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H. R. 6400

TO ENFORCE THE FIFTEENTH AMENDMENT TO THE CONSTITUTION
OF THE UNITED STATES

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THURSDAY, JULY 1, 1965

House of Representatives,
Committee on Rules,
Washington, D. C.

The Committee met, pursuant to adjournment, at 10:30 a.m., in Room H-313, The Capitol, Hon. Howard W. Smith (Chairman) presiding.

PRESENT: Representatives Smith (Chairman), Colmer, Madden, Delaney, Trimble, Bolling, O'Neill, Sisk, Young, Pepper, Brown, H. Allen Smith, Anderson, Martin and Quillen.

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The Chairman. The Committee will be in order and we will resume hearings on H.R. 6400, To enforce the fifteenth amendment to the Constitution of the United States.

We will be glad to hear from Mr. Waggonner.

STATEMENT OF HON. JOE D. WAGGONNER, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. Waggonner. Mr. Chairman and members of the committee:

I appreciate the opportunity to resume my testimony before this distinguished committee which was unavoidably

interrupted yesterday because of business on the Floor of the House.

At the point we were forced to quit yesterday we had completed consideration of Section 7 of the proposed bill, and I would like to begin today with Section 8.

Section 8 has language which says:

"The Civil Service Commission, at the request of the Attorney General, is authorized to send observers to any election held in any political subdivision for which an examiner has been appointed under this Act."

Here, again, we find language in the proposal which is discriminatory, discriminatory in that it only gives the Attorney General authority to send observers to an area where examiners have been appointed, and he only has the authority to appoint examiners where people at the outset are brought under the reaches of this proposed legislation.

I would ask the same question here which was asked a number of times last year in considering the Civil Rights Bill on the Floor. We asked the question: "Why, when the Bureau of the Census was authorized to conduct investigations and to prepare statistical information which could be utilized in determining whether or not discrimination existed in the administration of the Civil Rights law,

why this statistical information was not prepared for the entire United States and was only prepared in areas that the Civil Rights Commission thought might be necessary? Why, for example, when most cases of fraud are brought to light, is not the Attorney General authorized to send observers where examiners have not been appointed?

If we are interested in cleaning up elections to avoid discrimination, we ought to be interested in minimizing at least the chances of fraud in any election. Here we have a concern for discrimination but we have no concern for fraud. I suggest it would be entirely in line, if this language is going to be used, if we are going to send observers to one part of the country to seek out discrimination, we should be just as concerned in sending observers to all parts of the United States to seek out fraud and to try to minimize fraud. The proposal is discriminatory, again, in this respect.

If we can skip over to Section 10, Section 10 (a) says:

"The Congress hereby finds that the requirement of the payment of a poll tax as a prerequisite to voting has historically been one of the methods used to circumvent the guarantees of the fourteenth and

fifteenth amendments to the Constitution."

Let me make it clear that I am not an advocate of the poll tax. I do not personally believe in the poll tax. I opposed the Constitutional amendment which this Congress adopted, I believe, in the 87th Congress. I opposed it simply on the grounds that even though I was opposed to the poll tax, I was not going to deny the privilege of the use of the poll tax to any State who wanted it for themselves. My State of Louisiana has been without the poll tax much longer than much of the rest of the United States.

But the point I make about the poll tax is simply this: This United States Congress, in the 87th Congress, thought that the proper procedure to be followed in abolishing the poll tax for use in Federal elections was to utilize the procedures established by the Constitution and to add a Constitutional amendment. The Congress thought it would be unconstitutional to do otherwise. I asked the question: Why, if it was unconstitutional two years ago to deny the use of a poll tax as a prerequisite to voting in Federal elections, can we now say simply by statute that you cannot use the poll tax in State and local elections? If it was unconstitutional then to change it by a legislative act,

it is unconstitutional now, and make no mistake about that.

We skip further and come to Section 12 (a). It says:

"Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11, shall be fined not more than \$5,000, or imprisoned not more than five years, or both."

This is one of the penalty sections of this proposal and herein is the real meat of what could be done other than enact this proposal as it is recommended by the committee. It has been my philosophy through the years, and I think time has borne me out, that more of us do what we do not because we love the Lord but because we are afraid of Hell. The stiff penalty of the law, if made sufficiently tough, will have a deterring effect upon anyone who would violate the privilege of someone voting who is qualified to vote. I simply believe that when stiff penalties are written into law you will find not only officials, elective or appointed, but citizens as well complying with the law, because no one wants to be brought under the penalty of the law, and once the penalty is sufficiently tough and is enforced you will find there will be no difficulty with the enforcement of the law.

