Task Force on Election Report & Recommendations

The 216th General Assembly (2004) approves the following recommendations:

1. Direct the Advisory Committee on Social Witness Policy (ACSWP) to develop a resolution on the disenfranchisement of people of color in the U.S. electoral process for report to the 218th General Assembly (2008). The resolution should address at least two dimensions:

a. Improvements in legislation, potentially to be embodied in a model law for state legislatures or a federal law making voting registration and recounts in federal elections uniform in all the states; such laws should deal with

(1) who is qualified to be a voter;

(2) how registration occurs (e.g. "Motor Voter" and others ways to make registration less burdensome while preventing fraud);

(3) procedures for purging of voting rolls while protecting the rights of those eligible to vote;

(4) voter education, including complete information about methods of voting;

(5) notification about places of voting, and accurate sample ballots;

(6) methods of dealing with voters whose names are not on the voter registration list;

(7) methods of voting (e.g. technology that will reduce error and fraud);

(8) recount procedures (e.g. types of legitimate challenge, time within which the recount must be performed).

b. Things Presbyterians can do (in synods, presbyteries, congregations, and as individual citizens) include

(1) review state registration laws to identify inequities;

(2) monitor the processes by which these laws are administered, especially in registration, purging of voter lists, and provision of translators;

(3) engage in voter registration and voter education;

(4) organize rides to the polls;

(5) act as poll watchers;

(6) assist at polling places to ensure that persons with disabilities (including vision-impaired) or with language and literacy problems are enabled to vote.

2. Direct the Advocacy Committee for Racial Ethnic Concerns (ACREC) and the Advocacy Committee for Women's Concerns (ACWC) to participate in the work of Advisory Committee on Social Witness Policy(ACSWP) as it develops a resolution.

3. Direct the Presbyterian Washington Office to continue its work on voting rights issues.

4. Direct the Stated Clerk of the Office of the General Assembly (OGA) to send a letter to all members of the United States Congress asking them to work to ensure that a fair election process shall exist; and that Congress be urged to renew the pre-clearance requirement Section 5 of the Voting Rights Act of 1965.

5. Direct the Stated Clerk of the Office of the General Assembly (OGA) to send a letter to the Federal Election Commission asking this office to ensure that a fair election process shall exist.

6. Dismiss the Task Force on Elections with thanks.

Rationale

These recommendations and report are a final response to the following referral: *2001 Referral: 26.004. Response to Recommendation Directing GAC to Create a Task Force to Study the Disenfranchisement of People of Color in the United States' Electoral System; to Consider Whether the Church Should Make a Policy Statement; Report Findings to the 215th General Assembly (2003)—From the Advocacy Committee for Racial Ethnic Concerns* (*Minutes*, 2001, Part I, pp. 60, 333).

The 213th General Assembly (2001) of the Presbyterian Church "direct[ed] the General Assembly Council to create a task force to study (in consultation with the Advocacy Committee for Racial Ethnic Concerns) the disenfranchisement of people of color in the United States electoral system, to consider whether or not the church should make a policy statement on this matter; and report its findings and recommendations to the 215th General Assembly (2003)" *(Minutes*, 2001, Part I, p. 333).

Disenfranchised voters are individuals who are entitled to vote, want to vote, or attempt to vote, but who are deprived of either voting or having their votes counted. The problem was most evident in the state of Florida because of the closeness of the vote and the intensity of controversy, with two appeals to the Supreme Court. Even in the case of Florida, however, the U.S. Commission on Civil Rights said, "widespread voter disenfranchisement—not the dead-heat contest—was the extraordinary feature in the Florida election." Florida was not the only state in which irregularities were alleged. In this report, examples from Florida are used because they have been the most thoroughly investigated (Executive Summary Report of the US Commission of Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election).

