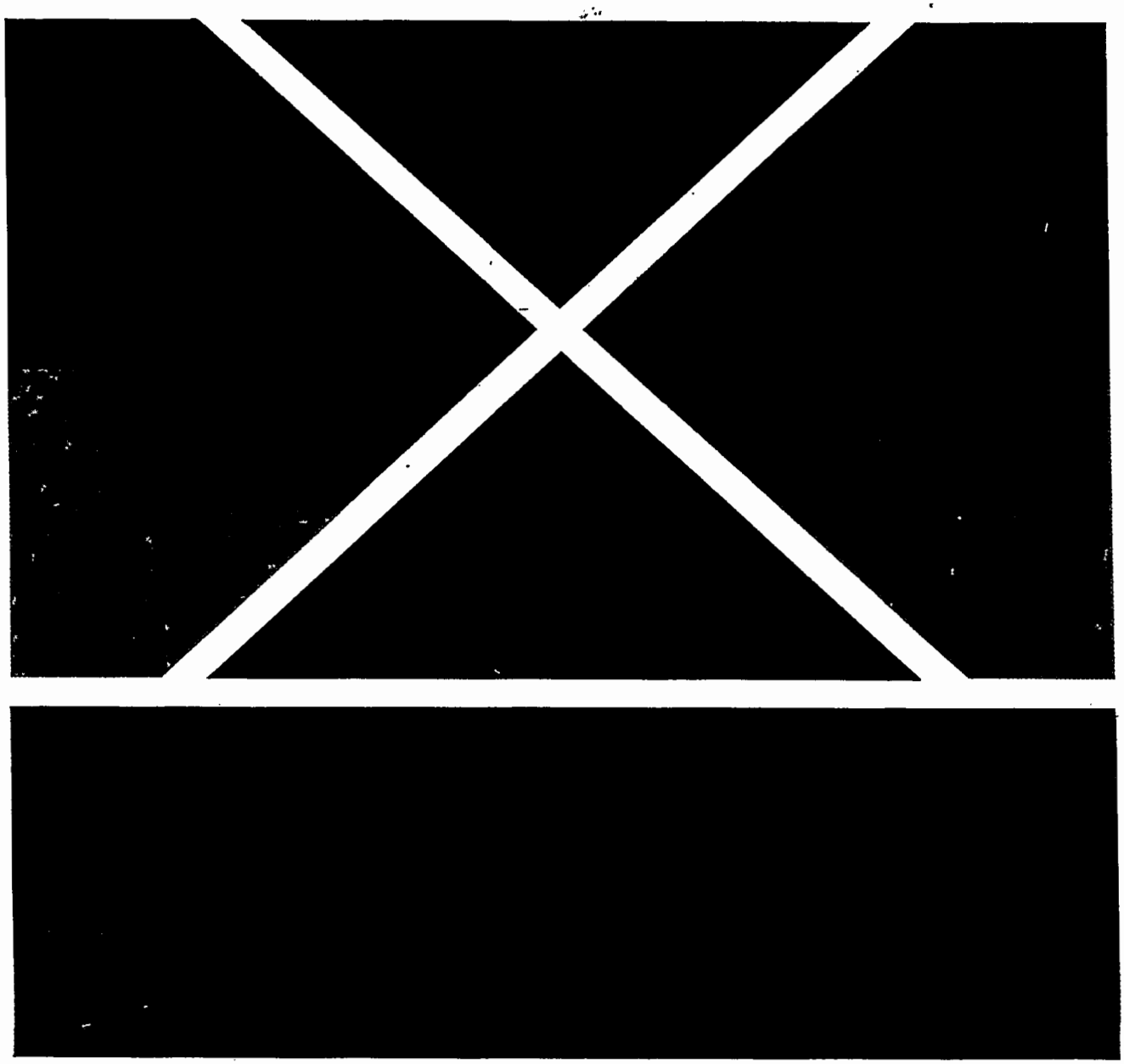
THE VOTING RIGHTS ACT: TEN YEARS AFTER



A Report of the United States
Commission on Civil Rights
January 1975

U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 to:

Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;

Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;

Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and

Submit reports, findings, and recommendations to the President and the Congress.

Members of the Commission:

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman

John A. Buggs, Staff Director

LETTER OF TRANSMITTAL

THE U.S. COMMISSION ON CIVIL RIGHTS
Washington, D.C.
January 1975

THE PRESIDENT
THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

Sirs:

The Commission on Civil Rights presents this report to you pursuant to Public Law 85-315, as amended.

This document presents the Commission's evaluation of the current status of minority voting rights in jurisdictions covered under the Voting Rights Act of 1965, as amended in 1970. The information on which this report is based was obtained by the Commission primarily from staff interviews in these jurisdictions and from court decisions and analysis of the files of the U.S. Department of Justice.

The Voting Rights Act has contributed substantially to the marked increase in all forms of minority political participation in the last 10 years. The very existence of the act as well as the specific remedies that it provides give support to minority citizens as they exercise their constitutional right to vote. Nevertheless, though the Voting Rights Act has been effective, detailed examination of recent events reveals that discrimination persists in the political process. The promise of the 15th amendment and the potential of the Voting Rights Act have not been fully realized. We, therefore, conclude that the protections of the Voting Rights Act should not be allowed to expire in August 1975.

We urge your consideration of the facts presented and the Commission's recommendations for corrective action.

Respectfully,

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman

John A. Buggs, Staff Director

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PREFACE

The 1965 Voting Rights Act is one of the most significant pieces of civil rights legislation ever enacted. Its passage and enforcement have been responsible for substantial increases in the number of blacks registered, voting, and elected to office in the seven Southern States covered by the act. This study has a twofold purpose: (1) to determine whether the conditions which led to the act's original passage have been eradicated; and (2) to determine whether the promise of full participation has been fulfilled for blacks, Puerto Ricans, Mexican Americans, and Native Americans in jurisdictions covered by the act's special provisions.

In the course of the study, Commission staff members visited 54 jurisdictions in 10 States (Alabama, Arizona, California, Georgia, Louisiana, Mississippi, New York, North Carolina, South Carolina, and Virginia) between July and November 1974. Within these States, counties and cities were chosen on the basis of preliminary research that indicated that there were problems of minority participation in the political process. The selected counties represent a wide geographical range as well as rural and urban areas.

The staff conducted over 200 interviews with persons knowledgeable about the political process in these States. These persons included

county clerks, county registrars, and other city and county officials; minority officeholders; minority candidates for office; public officials at the State and national level; and other persons active in civil rights activities. Observations by Commission staff were made during the 1974 primaries in Louisiana, Georgia, and South Carolina, and during the 1974 general elections in Arizona and California.