You will say we have outlawed murder and rape and other offenses and it has not stopped crime, and certainly you are right, but I am saying to you that in an effort to avoid discrimination, to do away with discrimination, this bill is discriminatory and there is no legislation you can write that will have the complete effect of doing away with discrimination. It is not possible to legislate the sort of nondiscriminatory attitude that this proposal is supposedly intended to legislate.

We skip over to Section 12 (e) and we find language that says:

"Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any person alleges to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) his listing under this Act or registration by an appropriate election official and (2) his eligibility to vote, he has not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith apply to the district court for an order declaring that the

results of such election are not final and temporarily restraining the issuance of any certificates of election, and the court shall issue such an order pending a hearing on the merits."

Consider what this might mean in a close election at the Federal level and at the local level. Consider the election of President Kennedy in 1960, as close as that election was, and consider the possibility of a close election in a Mayor's race in your city where the returns are extremely close.

In the State of Louisiana which I am privileged to represent in this Congress, we were the first State in the Union to have voting machines in every precinct in our State. We had voting machines in every precinct as early as 1954. We do not have an election that goes many hours before the results are completely known in the State of Louisiana because those of you who are familiar with voting machines know there is nothing to do but open the machine and read the tabulation and promulgate it. But here we find authority given to officials to set aside election returns 48 hours, two full days, after the results have been made known to the public. If this legislation is going to be enacted, why is it the

complaints cannot be made before the closing of the polls, because if there is an examiner or an observer on the scene this complaint can be made at the time the person makes his protest that he has been denied the right to vote. There is no use waiting 48 hours after the closing of the polls. I am saying we will bring about controversy by running through people who knowingly are not qualified to vote and then 48 hours later they can enter some protest which can disturb elections. This complaint should be made prior to the closing of the polls and I believe you will agree with me in this particular instance.

Mr. Chairman, this testimony of mine is somewhat detached inasmuch as we were forced to stop yesterday. At the outset I asked you gentlemen to consider what I had to say in view of the Constitution of the United States. You will recall that I related to you the circumstances of a debate between myself and the gentleman from Michigan, Mr. Conyers, before the Young Democrats of Washington and Capitol Hill prior to Easter. I told you at that time I asked three questions of these young Democrats before I started my portion of the debate.

I asked first of all how many of those present had read the Constitution of the United States, and all of

them raised their hands to indicate they had.

The second question I asked was how many agreed with me and the Supreme Court of the United States that originally the framers of the Constitution reserved to the States the right to prescribe voter qualifications if they administered them without discrimination, and every hand in that group of five came up.

The final question I asked was if there was anyone there who could cite to me an amendment to the Constitution taking away from the States the right to prescribe voter qualifications for the voters in their State, and not a hand came up.

I submit to you gentlemen there is only one way to do most of what this bill proposes and that is through the amendment process to the Constitution which is prescribed by the Constitution. It is not a matter of whether I agree with this bill or disagree with what this bill proposes. It is a matter of whether or not we follow the due process laid down for us by the Constitution of the United States, and I say you cannot take away the right of the states to prescribe voter qualifications by statute as this bill proposes to do. There is only one way to do it and that is by amending the Constitution.

If the people want this, let us give them a chance to amend the Constitution, and if we do I am sure the people of the United States will abide by it whether they like it or not, because I believe the great majority of the people are law-abiding citizens and will go along with an amendment to the Constitution and be true Americans in so doing.

I said at the outset this bill is discriminatory. It is discriminatory. It takes punitive actions against only certain sections of the population of the United States. I think it was intended to be that way. The Washington Post, with which I seldom agree, wrote an editorial which I am sure most of you have seen in recent weeks. They said that this bill in effect was discriminatory, it did discriminate against certain areas of the United States, and the least that could be done -- and I am in agreement -- was to see that whatever legislation was enacted was not discriminatory and that it would have equal application to every part of the United States, to the North, to the South, to the East, and to the West. At least we can see to it, as Members of this Congress, that we do that.

The Wall Street Journal and a lot of other daily and weekly publications over the United States have taken

exactly the same position.

It is discriminatory again, I repeat in closing, because it is ex post facto in nature, it is retroactive, and no legislation should be ex post facto in nature as this proposal is. To say to the States of these United States and their political subdivisions that "You can't legislate in the area of voting qualifications without prior approval of the United States District Court of the District of Columbia" is ex post facto and I think is all wrong.