The Presbyterian church has a long history of support for inclusion and justice for all persons. Voting is the foundation of the democratic process of this nation. As participation in the electoral process is at the foundation of our nation, enfranchisement of all qualified persons is crucial to ensure fair and impartial representation. Historically and recently, people of color have been disenfranchised through a variety of means, including defective voting apparatuses, vote suppression, and other discriminatory practices such as exclusion of previously incarcerated, non-felon persons, and of those who have completed serving their sentences and probationary periods, realities that disproportionately affect people of color because of the demonstrated racial bias of the United States' "criminal justice system" (*Minutes*, 2001, Part I, p. 333, paragraph 26.004).

A. *Theological Statement*

The Presbyterian Church (U.S.A.) and its predecessor denominations have long been active in pursuit of justice and equality as pertains to political rights, including the right of all to vote. The church can be proud of that journey and its influence on national policy. But insofar as discrimination continues, the church cannot be content or silent. To redeem the voting process, to concern ourselves with voting rights, bears witness to the redemptive work of Christ.

The New Testament reminds us that God was in Christ reconciling the world to Godself, that the "wall of separation" (Eph. 2:14, NIV) that divides and estranges human beings from each other and from

God has been totally broken down. God was in Christ reconciling the world, not just certain races of the world.

In terms of separating ourselves from one another, the 177th General Assembly (1965) described racism in this way:

> Racism is basically the denial of the humanity of all other races but one's own, the deliberate or unconscious assumption that a human being's worth is conditioned by his [or her] racial derivation. It is the assumption that one's own race is inherently morally superior to other races. It is the tendency to define reality in terms of one's limited experience in a racially segregated culture.
>
> Race becomes therefore the definitive measure of another's right to vote, to work, to go to school, to buy a house, to marry, to worship, and ultimately to *exist* alongside one's own race or one's own self. Racism defines another person's or another group's "right to be." …
>
> The illness of racism in both its most blatant and its most subtle manifestations frustrates the practical efforts to achieve freedom, justice, and equality in housing, education, employment, voting, public accommodations and community relations. … (*Minutes*, UPCUSA, 1965, Part I, pp. 406–7).

The Word of God to ancient Israel emphasizes the inclusion of all residents of the land: "Thus says the Lord: Act with justice and righteousness, ... do no wrong or violence to the alien"(Jer. 22:3, NRSV). "[God] is not partiality and takes no bribes. [God] executes justice for the orphan and the widow, and . . . loves the strangers. . . . You shall also love the stranger, for you were strangers in the land of Egypt" (Deut. 10:17–19, NRSV).

Justice to the alien and sojourner is one of the most frequent mandates to the children of Israel. The First Testament reflects a strong bias on behalf of the poor, the oppressed, and the disenfranchised. " 'Because the poor are despoiled, because the needy groan, I will now rise up,' says the Lord. 'I will place in the safety for which they long' " (Ps. 12:5, NRSV).

The holy one of Israel says, "Because you reject this word, and put your trust in oppression and deceit, and rely on them; therefore this iniquity shall become for you like a break in a high wall, bulging out, and about to collapse, whose crash comes suddenly, in an instant" (Isa. 30:12, NRSV).

"Thus says the Lord God: Enough, O princes of Israel! Put away violence and oppression, and do what is just and right. Cease your evictions of my people, says the Lord God" (Ezek. 45:9, NRSV).

The dispossessed today are those marginalized by irregularities in the voting process. When Jesus told the parable of the Good Samaritan coming to the aid of the wounded man, he conveyed a fundamental value we all accept. If, however, the circumstance repeated itself time and again, it would behoove the Samaritan to go to Jerusalem and organize a highway patrol to protect all who are vulnerable. Today, people of color are being wounded and abused by the political system and voting rights deficiencies in particular. Let us, as good Samaritans, play the role God has called us to play.

The vast majority of nonwhite Americans are denied equal freedom, equal opportunity, and equal justice as citizens. It is time for the church to go to "the heart of the matter," to address itself to the sinful blindness of the human spirit that, added to the structural rigidities of social, economic, and political arrangements, perpetuates hatred and recrimination, segregation and discrimination, estrangement and distrust, between white and nonwhites.

