preclearance has been obtained. The issue of entitlement to preclearance, i.e., deciding whether lack of discriminatory purpose and effect has been shown, may be litigated only in the District of Columbia. See Section 5, 42 U.S.C. 1973c, and Section 14(b), 42 U.S.C. 1973l(b).

c. Section 6, 42 U.S.C. 1973d, deals with the appointment of federal examiners, i.e., persons appointed by the Office of Personnel Management whose function is to determine voting qualifications and to prepare lists of persons eligible to vote. There are two ways in which a political subdivision may be designated for the appointment of examiners--an order of a federal court, under Section 3(a), in a suit brought by the Attorney General or an aggrieved individual; or a certification by the Attorney General pursuant to Section 6. Such a certification by the Attorney General may be made only with respect to a political subdivision that is covered by Section 4(b).

d. Section 8, 42 U.S.C. 1973f, authorizes the Attorney General to direct the assignment of federal observers to elections in any county where "an examiner is serving." This provision has been interpreted to permit the assignment of observers to any county for which an examiner certification has been made.

Under Section 8, federal observers are authorized to be present at polling places and the places where votes are counted. They are to report (e.g., on any complaints) to a federal examiner who is present at the election.

e. Unless the Act is amended, it appears that, in August 1982 or soon afterwards, most of the states that became covered in 1965 may be able to make the showing needed to obtain a bail-out judgment. That is, they may be able to prove that there has been no racially discriminatory use of a literacy test during the preceding 17 years. 5/ The Act requires the Attorney General

---

5/ A 17-year standard is also applicable to the jurisdictions covered by virtue of the 1970 formula. For most of them, unless the Act is amended, bail-out will be possible after 1987.

A ten-year standard applies to jurisdictions, such as Texas, that became subject to the special provisions in 1975.

to consent to entry of a bail-out judgment if he has no reason to believe that such use of a literacy test occurred during the pertinent period. 6/

Under present Section 4(a), a bail-out suit must be brought in the U.S. District Court for the District of Columbia. When a bail-out judgment is granted, the court is to retain jurisdiction for five years and is to reopen the action upon a motion by the Attorney General alleging discriminatory use of a literacy test. 7/

2. Language minority provisions. As noted above, the 1975 amendments added provisions intended to protect "language minority groups." The coverage formula of Section 4 was amended, with the result that Texas, Arizona, Alaska and certain other jurisdictions became subject to Section 5 and to a bilingual-election requirement. Under Section 203, 42 U.S.C. 1973aa-1a, the bilingual-election requirement (but not Section 5) is applicable to certain additional jurisdictions. These provisions are to operate for ten years, until 1985.

3. Permanent provisions. The Act's permanent provisions apply nationwide.

a. Section 2, 42 U.S.C. 1973, is a broad prohibition against denial or abridgment of voting rights by any state or political subdivision, on account of race or membership in a language minority group. Actions to enforce Section 2 may be brought by the Attorney General or by an aggrieved person.

b. Section 3, 42 U.S.C. 1973a, sets forth remedies that a court may employ in an action to enforce Section 2. These remedies include authorizing the appointment of federal examiners,

---

6/ Sixteen bail-out suits under Section 4(a) have been brought. In nine cases, the plaintiff or plaintiffs (e.g., several counties) obtained a bail-out judgment. However, the plaintiffs in four of those cases were later brought under the Act again; e.g., the State of Alaska bailed out in 1966 and again in 1972, but was later covered by the 1975 amendments to the Act.

In all of the cases in which a bail-out judgment was granted, the Attorney General had consented to entry of the judgment.

7/ In 1974, the Attorney General succeeded in reopening and setting aside the bail-out judgment that three New York counties had obtained. As a result, it appears that those counties will be subject to the special provisions until 1991.

suspending the use of a literacy test, and imposing a preclearance requirement similar to that of Section 5. To date, there has been little use of the courts' authority to impose these remedies. 8/

c. Section 201, as amended in 1975, 42 U.S.C. 1973aa, is the permanent ban on literacy tests.

8/ In five cases, including one against San Francisco County, the courts have authorized the appointment of federal examiners, thus giving the Attorney General the basis for using federal observers.

The court-ordered preclearance process authorized by Section 3(c) has been adopted in one case brought by the Department of Justice and in at least one private suit.

III. Bills to amend the Voting Rights Act

A. Bills to amend the Voting Rights Act are presently being considered in Congress. This is due primarily to the duration of the special provisions, i.e., the potential that, unless the Act is extended, the 1965-covered states will be able to bail out after August 1982.

Under their present terms, the language minority provisions, including the application of Section 5 to Texas and the provisions requiring bilingual elections, will continue in effect until August 1985. However, bills to repeal those provisions have been introduced. 1/

From May to July 1981, a House Judiciary subcommittee, chaired by Congressman Don Edwards, held hearings on the Voting Rights Act. This Department was invited to testify, but did not do so.

B. In addition to the bills to repeal the language minority provisions, bills embodying other approaches to amending the Voting Rights Act have been introduced.

1. On April 7, 1981, identical bills were introduced in the Senate and the House--S. 895, sponsored by Senator Mathias and seven other senators, 2/ and H.R. 3112, sponsored by Congressman Rodino. The bills, as introduced, would extend the Act's special provisions, including Section 5, until 1992; and amend Section 2, to ease the plaintiff's burden in a dilution suit.

2. On June 17, 1981, Congressman Hyde introduced H.R. 3948, which would add an "effects" test to Section 2 and a new four-part bail-out provision to Section 4.

3. On July 27, 1981, Congressman Butler introduced H.R. 4271, under which the preclearance requirement would end, except for a state or political subdivision that had been found, in a court order entered between November 1976 and enactment of the bill, to have violated voting rights. In future lawsuits, a court could impose the preclearance requirement.

C. On July 31, 1981, the House Judiciary Committee reported an amended version of H.R. 3112. Floor debate is to begin on October 2.

1/ The sponsors of those bills include Senator Hayakawa (S. 53), and Congressmen McClory (H.R. 1731), McCloskey (H.R. 1407), and Thomas (H.R. 2942).

2/ The sponsors in the Senate were Senators Mathias, Kennedy, Biden, Chafee, Cranston, Metzenbaum, Moynihan and Weicker.

The committee bill would amend the bail-out provisions of Section 4(a) in two stages. Upon enactment of the amendments, the bail-out period for a 1965- or 1970-covered jurisdiction would be extended by two years (to 19 years). Effective in August 1984, additional prerequisites for bail-out would be added--detailed standards regarding compliance with the Act and other requirements during the preceding ten years.

The bill would add what amounts to an "effects" standard to Section 2 and would extend for seven years the bilingual-election requirements of Section 203.

D. The Senate Judiciary Committee's Subcommittee on the Constitution may begin hearings on the Voting Rights Act early next year, but no dates have been announced.