I have some ideas to help remove discrimination in voting qualifications, not the laws themselves but the manner in which they have been administered. I have made suggestions and recommendations to my Governor. I think they are sound and I hope he will follow some of them and that he will make a test case if this legislation is enacted to see whether or not it will stand the test of law. But, more important than that, if this legislation is accepted by the Congress and becomes the so-called law of the land, I hope we will have test cases which involve this law based upon discrimination for reasons other than race or creed.

Mr. Chairman, this concludes my impromptu testimony

before your committee. I appreciate the opportunity again of appearing before you and if there are any questions I will be glad to try to answer them at this time.

The Chairman. Thank you, Mr. Waggonner. You have made a very intelligent and thorough study of this bill, evidently, and we appreciate your views, that you have given us very succinctly.

Are there any questions of Mr. Waggonner?

Mr. Colmer. Mr. Chairman, I should just like to associate myself with the remarks of the Chair about the testimony of our colleague from Louisiana. I hope it will have more effective results than I anticipate it will have.

I might observe to my friend that while he has obviously labored long and faithfully on this proposal, that there is very little he or I or anybody else can do about this.

Does the gentleman agree or not that all of this thing here has been brought about in recent months by this wave of hysteria that has swept the country and that orderly procedure and the testing of the laws that are now on the statute books has been neglected because the Administration or the Department of Justice would not

wait to see how they worked out due to the great hysteria that something politically had to be done. Does the gentleman concur?

Mr. Waggoner. Mr. Colmer, I do not think I can completely concur because you used at the outset the word "all" and you related the use of the word "all" to recent weeks and recent months. I think the hysteria of recent months has certainly played a major part and might primarily be responsible for this proposal at the present time, but I sincerely believe that this plan is one of long standing and is not one that has just been conceived of in recent weeks or recent months or even recent years. I think the achievement of such a proposal as this has been in the minds of a number of people in the United States and outside the United States for many, many years and we are simply seeing brought into fruition now some of this long-range planning.

So my real difference with you lies in your use of the term of recent weeks and recent months. I do think and I do believe it is emotional hysteria that has brought it into focus at the present time.

Mr. Colmer. Very well. I buy the gentleman's amendment. I could comment on that too but there is no

use belaboring this any further.

The Chairman. Any further questions?

Mr. Madden. I have no questions.

The Chairman. Thank you, Mr. Waggonner.

Mr. Dorn, we will be glad to hear from you.

STATEMENT OF HON. W. J. BRYAN DORN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Dorn. Thank you, Mr. Chairman. I hope I will
take only a few minutes.

I would like to welcome Mrs. St. George. I am delighted
to see you again and want to thank you for the outstanding
service you rendered the country for so many years.

Mr. Chairman and Members of the Committee:

I hope I will not have to come back over here before
this session is over on another civil rights or voting
rights bill. This seems to be a regular occurrence, and
I am delighted to be back again and appreciate the courtesy
and hospitality and graciousness of this committee in
hearing us so often. This is the second time I think I have
appeared over here on such measures within a few days of
a year, and I do not know how much longer we will be
subjected to this kind of legislation. I think we need
a breathing spell, need to digest what we have and evaluate
the situation and take stock of it and proceed from there,
because our people are getting more and more confused by
one bill after another.

Mr. Chairman, I would like to make a few general
observations pertaining to my district and the State of

South Carolina since we are one of the States designated and covered in this punitive sectional legislation.

Mr. O'Neill. What is your district?

Mr. Dorn. I have nine counties. I represent John C. Calhoun's old district in the Congress and my people are steeped in tradition and heritage and they are proud of it.

But here is what I want to say, Mr. Chairman, that this legislation before the Rules Committee this morning is an insult and a reflection upon the non-white population of my Congressional District. They know how to vote. They know where, when and how to register. And I have not received one single letter, one single telephone call, one single telegram from my non-white constituents, my Negro constituents, whom I represent with equal fervor that I represent all my other constituents, I have received no communication from them whatsoever complaining about their inability to register or to vote in local, State or Federal elections. They know when the registration board meets. They know where the courthouse is. They know how to sign their names. They know how to read the Constitution of the United States. And I think I can prove my point.

In the largest county in my district, Anderson County -- and Senator Pepper has some kinfolks living in that county, and I might say one of the greatest speeches I ever heard was made by Senator Pepper in the State Legislature of South Carolina in 1939.

Mr. Pepper. I thank my colleague and I am glad some of my people come from Anderson County, a good heritage.

Mr. Dorn. The largest county in my district is Anderson County, with 100,000 people. 87 percent are non-whites. I can prove that a greater proportion of them are college graduates than a comparable number of people in any European country per capita. I repeat, they know where the registration board meets. They read the local papers. They are led by an intelligent, patriotic leadership in South Carolina. And in Anderson County, of the adult Negro people, 78 percent are registered to vote. Only 63 percent of the white people in Anderson County are registered to vote. These are the facts.