> Undergirding and supporting the patterns of church and society that relegate nonwhite minorities to second-rate status is the heresy and sickness of *racism*. …
>
> It leads the white majority, out of a false sense of moral superiority, to assume that it has the prerogative to determine the priority and time schedule of granting degrees of freedom, justice, and equal treatment in all aspects of our American life. It perpetuates long-established patterns of segregation and discrimination in church and society. (*Minutes,* 1965, Part I, pp. 406, 407).

The biblical mandate for justice is echoed in The Confession of 1967:

> God has created the peoples of the earth to be one universal family. In ... reconciling love, [God] overcomes the barriers between [sisters and] brothers and breaks down every form of discrimination based on racial or ethnic difference, real or

> imaginary. The church is called to bring [human beings] to receive and uphold one another as persons in all relationships of life: in employment ... and the exercise of political rights. Therefore the church labors for the abolition of all racial discrimination and ministers to those injured by it. Congregations, individuals, or groups of Christians who exclude, dominate, or patronize [others], however subtly, resist the Spirit of God and bring contempt on the faith which they profess. (*The Book of Confessions,* 9.44)

The uniting General Assemblies of 1983, in a comprehensive document entitled *The Reformed View of Faith and Politics and of Church and State: A Position Paper*, concluded "Reformed Christians are called out of love for God to be politically active. ... [That] liberty and equality are expressions of love to be striven for in societies…"(Reformed Faith and Politics, *Minutes,* 1983, Part I, p. 775).

The Brief Statement of Faith, adopted in 1991, carries the banner for justice into the present day. It affirms that the Spirit gives us courage…

> to unmask idolatries in Church and culture,
> to hear the voices of peoples long silenced,
> and to work with others for justice, freedom and peace (*The Book of Confessions*, A Brief Statement of Faith, 10.4, lines 69–71).

In spite of the Reformed tradition of political action, in spite of the mandates of Scripture and the confessions, in spite of laws mandating desegregation and defending human rights, in spite of the Voting Rights Act of 1965 and further fine-tuning of the law, injustice still exist, as illustrated by allegations of voting irregularities in Florida, Illinois, Georgia, and other parts of the country in recent years.

B. *Historical Perspective*

One area in the pursuit of racial justice in which the Presbyterian General Assemblies have a long history of support is that of civil rights. The Presbyterian Church in the United States (PCUS) 87th General Assembly (1947) began its history of supporting civil rights by condemning all organizations and individuals whose aim was to hinder any minorities "...in the exercise of their civil rights or … deny such rights [on the basis of] race, creed, class or color. ..." (*Minutes*, PCUS, 1947, Part I, p. 164).

In the Northern church, the Presbyterian Church in the United States of America (PCUSA) 168th General Assembly (1956) called upon Christians to work to eliminate "the poll tax and other restrictions which prevent many American citizens from exercising their legal rights at the polls and which affront the dignity of persons. ..." The General Assembly went on record against devious means such as poll taxes and severe literacy tests used to deny voting rights to certain minority citizens, noting that the price of this corporate dishonesty is political demagoguery in its worst form (*Minutes*, PCUSA, 1956, Part I, p. 235; see also *Minutes*, PCUS, 1957, Part I, p. 194).

The 171st General Assembly (1959) of the United Presbyterian Church in the United States of America (UPCUSA) defended the right of groups to meet and organize to achieve "legitimate social goals" and the work of such groups was commended in 1960 and 1961. The 171st General Assembly (1959) went on to call for measures to guarantee voting rights to all citizens of voting age and to establish the U.S. Commission on Civil Rights as a permanent agency of the U.S. Government (*Minutes*, UPCUSA, 1959, Part I, p. 380). The 172nd General Assembly (1960) urged state legislatures and the United States Congress to continue to work for legislation that would effectively secure and protect the rights of all citizens to vote, regardless of race (*Minutes,* UPCUSA, 1960, Part I, p. 356).