Other sources of information included the Department of Justice, the Lawyers' Committee for Civil Rights Under Law, the Voter Education Project, and the Joint Center for Political Studies. Commission staff also reviewed State election codes for the 10 States, as well as trial and appellate court decisions and pleadings.

This report deals primarily with events that occurred since 1971. Previous reports of the Commission and others have discussed earlier years of the Voting Rights Act. The report treats examples of problems that continue to affect the enfranchisement of minority voters.[1] It is, therefore, not a complete review of all political activity in the jurisdictions covered by the act.

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1. Throughout this report, the terms black, Native American, Puerto Rican, and Mexican American (or Chicano) are used to refer to the predominant minority groups in the jurisdictions covered by the Voting Rights Act. The term white is used to refer to the nonminority population of these jurisdictions.

Prior to the publication of a report, the Commission, in accordance with its statute, rules, and regulations, affords any individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses received in a timely fashion are incorporated or reflected in the body of the report, or included in Appendix 7.

ACKNOWLEDGMENTS

The Commission is indebted to Emilio E. Abeyta, Cynthia C. Matthews, Deborah P. Snow, and Thomas R. Watson, who prepared this report under the direction of Frank G. Knorr.

Appreciation is also extended to the following staff members and former staff members who provided support and assistance in the production of the report:

Mary Baltimore, Lucille Boston, Claudette C. Brown, Rodney J. Cash, Doris O. Chambers, Antoinette Foster, Joann Harris, Gwen Morris, Michael P. O'Connell, Gail Ross, Roberta Sanders, Patsy Washington, and Mary Watson.

The Commission is also grateful to David H. Hunter who returned to the Commission to lend his expert assistance to this effort.

The report was prepared under the overall supervision of John Hope III, Assistant Staff Director, Office of Program and Policy Review.

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1. INTRODUCTION

On March 25, 1965, 10 days after President Lyndon Johnson's dramatic appeal to Congress for effective voting rights legislation,[1] 25,000 black and white citizens assembled on the steps of the State Capitol in Montgomery, Alabama. They had marched from Selma under the protection of federalized National Guard troops to petition for the most basic of rights--the right to vote. In January 1975, 15 blacks took their seats in the same State Capitol as members of the Alabama legislature, duly elected under a court-ordered apportionment plan fashioned on principles developed in 10 years of implementing the Voting Rights Act of 1965.[2]

Clearly, substantial progress has been made toward full enjoyment of political rights. Because the headlines and front-page pictures of blacks marching to registrars' offices have faded, it is fitting to review the status of voting rights 10 years after passage of the Voting Rights Act. The very real gains that have been made, however, must not be allowed to obscure the persistence of racial discrimination in the electoral process.

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1. Reprinted in U.S., Congress, House of Representatives, Right to Vote, House Doc. No. 117, 89th Cong., 1st Sess. (1965).

2. 42 U.S.C. §§ 1973-1973p, as amended, 42 U.S.C. 1973aa-bb-4 (1970) (hereafter only specific provisions of the act will be cited). The text of the act, as amended, is reproduced in appendix 6.

The story of the progress in voting rights and of the persistence of some old discriminatory practices and development of new ones is more than the story of the Voting Rights Act.[3] But the Voting Rights Act is central to developments of the last 10 years and understanding its provisions and implementation is essential in assessing the current status of minority participation in the political process.

The Voting Rights Act is a complex piece of legislation that was developed in response to the failure of earlier legislation to remedy discrimination in voting.[4] There is no need to belabor the history

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3. In particular, it should be stressed that this report focuses on voting rights only in jurisdictions covered by the Voting Rights Act. It, therefore, excludes consideration of progress and problems elsewhere in the United States. There is reason to believe that minority citizens in other areas encounter difficulties in exercising their political rights. See, e.g., reports of Voter Education Project Field Representatives covering Arkansas, Florida, and Texas during 1973-74 in the files of the Voter Education Project, Inc., Atlanta, Ga.; Arkansas State Advisory Committee Report to the U.S. Commission on Civil Rights, Blacks in The Arkansas Delta (1974); California State Advisory Committee Reports to the U.S. Commission on Civil Rights, Political Participation of Mexican Americans in California (1971) and Reapportionment of Los Angeles' 15 City Councilmanic Districts (1973). In addition, litigation in jurisdictions not discussed in this report raises many of the issues that are treated. See, e.g., White v. Regester, 412 U.S. 755 (1973) on the discriminatory aspects of multimember legislative districts in Texas. There is also extensive litigation attacking the use of at-large elections for local governmental bodies as racially discriminatory. The Commission will investigate such problems in a subsequent report.

4. See U.S., Congress, House, Judiciary Committee, House Report No. 439, reported in U.S. Code, Congressional and Administrative News (89th Cong., 1st Sess., 1965), vol. 2, pp. 2441-2508, and Joint Views of 12 members of the Judiciary Committee Relating to the Voting Rights Act of 1965, attached to Senate Report No. 162, reported ibid., pp. 2540-70.

of minority disfranchisement here. Earlier reports of the U.S. Commission on Civil Rights and others have told that story.[5] It is important to recall, however, that the frustration of Federal efforts to ensure free exercise of 15th amendment rights led directly to the enforcement mechanisms of the Voting Rights Act. Voting rights provisions of the Civil Rights Acts of 1957,[6] 1960,[7] and 1964[8] focused on streamlining the traditional remedies of the judicial process to enforce the 15th amendment. By contrast, the Voting Rights Act not only further strengthened judicial remedies, but also provided for direct Federal action through a variety of administrative remedies to counter immediate and potential barriers to full and effective minority political participation.[9]

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5. See Report of the U.S. Commission on Civil Rights, 1959; 1961 U.S. Commission on Civil Rights Report, Book 1: Voting; Report of the U.S. Commission on Civil Rights, 1963; U.S. Commission on Civil Rights, Freedom to the Free (1963); U.S. Commission on Civil Rights, Voting in Mississippi (1965); U.S. Commission on Civil Rights, The Voting Rights Act...The First Months (1965); and U.S. Commission on Civil Rights, Political Participation (1968). See also Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972).

6. Pub. L. 85-315, 71 Stat. 637.

7. Pub. L. 86-449, 74 Stat. 90.

8. Pub. L. 88-352, 78 Stat. 241. The three civil rights acts, as well as some amendments from the Voting Rights Act of 1965 (Pub. L. 89-110, 79 Stat. 445) are codified as 42 U.S.C. § 1971 (1970).

9. For comparison of Federal enforcement strategies, see Armand Derfner, "Racial Discrimination and the Right to Vote," Vanderbilt Law Review, vol. 26 (1973), pp. 523 ff., and Note, "Federal Protection of Negro Voting Rights," Virginia Law Review, vol. 51 (1965), pp. 1050 ff.