The second largest county in my district is Pickens County, named after Andrew Pickens, a patriot of the Revolution. 73 percent of the adult Negro population of that county are registered to vote and only 63 percent of the white people of that county are registered to vote.

The third largest county in my district is Oconee, that used to be the Capital of the Cherokee Nation. 63 percent of the adult Negro population of that county are registered to vote and only 62 percent of the white population of that county are registered to vote.

These three counties constitute two-thirds of the population of my district.

Now, before you get to it, Mr. O'Neill, I have been asked this question you are about to ask by everybody on the subcommittee every time I make a speech. They say, "What about McCormick County?" I will tell you about McCormick County.

Mr. Young. Who is that county named after?

Mr. Dorn. It is named after Cyrus McCormick of Chicago who bought the town after the War Between the States. It was formerly named Dornville. They went broke when Sherman came through. He did not come right through this particular area, but when McCormick bought the town he renamed it McCormick and it subsequently became McCormick County.

In McCormick County there are today about 62 percent of the population who are non-whites, and according to this book you have there I believe some years ago, four or

five years ago, there were only 25 or some ridiculous figure, five maybe, non-white citizens registered to vote. The FBI went down there and investigated this situation, but no complaints have been made since then to the Civil Rights Commission.

Mr. Pepper. It says 9.3 in this book.

Mr. Dorn. Yes. It is better than it was.

Here is what happened. So much appeared in the newspapers about that county that the leaders of the county considered adverse publicity, they inaugurated a drive to educate the people how to vote. When this bill came up I called a distinguished lawyer in the county who is a member of the board down there, Julius Baggett, and he said: "We meet every Monday. I sit there and lose law practice. No one comes in. I twiddle my thumbs, read a magazine, and one thing and another to pass away the time. We can't get people to register and to vote."

But they have inaugurated a drive and have personally gone out and contacted these people. They wanted to improve the image of the county. So they went out and hauled some of these people in. Mr. Baggett said, "We even quoted the preamble of the Constitution to them to

remind them of what they had learned in the elementary schools and we got some registered that way."

I asked: "What is the State law in South Carolina for the registration of voters at the present time?" He quoted it and I wrote it down. When he walks in on Monday -- and everybody knows the registration board meets every Monday, it is in the weekly paper -- the only thing he is asked to do is to put his name on the book, his age, and his occupation. He does not have to say whether he is a Baptist or a Presbyterian or a Catholic or anything else. He does not have to list his race. All they ask for is his name, his age, and his occupation. Then the next thing they do, they give him the Constitution, and he knows beforehand it will be the Constitution of the United States he will be called upon to read, and actually it is possible for a man to memorize a line or two before he goes in, and they will let him read the preamble.

I wish more of my people in McCormick County would register and would vote. But on the other hand I argue with the same conviction that a man in the United States of America has the right not to vote if he does not want to. I do not believe in sending in commissars and examiners in a sort of Federal gestapo outfit and make

people vote. I think it is important to vote of one's own free will and accord. Then there is a big difference in voting, oh yes, in voting and in being voted. There is a big difference, and I am sure some of the aspects of this bill will give somebody the power to vote people, and I am just as opposed to having people hauled in and voted as denying them the right to vote. But they are registering in McCormick County and will continue to register in increasing numbers.

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Mr. Chairman, I will conclude my statement as quickly as possible.

Mr. Brown, before you came in I was explaining the procedure that any person in South Carolina has to go through in order to vote. It is a very simple procedure. All they have to do is go up, put down their name, age and occupation. You are not listed by race or religion.

The next thing they ask you to do, the Registration Board, is to read a line or two from the Constitution; any part of it. You could even quote the Preamble. They give this even to school teachers.

Then, if you can't read any part of the Constitution, you can still register to vote if you have an assessed property evaluation of \$300. This includes all personal property, automobiles, furniture, anything that you might have of a personal nature. \$300 assessed valuation.

If you can't read the Constitution, any part of it, a line or two, if you do not have the proper qualifications, \$300 assessed valuation, then the law provides that you can go to the Court of Common Pleas and this is a court anybody can go before and present your case. The Judge, if, after examining you, he feels you are qualified to vote, even though you can't read and write and do not have \$300 assessed property valuation, you can still vote.

This is the simple procedure that you have to go through

to register in the State of South Carolina. There is no discrimination down there.