The 174th General Assembly (1962) of the UPCUSA urged federal leadership to eliminate racial restriction of voting rights by any of the states (*Minutes,* 1962, UPCUSA, p. 349). In 1981 and 1982, the UPCUSA also supported extension of the Voting Rights Act of 1965 and opposed the attempt to deny civil rights to new immigrants to the United States (*Minutes*, UPCUSA, 1981, p. 309; *Minutes*, UPCUSA, 1982, Part I, p. 425). The 194th General Assembly (1982) of UPCUSA affirmed all efforts to include actively all citizens in the election process, including the use of bilingual ballots as mandated by the Voting Rights Acts, and declares its opposition to actions by government that have the effect of discouraging such exercise of citizen's rights (*Minutes*, UPCUSA, 1982, Part I, p. 425).

The right to vote, and to have one's vote accurately and fairly counted, is as fundamental a right as we have in this country. It is now abundantly clear that this precious right was repeatedly violated not only in Florida, but at other polling places across the country, because of flaws in the voting system that disproportionately affected people of color.

C. *Current Issues*

Our nation must now rededicate itself to assuring the right to vote. The Voting Rights Act of 1965, won by the Civil Rights Movement only after years of struggle, is not a history lesson. It is living history and we are living it now. (The full text of the Voting Rights Act is found in the Appendix of this report.)

As a result of voting irregularities in some states, the American Civil Liberties Union (ACLU) filed three separate lawsuits in the States of Georgia, Florida, and Illinois on behalf of African American voters who were prevented from having their votes counted by systematic irregularities in the voting process. The U. S. Supreme Court's decision in *Bush v. Gore* made it clear that every vote must be given equal weight under the Constitution. The ACLU and other civil rights organizations are now taking the Supreme Court at its word. Kweisi Mfume, president/CEO of the National Association for the Advancement of Colored People (NAACP) and former U.S. Congressman, said the lawsuit is part of an effort to "restore justice to the thousands of Black and other voters who were denied the right to have their vote counted on November 7, 2000."

According to the U.S. Commission on Civil Rights, disenfranchisement of Florida's voters fell most harshly on the shoulders of black voters. The magnitude of the impact can be seen from any of several perspectives:

- Statewide, based upon county-level statistical estimates, black voters were nearly 10 times more likely than non-black votes to have their ballots rejected.
- Estimates indicate that approximately 14.4 percent of Florida's black voters cast ballots that were rejected.
- Statistical analysis shows that the disparity in ballot spoilage rates—i.e., ballots cast but not counted—between black and non-black voters is not the result of education or literary difference.
- Approximately 11 percent of Florida voters were African Americans; however, African Americans cast about 54 percent of the 180,000 spoiled ballots in Florida during the November 2000 election based on estimates derived from county-level data. (Executive Summary of the U.S. Commission on Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election)

Poor counties, particularly those with large minority populations, were more likely to possess voting systems with higher spoilage rates than the more affluent counties with significant white populations.

The Voting Rights Act of 1965 (42 U.S.C. 1973c) protects every American against racial discrimination in voting. This law also protects the voting rights of many people who have limited English skills. It stands for the principle that everyone's vote is equal, and that neither race nor language should shut out anyone from the political process.

The Voting Rights Act (VRA) will not expire and is a permanent federal law. Moreover, the equal right to vote is protected by the Fifteenth Amendment to the U. S. Constitution, which has been part of our law since the end of the American Civil War. And in case after case, our courts have held that the right to vote is fundamental. Voting rights *will not expire*.

Section 5 of the Voting Rights Act, however, needs to be renewed to remain in effect. When Congress amended and strengthened the Voting Rights Act in 1982, it extended for twenty-five more years—until 2007—the preclearance requirement of Section 5, the authority to use federal examiners and observers, and some of the statute's language minority requirements. In order to extend Section 5 past 2007, action will be needed by Congress.

