The voting rights act of 1965

Law

The 1965 Enactment By 1965 concerted efforts to break the grip of state disfranchisement had been under way for some time, but had achieved only modest success overall and in some areas had proved almost entirely ineffectual. The murder of voting-rights activists in Philadelphia, Mississippi, gained national attention, along with numerous other acts ofviolenceandterrorism.

Finally, the unprovoked attack on March 7, 1965, by state troopers on peaceful marchers crossing the Edmund Pettus Bridge in Selma, Alabama, en route to the state capitol in Montgomery, persuaded the President and Congress to overcome Southern legislators' resistance to effective voting rights legislation. President Johnson issued a call for a strong voting rights law and hearings began soon thereafter on the bill that would become the Voting Rights Act.

Congress determined that the existing federal anti-discriminationlaws were not sufficient to overcome the resistance by state officials to enforcement of the 15th Amendment. The legislative hearings showed that the Department of Justice's efforts to eliminate discriminatory election practices by litigation on a case-by-case basis had been unsuccessful in opening up the registration process; as soon as one discriminatory practice or procedure was proven to be unconstitutional and enjoined, a new one would be substituted in its place and litigation would have to commence anew.

President Johnson signed the resulting legislation into law on August 6, 1965. Section 2 of the Act, which closely followed the language of the 15th amendment, applied a nationwide prohibition against the denial or abridgment of the right to vote on the literacy tests on a nationwide basis.

Among its other provisions, the Act contained special enforcement provisions targeted at those areas of the country where Congress believed the potential for discrimination to be the greatest.

Under Section 5, jurisdictions covered by these special provisions could not implement any change affecting voting until the Attorney General or the United States District Court for the District of Columbia determined that the change did not have a discriminatory purpose and would not have a discriminatory effect. In addition, the Attorney General could designate a county covered by these special provisions for the appointment of a federal examiner to review the qualifications of persons who wanted to register to vote.

Further, in those counties where a federal examiner was serving, the Attorney General could request that federal observers monitor activities within the county's polling place. The Voting Rights Act had not included a provision prohibiting poll taxes, but had directed the Attorney General to challenge its use. In Harper v. Virginia State Board of Elections, 383 U. S. 663 (1966), the Supreme Court held Virginia's poll tax to be unconstitutional under the 14th Amendment.

Between 1965 and 1969 the Supreme Court also issued several key decisions upholding the constitutionality of Section 5 and affirming the broad range of voting practices that required Section 5 review. As the Supreme Court put it in its 1966 decision upholding the constitutionality of the Act: Congress had found that case-by-case litigation was inadequate to combat wide-spread and persistent discrimination in voting, because of the

inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits.

After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. South Carolina v. Katzenbach, 383 U. S. 301, 327-28 (1966). Back to top The 1970 and 1975 Amendments Congress extended Section 5 for five years in 1970 and for seven years in 1975. With these extensions Congress validated the Supreme Court's broad interpretation of the scope of Section 5.

During the hearings on these extensions Congress heard extensive testimony concerning the ways in which voting electorates were manipulated through gerrymandering, annexations, adoption of at-large elections, and other structural changes to prevent newly-registered black voters from effectively using the ballot. Congress also heard extensive testimony about voting discrimination that had been suffered by Hipic, Asian and Native American citizens, and the 1975 amendments added protections from voting discrimination for language minority citizens.

In 1973, the Supreme Court held certain legislative multi-member districts unconstitutional under the 14th Amendment on the ground that they systematically diluted the voting strength of minority citizens in Bexar County, Texas. This decision in White v. Regester, 412 U. S. 755 (1973), strongly shaped litigation through the 1970s against at-large systems and gerrymandered redistricting plans. In Mobile v. Bolden, 446 U. S. 5 (1980), however, the Supreme Court required that any constitutional claim of minority vote dilution must include proof of a racially discriminatory purpose,

a requirement that was widely seen as making such claims far more difficult to prove. Back to top The 1982 Amendments Congress renewed in 1982 the special provisions of the Act, triggered by coverage under Section 4 for twenty-five years. Congress also adopted a new standard, which went into effect in 1985, providing how jurisdictions could terminate (or " bail out" from) coverage under the provisions of Section 4.

Furthermore, after extensive hearings, Congress amended Section 2 to provide that a plaintiff could establish a violation of the Section without having to prove discriminatory purpose. The 2006 Amendments Congress renewed the special provisions of the Act in 2006 as part of the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, Cesar E. Chavez, Barbara Jordan, William Velazquez and Dr. Hector Garcia Voting Rights Act Reauthorization and Amendments Act. The 2006 legislation eliminated the provision for voting examiners.