I want to repeat I have received no letters, no telegrams, and believe me, if there was any discrimination, they would let me know because I have been in Congress 16 years and they know I am here and I would do something about it if there was. But my people are getting along fine and again I want to say that this is not fair to put my state or any state in this category without making their law applicable to the United States, but it is not fair to my non-white people who have registered in the three largest counties in my district in greater numbers proportionately than my white constituents.

One other thing, Mr. Chairman. All of you last week read about the passing of Barney Baruch in New York City. He was born and reared in South Carolina and went to New York and made several million dollars before he was 30 years old.

But you know, I have heard him say a lot of times that he could belong to any civic club in the State of South Carolina. He had never been denied membership in any organization club in South Carolina, and while in his own great city, the great city of New York, he had been denied membership in a great number of organizations.

I want to say this, Mr. Chairman, that the Speaker of South Carolina -- I wish the Chairman of the Judiciary Committee was present this morning to hear this. These are his friends

I am talking about, and mine.

Soloman Blatt is the Speaker of the South Carolina House of Representatives today. He has been Speaker longer than any man in the history of my state, more than 25 years. Is that discrimination? Have we earned this kind of condemnation from our colleagues in the Congress?

Let me say this, that the greatest protection that minorities have in these United States today is a maximum of freedom and liberty in our local and state governments. In no government in the history of the world have minorities been persecuted in a country with fifty different states, on a nation-wide basis; three thousand counties, many municipal governments. Only in those countries -- and if time would permit, I could name them -- Philip II of Spain with his inquisition, Louis XVI, Adolph Hitler, Mussolini, Khrushchev, and today Kossygin, and I could name the rest of them -- only in those governments where government was concentrated in the hands of one or a few men have you ever had liquidation and persecution of minority races.

So I say today that for them I am pleading with this committee today, the minority races, not to set up this instrumentality whereby some day -- I won't say might -- some day they "will" be persecuted and liquidated because you set up the machinery and the man with the hobnailed boots will ride forth some day as they always have. I could go back to Rome and the razing of Jerusalem in the year 70 A.D. Only

under centralized power has this happened.

I hope we won't pass this bill.

Finally, gentlemen, I went back and read again, very frankly, in preparation for coming here today -- I don't like to get sentimental and emotional, but listen: I read again a chapter in a book by a great American, a man who we came here with, who was here prior to that time, but I came here in the 80th Congress with a man by the name of Jack Kennedy of Massachusetts, and I loved him. We were the four youngest along with one or two others in the 80th Congress. He wrote a book called "Profiles in Courage," an autographed copy with the whole name in there, and I read again a chapter in that book to get ready to come over here this morning.

The one on Edmund G. Ross of Kansas, how he was threatened with bribery, death, intimidation; he was boycotted, demonstrations were organized against him. No man in the history of this country was ever subjected to greater pressure, but he waded on the floor of that United States Senate and voted not guilty when the impeachment proceedings were up against Andrew Johnson, really and truly a profile in courage.

Kennedy went on to tell what happened against those who voted guilty. One went on as nominee of the party for President and all that. Edmund G. Ross was never elected dog catcher or anything again. He signed his political doom.

He said he looked into his open political grave. He did. He knew it, but he never regretted that vote because he said

that he saved the dignity and integrity of the Office of the President of the United States from being subjected to every whim of the Legislative Branch.

I say that opportunity is open to my great, devoted and beloved liberal friends on this committee and in the House of Representatives today when this bill comes up. It is to retain for the people of this country, the Congress and the local representation, a balance, some semblance of a balance in our form of government, and reflect entirely this type of legislation.

Of course it will take courage. It will take the kind of courage that Mayor Daly of Chicago manifested, knowing that this mob violence and mob rule is something that will destroy democracy.

A democratic society, in order to exist, must be restrained and disciplined and balanced. This legislation is punitive, vindictive; it is bad, and I hope this great committee, the great Committee on Rules that my people are looking to -- when this door is closed and our young friends leave here -- will just simply make history, like Edmund G. Ross, and save our Constitutional form of government.

Thank you.

Mr. Pepper: A splendid statement.

The Chairman. Are there any questions of Mr. Dorn?

I believe that is the last witness we have here.

Is there any other member of Congress here who desires

to testify?

If not, the committee will go into executive session.

Mr. Colmer. Mr. Chairman, may I inquire before we do that? I understood Mr. Dowdy was to testify.

The Chairman. I have been in communication with Mr. Dowdy and he will not be here. He didn't think it was going to do him much good.

Mr. Colmer. I agree with him.

The Chairman. The committee will go into executive session.

(Whereupon, at 11:40 a.m., the committee proceeded in executive session.)