Section 5 requires state and local governments in certain parts of the country to get federal approval (known as "preclearance") before implementing any changes they want to make in their voting procedures: anything from moving a polling place to changing district lines in the county. Under Section 5, a covered state, county, or local government entity must demonstrate to federal authorities that the voting change in question (1) does not have a racially discriminatory purpose; and (2) will not make minority voters worse off than they were prior to the change (i.e. the change will not be "retrogressive").

While voting rights usually are associated with Black Americans, three states out of the list of sixteen cited in the Voting Rights Act of 1965 as including "covered jurisdictions" have large American Indian populations: Alaska, Arizona, and South Dakota. The problem of disenfranchisement continues. In 2003, the South Dakota legislature passed an act adding new burdens to the process of registration, which will have a disparate impact on Native Americans. In the eyes of many observers the act is a violation of Section 5 of the VRA. Despite pleas to veto the legislation, the governor signed it into law.

Other states, such as California, Florida, New York, and Texas, have high populations of Asians and Hispanics. This illustrates the universal applicability of the Voting Rights Act. Given the diversity of our population, violations could occur in any of the fifty states.

Many persons who are intimidated, harassed, or given misleading information will "vote with their feet," that is to say, rather than filing a complaint, or insisting on their rights, they simply leave. In the next election they are less likely to participate in voting. The effects of slavery, the sequestering of Native Americans, discrimination against Asians, legal segregation and disenfranchisement, and continuing economic vulnerability have disadvantaged many voters.

In its amendment to Section 2 of the Voting Rights Act, Congress reaffirmed that discrimination could be established using a "results test." There is no requirement to prove discriminatory intent. The results test, also known as the "totality of the circumstances" test, only requires the plaintiff to prove that a challenged elections process results in a denial or an abridgement of the right to vote. (U.S. Commission on Civil Rights Report: Voting Irregularities in Florida During the 2000 Presidential Election).

The Voting Rights Act protects racial ethnic people from more than denying them the right to vote. Section 2 of the act makes it illegal for state and local governments to "dilute" the votes of racial ethnic groups. One of many forms of minority vote dilution is the drawing of district lines that divide minority communities and keep them from putting enough votes together to elect representatives of their choice to public office. Federal lawsuits can be filed to redress this imbalance by ordering states and localities to adopt redistricting plans that gives minority voters the same opportunity as other voters to elect representatives of their choice.

It is legally permissible for jurisdictions to take race into account when drawing majority and minority election districts if they are based on traditional, nonracial districting considerations, such as geographic blocs and keeping communities of interest together. The Supreme Court has held, however, that the Constitution requires a strong justification if racial considerations predominate over traditional districting principles. One justification may be the need to remedy a violation of Section 2 of the Voting Rights Act.

The Voting Rights Act makes it illegal to discriminate in voting against people who speak minority languages. Section 5 of the act covers jurisdictions where irregularities have occurred with people of Hispanic, Native American, and Alaska Native heritage. The act requires bilingual election procedures even in "English only" states where voters speak Spanish, Chinese, Filipino, Japanese, Vietnamese, and more than a dozen Native American and Alaskan Native languages. With increasing immigration by many others whose languages are not covered under the existing law, Congress must be encouraged to provide adequate inclusion for this new wave of immigrants.

The Justice Department also enforces other voting rights laws:

- The National Voter Registration Act of 1993 (often referred to as the "Motor Voter" law) is

among the most significant pieces of voting rights legislation. The NVRA facilitates voter registration for federal elections by allowing voters to register by mail, when they obtain driver's licenses, or when they obtain services from various government agencies, and it permits voter purges only under very controlled conditions.

- The Uniformed and Overseas Citizens Absentee Voting Act of 1986 requires states to make sure that members of our armed forces who are stationed away from home, and citizens who are living overseas, can register and vote absentee in federal elections.

- The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires polling places across the United States to be physically accessible to people with disabilities.