Some provisions of the Voting Rights Act are permanent legislation of general application. Others are temporary, with special application. The temporary provisions were initially established for 5 years and were extended in 1970 for 5 more years.[10] The Supreme Court of the United States has upheld the constitutionality of the major provisions of the act.[11] This report is primarily concerned with the effect of the special provisions of the Voting Rights Act, but brief mention of its general provisions sets a context for understanding the potential of the act.

Among the general provisions, section 2 prohibits the imposition or application of any racially discriminatory "voting qualification or prerequisite to voting, standard, practice, or procedure."[12] Section 3 authorizes courts to apply the remedies established in the special provisions in suits brought by the Attorney General to enforce the 15th amendment.[13] Section 10 contains a congressional finding that the poll tax violated the 15th amendment and instructs the Justice Department to bring suit against its use.[14] Other sections establish civil and criminal penalities for violations of the act.[15]

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10. See p. 7 below.

11. South Carolina v. Katzenbach, 383 U.S. 301 (1966).

12. 42 U.S.C. § 1973 (1970).

13. 42 U.S.C. § 1973a (1970). The special provisions are summarized on pp. 5-6 and discussed in detail in chapter 2.

14. 42 U.S.C. § 1973h (1970). Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966) and the 24th amendment ban payment of poll taxes as a requirement for voting.

15. 42 U.S.C. § 1973i-1.

One permanent provision, section 4(e), is discussed in detail in later chapters of this report. That provision defines Puerto Ricans educated in Spanish as literate if they have completed the sixth grade,[16] regardless of their ability to speak, read, or write English.

The heart of the Voting Rights Act is in its special provisions, sections 4 through 9. Essentially, section 4 provides a nondiscretionary, automatic formula, or "trigger," by which States or their political subdivisions (collectively called "jurisdictions") are covered, or made subject to the act's remedies.[17] Section 4 prohibits the use of "tests or devices"[18] as a prerequisite to registering or voting in any jurisdiction that maintained such tests or devices on November 1, 1964, and whose voter registration or turnout in the 1964 Presidential election was less than 50 percent of the voting age population. Section 5 freezes the electoral laws and procedures of such jurisdictions as of November 1, 1964, and prohibits enforcement of any changes in them until certification by the Attorney General or

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16. 42 U.S.C. § 1973b(e) (1970). Section 4(e) was upheld by the Supreme Court in Katzenbach v. Morgan, 384 U.S. 641 (1966).

17. 42 U.S.C. § 1973b (1970). Section 4 also establishes procedures for exemption of jurisdictions which come under the formula but can prove they have not discriminated against minority voters. See chapter 2, p. 13.

18. The act defines as a "test or device" a requirement that a person "(1) demonstrate the ability to read, write, or 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." 42 U.S.C. § 1973b(c) (1970).

the District Court for the District of Columbia that the changes are not discriminatory in purpose or effect.[19] This process is often called "preclearance." Sections 6 through 9 provide for, but do not require, the assignment of Federal examiners to "list" eligible persons for registration by State officials in the covered jurisdictions and observers to report on the conduct of elections in some of the jurisdictions designated by the Attorney General for Federal examiners.[20]

The Voting Rights Act is a set of interacting mechanisms of varying application designed for both immediate and long-run impact. The act served the immediate goal of increasing registration by suspending literacy tests and other tests or devices in covered jurisdictions and providing for Federal examiners to speed the registration process. It also looked to the future by providing in section 5 a mechanism for preventing jurisdictions from thwarting the purposes of the act by changing their electoral laws and procedures. That the latter was not an idle fear is clear: as Congress debated the Voting Rights Act, the State of Mississippi repealed provisions of its laws that allowed illiterate persons to be assisted at the polls,[21] thereby attempting to disfranchise prospectively many persons whom the Voting Rights Act was about to enfranchise.

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19. 42 U.S.C. § 1973c (1970).

20. 42 U.S.C. §§ 1973d-g (1970). Section 13 (42 U.S.C. § 1973k (1970)) provides for termination of listing.

21. See United States v. Mississippi, 256 F. Supp. 344, 346 (S.D. Miss. 1966).

Thus, the act is aimed at facilitating registration but also at ensuring that increased registration will be meaningful. The act is designed to foster full minority participation in the process of self-government.

Congress found in 1970 that more time was necessary to guarantee that the purposes of the act were fulfilled.[22] In addition to extending the temporary provisions for 5 years, Congress amended the coverage formula of section 4 to include jurisdictions that had maintained a test or device on November 1, 1968, and had less than 50 percent turnout in the Presidential election of that year.[23] In doing this, Congress continued the special coverage of some jurisdictions for a total of 10 years (that is, their coverage would expire in 1975) and added jurisdictions whose 10-year coverage would expire in 1980 (or later, depending on exactly when they were first covered).[24] Also in 1970, Congress decided to suspend for 5 years all literacy tests

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22. See U.S., Congress, House, Judiciary Committee, Hearings on Voting Rights Act Extension Before Subcommittee No. 5, 91st Cong., 1st Sess. (1969) and U.S., Congress, Senate, Judiciary Committee, Hearings on Amendments to the Voting Rights Act of 1965 Before the Subcommittee on Constitutional Rights, 91st Cong., 1st and 2d Sess. (1969-70).

23. Voting Rights Act Amendments of 1970, Pub. L. 91-285, 84 Stat. 315, now codified in 42 U.S.C. §§ 1973b,c (1970).

24. See chapter 2 for explanation of when different jurisdictions were covered.

everywhere in the United States.[25]

If the temporary provisions of the Voting Rights Act (sections 4 through 9 and the national literacy test suspension) expire in August 1975, the authority for section 5 preclearance and for the use of examiners and observers will end. Jurisdictions covered by the act in 1965 would be permitted to resume the use of tests and devices. Jurisdictions covered later than 1965 would remain covered and could not impose their tests and devices until their 10-year coverage period had passed.

* * * *

The Voting Rights Act was designed to enable minority citizens to gain access to the political process and to gain the influence that participation brings. Before passage of the act, minorities had largely been excluded from politics. The remainder of this report details the recent experience of minority citizens as they have begun to participate in the political process in the jurisdictions covered by the Voting Rights Act.

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25. 42 U.S.C. § 1973aa (1970). The 1970 amendments also abolished durational residency requirements for Presidential elections and lowered the voting age to 18. Voting Rights Act Amendments of 1970, Pub. L. 91-285, 84 Stat. 316 and 84 Stat. 318, now codified in 42 U.S.C. § 1973bb (1970). In Oregon v. Mitchell, 400 U.S. 112 (1972) the Supreme Court upheld the 1970 amendments except for the provision lowering the voting age to 18 for State and local elections. That was subsequently accomplished by the 26th amendment.