These three acts of legislation establish voting rights for all citizens. Individually they are extremely important, collectively they reflect the United States government commitment to live out our nations promise set out in the Declaration of Independence in 1776: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." These words now ring hollow if today we do not attempt to apply them for all citizens of this country. A famous American Indian, Chief Joseph, stated in a speech in 1879, "I have heard talk and talk, but nothing is done. Good words do not last long unless they amount to something."

More than half of the voting jurisdictions nationwide experienced voting problems during the 2000 Presidential Election as well as in the 2002 General Election. Following are a few of the voting irregularities that occurred: purging of voter lists, malfunction of voting machines, lack of trained poll workers, lack of accessible polling places, uncertain procedures for handling overseas ballots, and inadequate handling of mismarked ballots. These measures have become the literacy tests of the new millennium. Just as in former times literacy tests and the poll tax were used to deny the right to vote, so today the purging of voters lists and irregularities in voting procedures have the same effect. It is imperative to ensure that in our democracy this unfair disenfranchisement never happens again. This suggests that a uniform national policy be put into effect in order to ensure full voting rights for all U.S. citizens.

The U.S. Commission on Civil Rights found that Florida's problems during the 2000 presidential election were serious and not isolated. In many cases, they were foreseeable and should have been prevented. The failure to do so resulted in an extraordinarily high and inexcusable level of disenfranchisement, with a disproportionate impact on African American voters. The causes included the following:

- a general failure of leadership from those with responsibility for ensuring that elections are properly planned and executed;
- inadequate resources for voter education, training of poll workers, and Election Day trouble-shooting and problem solving;
- inferior voting equipment and/or ballot design;
- failure to anticipate and account for the expected high volumes of voters, including inexperienced voters;
- a poorly designed and even more poorly executed purge system; and
- a resource allocation system that often left poorer counties, which often were counties with the highest percentage of black voters, adversely affected. (U.S. Commission on Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election)

1. *Missed Leadership*

The commission's report identified several problems of leadership. Florida's governor insisted that he had no specific role in election operations and pointed to the secretary of state as the responsible official. After the election, however, the governor exercised leadership and responsibility in electoral matters in the commendable action of appointing a task force to make recommendations to fix the problems that occurred. The secretary of state, who is the state's chief elections officer, denied any responsibility for the

problems in the election, claiming only a "ministerial" role, her clear statutory obligations notwithstanding. Rather, she asserted that county elections officials are responsible for conduct of the election, describing her role in the policies and decisions affecting the actual voting operations as limited. On the local level, supervisors of elections in the counties that experienced the worst problems failed to prepare adequately and demand necessary resources. Furthermore, state officials ignored the pleas of some supervisors of elections for guidance and help.

This overall lack of leadership in protecting voting rights was largely responsible for the broad array of problems in Florida during the 2000 election. Leadership by key officials in protecting the right to vote is imperative.

2. *Voter Education, Voter Registration, Poll Workers Training, and Election Day Problems*

State and local election officials must ensure that they have sufficient resources to engage in effective voter education.

Many of the obstacles that caused voter disenfranchisement in the November 2000 election were the result of inadequate voter education and insufficient poll worker training. Moreover, counties were grossly unprepared for the larger voter turnout and scrambled, often unsuccessfully, to meet the needs of voters on Election Day.

As a result of these infractions, some potential voters were never able to cast ballots: For example:

- Some voters were barred from voting despite arriving at their polling places before closing time because poll workers did not understand the rule that, if voters arrive before 7 p.m., they must be allowed to vote.
- Adequate notice was not always given to voters when polling places were moved.
- The failure to process "Motor Voter" information in a timely manner, and in some cases to transmit information at all, contributed to disenfranchising voters.
- Aside from the lack of consistency and uniformity in election operations, many election officials failed to use affidavits under appropriate circumstances and instituted few procedures to confirm voter lists.
- Poll workers were unable to reach central offices to certify voters. (U.S. Commission on Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election)

3. *National Voter Registration Act: The "Motor Voter" Law*

In 1993, Congress enacted the National Voter Registration Act in an effort to increase participation in federal election. To implement the act, Florida enacted the Florida Voters Registration Act to "provide the opportunity to register to vote or update a voter registration record to each individual who comes to an office of the Department of Highway Safety and Motor Vehicles" (DHWMV) to apply for or renew a driver's license, apply for a new identification card, or change an address on an existing driver's license or identification card.

The DHSMV does not register voters; rather, it provides a method for persons to apply to the county supervisors of elections to register while conducting license or identification card transaction. This is commonly referred to as the "Motor Voter" process.

Despite this effort to increase citizen participation through Motor Voter registration, problems exist in the implementation of the registration process. Curtis Gans, director of the Committee for Study of the American Electorate, testified, "in this election, thousands of people, not only in Florida, but in other places, who registered at motor voter places, motor vehicle license bureaus, and in social services agencies were not on the rolls when they came to vote." Other problems in Florida include these:

- DHSMV examiners did not inform voters that changing their address on their driver's license does not automatically register them to vote in the new county of residence. In addition, DHSMV does not retain copies of voter registration applications, which are subsequently transmitted to supervisors of elections.

- Once DHSMV has transmitted voter registration applications to supervisors of elections offices, there is no verification system to ensure that the supervisors of elections received this information.

- Once a driver changes his or her driver's license address, the DHSMV is not required to forward voter registration applications to supervisors of elections offices for the new resident county of the driver. (U.S. Commission on Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election)

4. *Accessibility*

The U.S. Commission on Civil Rights concluded that Florida failed to provide adequate access to individuals with disabilities and to people who have limited English proficiency. Specific concerns pertaining to those with physical disabilities include these:

- Persons who rely on wheelchairs were forced to negotiate steps in unreachable polling booths or undergo humiliation by relying on others to lift them into the polling places.

- Some voters with visual impairments found that the precincts did not have proper equipment to assist them in reading their ballots and, therefore, they had to rely on others—often strangers—to cast their ballots, denying them their right to a secret ballot.

- Other precincts were not equipped, or otherwise failed altogether, to accommodate potential voters with disabilities. Voters were turned away and therefore disenfranchised. (U.S. Commission on Civil Rights: Voting Irregularities in Florida During the 2000 Presidential Election)

Individuals who were not proficient in English faced comparable barriers, despite federal requirements that language assistance be provided for voters not proficient in English. In some parts of Florida, Spanish-speaking voters did not receive bilingual assistance or bilingual ballots. Some of these counties are required to provide language assistance under the Voter Rights Act. The failure to provide language assistance resulted in widespread voter disenfranchisement of an estimated several thousand Spanish-speaking voters in Florida.

5. *Purging Former Felons from the Voting Rolls*

Individuals not legally entitled to vote should not be allowed to vote. Appropriate efforts to eliminate fraudulent voting strengthen the rights of legitimate voters. However, poorly designed efforts to eliminate fraud, as well as sloppy and irresponsible implementation of those efforts, disenfranchise legitimate voters and can be a violation of the Voting Rights Act. Florida's overzealous efforts to purge voters from the rolls resulted in the removal of a disproportionate number of African American voters already registered in Florida from the November 2000 election.

The system of purging in Florida proceeded on the premise of guilty until proven innocent. In 1998, the Florida legislature enacted a statute that required the Division of Elections to contract with a private entity to purge its voter file of deceased persons, duplicate registrants, individual declared mentally incompetent, and convicted felons without civil rights restoration. This process became known as list maintenance. The company contracted to purge the voters list, Database Technologies, questioned the procedure because it was likely to result in "false positives," but the responsible state officials instructed them to follow the original instructions. Once off the list, the burden is placed on the eligible voter to justify remaining on the voter rolls. The ubiquitous errors and dearth of effective controls in the state's list maintenance system resulted in the exclusion of voters lawfully entitled and properly registered to vote.

African American voters were placed on purge list more often and more erroneously than Hispanic or white voters. For instance, in the state's largest county, Miami-Dade, more than 65 percent of the names on the purge list were African American, who represented only 20.4 percent of the population. Hispanics were 57.4 percent of the population, but only 16.6 percent of the purge list; whites were 77.6 percent of the population but 17.6 percent of those purged.