Chapter 2 provides information about the coverage of the act and its enforcement mechanisms, and Chapter 3 discusses the impact of the act in terms of data on registration, voting, and the election of minorities to office in the covered jurisdictions. Chapters 4, 5, and 6 describe persistent barriers to full participation of minorities both as voters and as candidates. Chapter 7 deals with the continuing problems of fear, violence, and economic dependence that inhibit free exercise of minority voting rights. Chapters 8 and 9 focus on problems of political structure--the manipulation of electoral rules and representation formulas to minimize the impact of minority political participation.

2. IMPLEMENTATION OF THE VOTING RIGHTS ACT

The Voting Rights Act establishes a complex of interacting means for combating different kinds of discriminatory techniques.[1] Some features of the act are permanent (e.g., the litigation authority of section 3) and some are temporary (e.g., the suspension of all literacy tests). Some are automatic (e.g., the "trigger" of section 4) and some are discretionary (e.g., the use of examiners and observers). Some provisions had immediate effect (e.g., suspension of literacy tests in covered jurisdictions) and some were designed for prospective effect (e.g., the section 5 requirement of preclearance of changes in voting laws and practices). The Voting Rights Act was designed to provide new procedures and remedies that would allow a flexible response to changing circumstances instead of focusing on strengthening judicial remedies as previous civil rights acts had done.

Given the design of the act, it is difficult to consider one section or provision in isolation from others. The success and impact of the act results from the interaction of its provisions rather than the implementation of any single provision. In the discussion that follows, the major procedures and enforcement mechanisms of the act are presented basically in the order in which they appear in the sections

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1. The text of the act, as amended in 1970, is reproduced in appendix 6.

of the act. The order of discussion, however, does not reflect the importance of the provisions, and the interactive nature of the provisions will become evident only by reading through each section of the chapter.

The Civil Rights Division of the Department of Justice is primarily responsible for enforcement of the Voting Rights Act. Each section of the chapter gives some indication of the manner in which the Department has implemented the provisions discussed.[2]

LITIGATION

The Voting Rights Act strengthened the Attorney General's authority to bring suits to enforce the 15th amendment. Though other provisions of the act have made litigation less necessary and less frequent, it is still an important weapon in the enforcement arsenal. The authority to sue is particularly important for protecting voting rights in jurisdictions that are not specially covered[3] and for challenging

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2. For evaulation of the Justice Department's enforcement performance up to 1972, see U.S. Commission on Civil Rights, Political Participation (1968), pp. 162-70; Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972), pp. 145-57, 159-64 (hereafter cited as Shameful Blight); U.S., Congress, House, Judiciary Committee, Hearings on Enforcement of the Voting Rights Act before the Civil Rights Oversight Subcommittee, 92d Cong., 1st. Sess. (1971), pp. 253-74 (testimony of Armand Derfner, Lawyers' Committee for Civil Rights Under Law, Washington, D.C.) and the subsequent Report on Enforcement of the Voting Rights Act of 1965 in Mississippi 92d Cong., 2d Sess. (1972).

3. No court has yet used the authority of section 3, however, to impose the special coverage remedies on jurisdictions not covered by the act.

discriminatory laws and practices in force before jurisdictions were covered and, thus, not subject to section 5 review.

The Justice Department has initiated 45 suits under the act and has participated in private suits.[4] The purpose of the litigation has been to enforce section 5[5] and other provisions of the act.[6] The department has also sued to correct abuses in the conduct of elections which are not covered by the act.[7]

Private litigation under the act has had similar purposes.[8] Additionally, private suits have sought to clarify the Department's policies, to require it to enforce the act, and to force covered jurisdictions to comply with the act.[9]

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4. Gerald W. Jones, Chief, Voting Section, Civil Rights Division, Department of Justice, letters to David H. Hunter, U.S. Commission on Civil Rights, July 1, 1974, Attachment 5 and Dec. 6, 1974, Attachment 5.

5. See e.g., Georgia v. United States, 411 U.S. 526 (1973).

6. See e.g., United States v. Mississippi, 256 F. Supp. 344 (S.D. Miss. 1966).

7. See e.g., United States v. Anthone, Civil No. 2872 (M.D. Ga. Feb. 5, 1974).

8. See e.g., Allen v. State Board of Elections, 393 U.S. 544 (1969); Hadnott v. Amos, 394 U.S. 358 (1969); Perkins v. Matthews, 400 U.S. 379 (1971); Connor v. Johnson, 402 U.S. 690 (1971).

9. See Common Cause v. Mitchell, Civil No. 2348-71 (D.D.C. March 30, 1972); Harper v. Kleindienst, 362 F. Supp. 742 (D.D.C. 1973), appeal docketed, No. 73-1766, D.C. Cir. July 17, 1973.

COVERED JURISDICTIONS

A covered jurisdiction is a State--or a county, parish, or town (in New England) within a State that is not covered as a whole--that used a test or device and had less than 50 percent turnout in the 1964 or 1968 Presidential election.[10] Jurisdictions covered in 1965 and early 1966 were: the entire States of Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; 40 of the 100 counties in North Carolina and 4 of the 14 counties in Arizona. Honolulu County, Hawaii, and Elmore County, Idaho, also met the conditions of the trigger and were covered by the act.[11]

Section 4(a) of the Voting Rights Act provides that a jurisdiction may exempt itself from special coverage if it can persuade the District Court for the District of Columbia that it has not used a test or device in a discriminatory manner for 5 (since 1970, 10) years.[12]

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10. 42 U.S.C. § 1973 b(b) (1970).

11. Coverage of the seven States, Apache County, Ariz., and 26 North Carolina counties (Anson, Bertie, Caswell, Chowan, Craven, Cumberland, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Hertford, Hoke, Lenoir, Nash, Northampton, Onslow, Pasquotank, Person, Pitt, Robeson, Scotland, Vance, Wayne, and Wilson) was published in 30 Fed. Reg. 9897 (Aug. 7, 1965). Subsequently, other counties were added: Coconino and Navajo Counties, Ariz., Honolulu County, Hawaii, and Elmore County, Idaho, 30 Fed. Reg. 14505 (Nov. 19, 1965); Martin and Washington Counties, N.C., 31 Fed. Reg. 19 (Jan. 4, 1966); Yuma County, Ariz., 31 Fed. Reg. 982 (Jan. 25, 1966); Camden and Perquimans Counties, N.C., 31 Fed. Reg. 3317 (March 2, 1966), and Beaufort, Bladen, Cleveland, Gaston, Guilford, Harnett, Lee, Rockingham, Union, and Wake Counties, N.C., 31 Fed. Reg. 5081 (March 29, 1966).

12. 42 U.S.C. § 1973 b(a) (1970). Although some of the covered jurisdictions perhaps could make the necessary showing, most jurisdictions have not filed suit to exempt themselves.

Between 1965 and 1970 the State of Alaska; Wake County, North Carolina; Elmore County, Idaho; and Apache, Navajo, and Coconino Counties, Arizona, successfully sued to exempt themselves.[13] Gaston County, North Carolina, was unsuccessful in its exemption suit.[14]

The Voting Rights Act Amendments of 1970 continued the special coverage of the jurisdictions listed above that had not been exempted. By amending the trigger to refer to the 1968 election as well as the 1964 election, Congress also brought under special coverage three counties in New York City (the boroughs of Manhattan, Brooklyn, and the Bronx); Campbell County, Wyoming; Monterey and Yuba Counties in California; and five additional counties in Arizona (Cochise, Mohave, Pima, Pinal, and Santa Cruz). Also, some counties which had been exempted after 1965 were re-covered in 1970: Apache, Coconino, and Navajo Counties in Arizona; Elmore County, Idaho; and Election Districts 8, 11, 12, and 13 in Alaska.[15] More recently it was discovered that certain New England towns met the tests and they have also been

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13. Alaska v. United States, Civil No. 101-66 (D.D.C. Aug. 17, 1966); Wake County v. United States, Civil No. 1198-66 (D.D.C. Jan. 23, 1967); Apache County v. United States, 256 F. Supp. 903 (D.D.C. 1966)--including Navajo and Coconino Counties, leaving Yuma County covered; and Elmore County v. United States, Civil No. 320-66 (D.D.C. Sept. 22, 1966).

14. Gaston County v. United States, 395 U.S. 285 (1969). See p. 18.

15. 36 Fed. Reg. 5809 (March 27, 1971).

covered.[16]

The election districts in Alaska were exempted in 1972.[17] The three New York City boroughs were exempted in April 1972, but the exemption was rescinded and the three counties re-covered 2 years later.[18] Only one of the covered Southern States, Virginia, has sued for exemption. The Attorney General did not consent to exemption for Virginia,[19] and the district court continued its coverage.

It is important to note, as the list of covered jurisdictions shows, that the special coverage provisions of the Voting Rights Act reach into every corner of the United States. Obviously, the impact of the act has been greatest in the seven Southern States which are wholly or partially covered, but the act is not strictly regional legislation. Discrimination in voting is not limited to the South:

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16. 39 Fed. Reg. 16912 (May 10, 1974). Connecticut: the towns of Southbury, Groton, and Mansfield. New Hampshire: the towns of Rindge, Stewartstown, Stratford, Benton, Antrim, Boscawen, Newington, and Unity; Millsfield Township, and Pinkhams Grant. Maine: the towns of Limestone, Ludlow, Woodland, New Gloucester, Sullivan, Winter Harbor, Chelsea, Charleston, Waldo, Beddington, and Cutler; Caswell, Nashville, Reed, Somerville, Carroll, and Webster plantations, and the unorganized territory of Connor. Massachusetts: the towns of Bourne, Sandwich, Sunderland, Amherst, Belchertown, Ayer, Shirley, Wrentham, and Harvard.

17. Alaska v. United States, Civil No. 2122-71 (D.D.C. July 2, 1972).

18. New York v. United States, Civil No. 2419-71 (D.D.C.) orders of April 13, 1972, January 10, 1974. and April 30, 1974. The New York case is discussed in chapter 8.

19. Virginia v. United States, Civil No. 1100-73 (D.D.C. Sept. 18, 1974), appeal docketed 43 U.S.L.W. 3309 (U.S. Oct. 25, 1974) (No. 74-481). See p. 18.

the problems encountered by Spanish speaking persons and Native Americans in covered jurisdictions are not dissimilar from those encountered by Southern blacks, and the Voting Rights Act protects their rights as well.

SUSPENSION OF LITERACY TESTS

The Voting Rights Act suspended the use of tests and devices in jurisdictions with less than 50 percent turnout in the 1964 or 1968 Presidential election.[20] The 1970 amendments to the Voting Rights Act suspended all literacy tests, regardless of turnout, until August 1975.[21] Congress had found that such tests were particularly susceptible to abuse.

Literacy tests disfranchised illiterates; but, through the use of unfair tests or unfair administration of apparently fair tests, they also disfranchised large numbers of literates as well. Subjective "understanding" and "interpretation" tests and more extreme measures, such as Virginia's "blank form" (where applicants were required to supply the required information from memory without even a form to guide them), ensured that blacks could not register in substantial numbers.[22] The requirement of English-language literacy disfranchised

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20. 42 U.S.C. § 1973 b(a) and (b) (1970).

21. 42 U.S.C. § 1973aa (1970).

22. See sources cited in chapter 1, notes 4 and 5; See also Armand Derfner, "Racial Discrimination and the Right to Vote," Vanderbilt Law Review, vol. 26 (1973), pp. 563-64.

many otherwise qualified voters in jurisdictions such as New York, California, and Arizona.

The suspension of literacy tests permitted registration of literates who had been unfairly disfranchised, illiterates, and some persons whose usual language is not English. For the most part, the jurisdictions affected complied with the suspension of tests,[23] though the Attorney General, pursuant to section 5 of the Voting Rights Act, has objected to certain practices on the grounds that they constituted a test or device.[24]

The most important problem that has developed as a result of the suspension of literacy tests is the availability and quality of assistance to illiterates in the electoral process. To cast an effective ballot, illiterates must have meaningful help at the registration office and at the polls. The courts have held that the States must provide effective assistance.[25] States may not deny illiterates assistance which they permit physically disabled or blind persons.[26]

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23. See U.S. Commission on Civil Rights, The Voting Rights Act...The First Months (1965), pp. 24-25.

24. See David H. Hunter, Federal Review of Voting Changes, How to Use Section 5 of the Voting Rights Act (Washington, D.C.: Joint Center for Political Studies et al., 1974), pp. 25-26 (hereafter cited as Federal Review of Voting Changes). Objections were made to changes in South Carolina (Oct. 2, 1967), Georgia (Aug. 30, 1968), Alabama (Nov. 13, 1969), and North Carolina (March 18, 1971 and April 20, 1971). See appendix 5 for list of objections under the Voting Rights Act.

25. United States v. Mississippi, 256 F. Supp. 344 (S.D. Miss. 1966) and United States v. Louisiana, 265 F. Supp. 703 (E.D. La. 1966), affirmed 386 U.S. 270 (1967).