The U.S. Commission on Civil Rights questioned Florida's onerous and infrequently rendered clemency process. Florida is one of only fourteen states in which convicted felons are permanently

disenfranchised, or disqualified from voting in elections, until they apply for and are granted restoration of their civil rights by the Clemency Board, made up of the governor and members of the cabinet. The other thirteen states that do not automatically restore the civil rights of ex-felons are: Alabama, Arizona (2nd conviction), Delaware (automatic restoration after five years), Iowa, Kentucky, Maryland (2nd conviction), Mississippi, Nevada, New Mexico, Tennessee, Virginia, Washington, and Wisconsin (American Civil Liberties Union, Press Release, 2001). In thirty-six states, citizenship rights are restored by law for former felons who have paid their debt to society.

6. *Urgency of the Situation*

Kweisi Mfume, president/CEO of NAACP, speaking at an Inauguration Protest Rally Saturday January 20, 2001, in Tallahassee, Florida, flatly disagreed that the U.S. Justice Department was enforcing the various voting rights laws. Several complaints were filed with the U.S. Justice Department before November 20, 2000, election; "The US Justice Department just turned the other way," Mfume stated. He also said, "The contrast harkens our attention to the need for a nationwide uniform system of casting ballots and counting ballots that is the same no matter what state you are in, no matter what you look like, no matter what the election is." His remarks should be a reminder that all of us in the Presbyterian Church (U.S.A.) and in the United States need to work together to overcome this type of "racial profiling" in elections.

According to Ralph G. Neas, president of the People for the American Way Foundation, there is a urgent need for election reform. He said, "The people's vote is the people's voice, but in Florida thousands of African American and Haitian American voices were silenced on November 7. We're involved in this court action to make sure that Florida officials who failed the voters on Election Day know that they must correct the problems that caused these injustices and make it their top priority to assure that they are never repeated."

Whether or not we agree with the majority decision of the Supreme Court regarding the presidential election, the Court declared in no uncertain terms, on the basis of the Equal Protection clause of the U.S. Constitution, that every vote should count equally. That amendment was originally adopted to protect recently freed slaves and it remains in effect today, yet thousands of African Americans and Haitian Americans were denied the vote in Florida and other states on November 7, 2000. It is imperative that all members of the PC(USA) be effective advocates and monitors in their communities to ensure fair voting procedures and practices.

Appendix

Voting Rights Act of 1965

AN ACT To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress [p*338] assembled, That this Act shall be known as the "Voting Rights Act of 1965."

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

SEC. 3.

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

by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of [p*339] tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

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

SEC. 4.

(a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been [p*340] made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: Provided, That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

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

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

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

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

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

(e)

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant [p*342] classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

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

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, [p*343] or procedure: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that, in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to [p*344] enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for

the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity: Provided, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7.

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

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner [p*345] shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and, in any event, not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): Provided, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

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

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

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose [p*346] of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

SEC. 9.

(a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court [p*347]

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission

and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

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

SEC. 10.

(a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons [p*348] as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

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

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political [p*349] subdivision with respect to which determinations have been made under subsection 4(b) and a declaratory judgment has not been entered under subsection 4(a), during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to election, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this Act to make an application for listing, and shall issue a receipt for such payment. The examiner shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant.

SEC. 11.

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

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

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another [p*350] individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: Provided, however, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 12.

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

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both [p*351]

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

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

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided [p*352] in this subsection shall not preclude any remedy available under State or Federal law.

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

SEC. 14.

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

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4

or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c)

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

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

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 of this Act, subpoenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: Provided, That no writ of subpoena shall issue for witnesses without the District of Columbia at a greater distance than one hundred [p*354] miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

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

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

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

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

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

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act [p*355]

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

Approved August 6, 1965.
Source: *South Carolina v. Katzenbach* (1966), appendix.