26. Ibid. and Garza v. Smith, 320 F. Supp. 131 (W.D. Texas 1970).

Nor may a State unduly limit the number of persons whom a helper may assist[27] or deny illiterates, but not literates, the use of sample ballots.[28] However, courts have not required that black helpers be available to assist black illiterates,[29] and some jurisdictions require that assistance be given only by an election official or an election official and a family member.[30]

Although the Supreme Court of the United States upheld the constitutionality of literacy tests applied in a nondiscriminatory manner in 1959,[31] it has since held that reimposition of literacy tests in jurisdictions with a history of unconstitutional school segregation may unfairly punish the victims of racial discrimination in education by depriving them of their voting rights.[32] Courts have refused to exempt such jurisdictions from coverage under the Voting Rights Act when it was shown that their segregated schools had provided inferior education.[33]

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27. Morris v. Fortson, 261 F. Supp. 538 (N.D. Ga. 1966). Georgia had reduced the number of persons a helper could assist from 10 to one.

28. Gilmore v. Greene County Democratic Party Executive Committee, 435 F.2d 487 (5th Cir. 1970).

29. Hamer v. Ely, 410 F.2d (5th Cir. 1969).

30. For details of the types of assistance permitted by various jurisdictions and their practices, see chapter 5.

31. Lassiter v. Northampton County Board of Elections, 360 U.S. 45 (1959).

32. Gaston County v. United States, 395 U.S. 285 (1969).

33. Ibid. and Virginia v. United States, Civil No. 1100-73 (D.D.C. Sept. 18, 1974), appeal docketed, 43 U.S.L.W. 3309 (U.S. Oct. 25, 1974) (No. 74-481).

Congress suspended the use of all literacy tests as an experiment. There is no indication that governments have been burdened by the loss of their literacy tests. Indeed, many States have begun to realize for the first time the seriousness of the literacy problem and the severity of the burden borne by illiterates and semiliterates in their dealings with their governments. In 1970 there were still more than 2 million persons 14 years old or over who had never attended school and 6.6 million persons 14 years old or over who had less than 5 years of school (i.e., were classified as functionally illiterate).[34] Minorities were disproportionately represented in these groups.

Some 5.5 percent of the total population 25 years old or older in 1970 had less than 5 years of school, while 15 percent of blacks and 16 percent of Spanish heritage persons 25 years old or older were functionally illiterate in 1970.[35] Of the 10 States wholly or partially covered by the Voting Rights Act that are discussed in this report, only New York and California had percentages of functionally illiterate population lower than the national figure. In

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34. U.S., Department of Commerce, Bureau of the Census, Educational Attainment by Age, Sex, and Race for the United States: 1970, no. PC(S1)-36 (April 1973). Of course, persons with limited or no schooling might be able to vote without assistance. These data, however, provide the only available estimate of the literacy problem for voting.

35. U.S., Department of Commerce, Bureau of the Census, City and County Data Book (1972), table 1, p. 3.

Alabama, Georgia, Louisiana, Mississippi, South Carolina, and North Carolina more than 10 percent of the population over 25 was functionally illiterate.[36]

In sum, literacy is still a problem in the United States, particularly for minorities and older people. The potential of literacy tests to disfranchise otherwise qualified voters remains. Although some States have removed literacy tests from their constitutions and codes,[37] without action by Congress, they will retain their power to reinstate tests when the suspension expires. Other States still have literacy tests on the books,[38] lending credence to the fears of many minority voters that tests will be reimposed, in one guise or another, as soon as the States are permitted to do so.[39]

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36. Ibid.

37. For example, in 1971, Virginia repealed the literacy requirement contained in Section 20 of its Constitution. Virginia v. United States, Civil No. 1100-73 (D.D.C. Sept. 18, 1974), slip opinion, p. 3.

38. See, for example, Code of Ala., Tit. 17 § 32 (Supp. 1973) and S.C. Code Ann. § 23-62 (4) (Supp. 1973).

39. Staff interviews in Alabama, Louisiana, Mississippi, and South Carolina, July-Sept. 1974.

Most literacy test States required English literacy as a prerequisite to registration and voting.[40] In the Voting Rights Act Congress addressed the particular problems of potential Puerto Rican voters. Education in Puerto Rico is in Spanish and Spanish is the usual language of Puerto Ricans born in Puerto Rico, whether resident on the island or the mainland. Until 1965, regardless of educational attainment or literacy in Spanish, Puerto Ricans, who are American citizens, could not vote in literacy test States unless they could demonstrate English language literacy. The largest concentration of Puerto Ricans was in New York City, where the State literacy test effectively disfranchised many of them. Indeed, this Commission found in its first report "that Puerto Rican American citizens are being denied the right to vote, and that these denials exist in substantial numbers in the State of New York."[41]

Section 4(e) of the Voting Rights Act enfranchised those Puerto Ricans who could prove they had completed 6 years of school in

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40. Hawaii accepted literacy in Hawaiian as well as English and Louisiana allowed the alternative of literacy in the applicant's mother tongue. See U.S. Commission on Civil Rights, Staff Memorandum, "Current Status of Literacy Tests or Devices for the Qualification of Prospective Voters" (Feb. 13, 1970), in U.S., Congress, Senate, Judiciary Committee, Hearings on Amendments to the Voting Rights Act of 1965 Before the Subcommittee on Constitutional Rights, 91st Cong., 1st and 2d Sess. (1969-70), p. 407.

41. Report of the U.S. Commission on Civil Rights, 1959, p. 68.

Puerto Rico even if they were not literate in English.[42] This provision is temporarily superseded by the national suspension of literacy tests, so otherwise qualified Puerto Ricans can register regardless of literacy in English or Spanish. If the suspension expires, New York's English-language literacy requirement will regain its force[43] and non-English-speaking Puerto Ricans will again have to demonstrate Spanish literacy by proving that they have completed the sixth grade.

Enfranchisement of Puerto Ricans has sharpened the focus on another aspect of the problem of helping voters use their ballots effectively. Court decisions in New York have resulted in specific orders that the board of elections provide extensive bilingual assistance to voters in election districts with substantial non-English-

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42. 42 U.S.C. § 1973b(e) (1970).

43. At the time it upheld section 4(e), the Supreme Court of the United States declined to rule New York's English-language literacy requirement (N.Y. Const., art. II sec. 1) unconstitutional. See Cardona v. Power, 384 U.S. 672 (1966). If the literacy test suspension expires, New York would be able to reinstate its test in all but the three specially covered counties in New York City. Since those counties were re-covered in 1974, the literacy test would remain in suspension there until 1984.

speaking population.[44] The rationale behind the decisions is the same as the reasoning that required help for illiterate voters: meaningful assistance to allow the voter to cast an effective ballot is implicit in the granting of the franchise. In Torres v. Sachs a Federal court found that the conduct of elections in English deprived Spanish speaking citizens of rights protected by the Voting Rights Act: "It is simply fundamental that voting instructions and ballots, in addition to any other material which forms part of the official communication to registered voters prior to an election, must be in Spanish as well as English, if the vote of Spanish-speaking citizens is not to be seriously impaired."[45]

As is the case with assistance to illiterates, the quality of bilingual assistance provided continues to be uneven. Courts in New York have ordered complete bilingual election assistance from dissemination of registration information through bilingual media to use of bilingual election inspectors. As subsequent sections of this report

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44. With reference to elections for the school board of Community School District One in Manhattan, see Lopez v. Dinkins, 73 Civ. 695 (S.D.N.Y. Feb. 14, 1973). The court invalidated the election because the bilingual assistance was not adequately provided. Coalition for Education in School District One v. Board of Elections of the City of New York, 370 F. Supp. 42 (S.D.N.Y. 1974), affirmed, 495 F.2d 1090 (2nd Cir. 1974). With reference to city elections, see Torres v. Sachs, 381 F. Supp. 309 (S.D.N.Y. 1974).

45. 381 F. Supp. 312.

show, failure to comply adequately with such orders compounds voting problems and increases the burden on minority citizens.[46]

Courts in some jurisdictions not covered by the special provisions of the Voting Rights Act that have substantial Puerto Rican populations have also ordered the development of bilingual election systems.[47] Some jurisdictions not under court order have moved voluntarily to deal with the problem of assisting the non-English-speaking voter.[48] The California Supreme Court found that State's English-language literacy requirement a violation of the equal protection clause of the 14th amendment but did not eliminate the requirement of literacy altogether (since suspended by the 1970 Voting Rights Act Amendments) or order the development of "a bilingual electoral apparatus."[49] Subse-

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46. See chapter 5. See also Coalition for Education in School District One v. Board of Elections of the City of New York, note 44 above.

47. Puerto Rican Organization for Political Action v. Kusper, 490 F.2d 575 (7th Cir. 1973) (Chicago); Marquez v. Falcey, Civil No. 1447-73 (D.N.J. Oct. 9, 1973); Ortiz v. New York State Board of Elections, Civil No. 74-455 (W.D.N.Y. Oct. 11, 1974) (Buffalo); and Arroyo v. Tucker, 372 F. Supp. 764 (E.D. Pa. 1974) (Philadelphia).

48. New Jersey has adopted a statute requiring bilingual sample ballots and registration forms in election districts with 10 percent or more Spanish speaking registered voters (N.J. Laws, 1974, ch. 51). Westchester County, N.Y., provides bilingual registration forms and plans to institute bilingual ballots for any town whose Spanish speaking population reaches 10 percent. Joseph A. McNamara, Commissioner of Elections, White Plains, N.Y., interview, Aug. 15, 1974.

49. Castro v. California, 85 Cal. Rptr. 20, 466 P.2d 244, 258 (1970).

quently the California State legislature enacted legislation which required county officials to make reasonable efforts to recruit bilingual deputy registrars and election officials in precincts with 3 percent or more non-English-speaking voting age population.[50] In addition, California now requires the posting of a Spanish-language facsimile ballot, with instructions, that also must be provided to voters on request for their use as they vote.[51]

SECTION 5 PRECLEARANCE

Section 5 of the Voting Rights Act requires that covered jurisdictions submit changes in "any voting qualifications, or prerequisite to voting, or standard, practices, or procedure with respect to voting" to the United States Attorney General or the United States District Court for the District of Columbia for a determination that the change is not discriminatory in purpose or effect before it can be enforced.[52] The point of section 5 preclearance was to break the cycle of substitution of new discriminatory laws and procedures when old ones were struck down.

Section 5 has become the focus of the Voting Rights Act in recent years.[53] The history of section 5 provides an index of the types of

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50. Cal. Election Code §§ 201, 1611 (West Supp. 1974).

51. Cal. Election Code § 14201.5 (West Supp. 1974).

52. 42 U.S.C. § 1973c (1970).

53. In the first 6 years of the act, section 5 was hardly used at all. See the discussion in Shameful Blight, pp. 136-39 and sources there cited, summarizing the 1970 and 1971 controversies over enforcement. See also Perkins v. Matthews, 400 U.S. 379, 393, n. 11 (1971).

discriminatory practices that covered jurisdictions have attempted to put into effect since 1965 and 1970, though it does not record all discriminatory practices in those jurisdictions or those of other jurisdictions.[54]

The language of the act clearly shows that Congress intended to include a very broad range of subjects under section 5. Courts have interpreted the language broadly: "The legislative history on the whole supports the view that Congress intended to reach any State enactment which altered the election law of a covered State in even a minor way."[55] Preclearance focuses on the effect of changes as well as on their purpose.

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54. Appendix 5 contains a list of all Attorney General objections to changes submitted under section 5. Information in this report about section 5 submissions and determinations is drawn from the letter of objection from the Assistant Attorney General for the Civil Rights Division to the appropriate State or local official, 28 C.F.R. § 51.21, cited "objection letter"; from summaries of section 5 objections contained in the section 5 chronological file, 28 C.F.R. § 51.26(b), cited "section 5 summary"; from the public section 5 file, 28 C.F.R. § 51.26(a), cited "section 5 files"; from the weekly list of section 5 submissions, 28 C.F.R. § 51.16, cited "section 5 weekly list"; and from the computer printout listing section 5 submissions and determinations that is maintained by the Voting Section of the Civil Rights Division, cited "section 5 printout, as of" the date of the printout. References to section 5 materials are included only to the extent necessary to identify the source and the date. For further information on section 5 procedures see David H. Hunter, Federal Review of Voting Changes.

55. Allen v. State Board of Elections, 393 U.S. 544, 566 (1969).

As the Supreme Court of the United States said: "Section 5 is not concerned with a simple inventory of voting procedures, but rather with the reality of changed practices as they affect Negro voters."[56]

Thus, the covered jurisdictions are required to submit all changes in their voting laws, practices, and procedures, whether major or apparently trivial. Congress knew that seemingly minor changes in electoral law could, in fact, serve to exclude minorities from participation or to minimize the effect of their participation. Changes in polling places, registration times and places, qualifications for office, schedules of elections, city boundaries, and districting are among the matters that must be submitted.[57] The issue of whether court-approved reapportionment plans may be implemented without section 5 review by the Attorney General or the District Court for the District of Columbia awaits further clarification.[58]

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56. Georgia v. United States, 411 U.S. 526, 531 (1973).

57. See Federal Review of Voting Changes, especially pp. 23-46, for discussion of many of the types of changes that must be submitted. Some indication of the range of changes may be found in appendix 5.

58. In granting a motion to stay a district court order regarding a Mississippi reapportionment plan, the Supreme Court declined to reach a section 5 argument, stating that "A decree of the United States District Court is not within the reach of Section 5 of the Voting Rights Act." Connor v. Johnson, 402 U.S. 690, 691 (1971). In Harper v. Kleindienst, 362 F. Supp. 742 (D.D.C. 1973), appeal docketed, No. 73-1776 (D.C. Cir. July 17, 1973), the court is being asked to overturn a district court ruling that the Attorney General is obligated under section 5 to review a reapportionment plan approved by the Federal district court in South Carolina. As of Dec. 20, 1974, the court had not decided the case. See chapter 8 for details of the South Carolina case.

Regulations to implement section 5 were not developed until 1971.[59] Under the statute and the regulations, it is up to the jurisdiction to make a submission and to persuade the Attorney General or the court that a change is not discriminatory. Should the Justice Department hear of a change that has not been submitted, it may request the jurisdiction to make its submission. Both the Department and private parties may sue to enjoin enforcement of any change which has not been submitted.[60]

Without more exact monitoring of the legislative activity of all governing bodies in covered jurisdictions, it is impossible to state the extent of compliance with the submission requirement. Although jurisdictions have been in substantially greater compliance in the second 5 years than they were in the first 5 years of the act, review of the Justice Department's May 1974 computer printout reveals that a large number of counties have never made any submissions under section 5. Spot checks by Commission staff indicate that in some cases, at least, changes have been made but not submitted or reviewed.[61] Noncompliance with the Voting Rights Act through failure to submit changes remains a problem in enforcement of the act.

The regulations specify the minimal information that jurisdictions must submit and encourage submission of detailed information to

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59. 28 C.F.R. Part 51. Issuance of the regulations was approved in Georgia v. United States, 411 U.S. 526 (1973).

60. See Allen v. State Board of Elections, 393 U.S. 544 (1966).

61. See discussion in chapters 8 and 9.

assist the Attorney General's review.[62] The submitting jurisdiction may include whatever material it wishes to support its case. Public comment on the reasons for a change and its likely racial impact is welcomed and even solicited by the Department.[63] The Department has 60 days from the time the submission is complete (i.e., the jurisdiction has provided all information the Department thinks it needs to evaluate the change) to determine whether the Attorney General shall "interpose an objection."[64] The alternative of seeking a declaratory judgment without Attorney General review has been used only once.[65] The option of an administrative proceeding is clearly preferred by the covered jurisdictions.

If the Attorney General does not object to a change, the jurisdiction may enforce it, though it remains subject to constitutional challenge. If the Attorney General does object, then the jurisdiction may, in effect, appeal by asking the Federal district court for a declaratory judgment that the change is not discriminatory.[66] The

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62. 28 C.F.R. § 51.10.

63. 28 C.F.R. §§ 51.10-51.15.

64. 42 U.S.C. § 1973c (1970); 28 C.F.R. § 51.3.

65. Vance v. United States, Civil No. 1529-72 (D.D.C. Nov. 30, 1972).

66. See, for example, Beer v. United States, 374 F. Supp. 363 (D.D.C. 1974), prob. jur. noted 43 U.S.L.W. 3186 (U.S. Oct. 15, 1974) (No. 73-1869) in which the court rejected New Orleans' contention that its second city council redistricting plan was not discriminatory after the Attorney General had objected to two plans. See discussion in chapter 9.

jurisdiction also may amend its change to remove the discriminatory aspects and resubmit it.[67] Though the Department does not redraft changes itself, the process of evaluation may take on the cast of negotiation and the Department may help shape the new submission. Or the process may involve a "negotiated settlement" in which the Attorney General does not object based on certain stated understandings.[68]

Section 5 also acts as a deterrent to passage or enforcement of discriminatory legislation. That is, the fact that a change must be submitted and reviewed by "outside" officials specifically for its racial purpose or effect inhibits jurisdictions from passing such legislation. For example, an attorney reports that Virginia's attorney general monitors submissions from local areas to ensure that objectionable changes go no further.[69] Attorneys familiar with the

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67. A second submission may also be objected to, as was the case in New Orleans (note 66 above) but compare, for example, New York's redistricting in which the second submission was not objected to (see chapter 8).

68. This occurred with respect to the Georgia legislative redistricting plan (see chapter 8). Former staff member, Department of Justice, telephone interview, Nov. 22, 1974. Similarly, the Attorney General did not object to Arizona's prohibition of straight party voting on the understanding that Arizona would provide bilingual assistance in the 1974 general election. J. Stanley Pottinger, Assistant Attorney General for Civil Rights, letter to N. Warner Lee, Attorney General of Arizona, Oct 3, 1974. (See chapter 5.)

69. Armand Derfner, Charleston, S.C., interview, Nov. 18, 1974. Mr. Derfner has been counsel for the plaintiffs in a number of voting rights suits in Virginia, including the Richmond and Petersburg annexations (see chapter 9).

operation of section 5 invariably refer to its deterrent effect.[70] In Bessemer, Alabama, for example, the city rescinded an increase in filing fees rather than submit it for preclearance.[71] At the time Bessemer was approaching an election in which blacks were expected to mount a significant challenge for control of the city commission.

FEDERAL EXAMINERS AND OBSERVERS

The Voting Rights Act deals most directly with the problems of registration of voters and the conduct of elections in sections 6 through 9, the provisions establishing the examiner and observer programs. Use of Federal registrars had been widely debated during consideration of the earlier civil rights acts, but establishment of an effective Federal registrar program was delayed until 1965. Failure of the earlier legislation forced acknowledgment that some Federal presence was necessary.

Federal examiners may be sent at the direction of the United States Attorney General to covered jurisdictions if the Attorney General has received 20 meritorious written complaints alleging voter discrimination or the Attorney General believes that the appointment of examiners

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70. Ibid. See also interviews with Stanley A. Halpin, Jr., attorney, New Orleans, La., Nov. 18, 1974, and David Coar, attorney, Birmingham, Ala., July 19, 1974.

71. Walter Jackson, Birmingham, Ala., interview, July 17, 1974. See also Birmingham News, June 14, 1974, p. 36.

is necessary to enforce the guarantees of the 15th amendment.[72] The times, places, and procedures for Federal examination are established by the Civil Service Commission with the advice of the Attorney General.[73] The Civil Service Commission actually appoints the examiners.[74]

The duty of the examiners is to list, that is, declare eligible and entitled to vote, those who satisfy State qualifications that are consistent with Federal law and that have not been suspended by the Voting Rights Act. Each person listed by the examiner is issued a certificate as evidence of eligibility to vote in any Federal, State, or local election.[75] The list is sent monthly to local election officials who must enter the names of the listed persons on the registration rolls.[76] The regulations also include procedures for

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72. 42 U.S.C. § 1973d (1970). The Attorney General has relied almost exclusively on the second of these grounds for designating jurisdictions for examiners, though complaints and requests from local citizens are investigated. Gerald W. Jones, Chief, Voting Section, interview, June 5, 1974. On April 29, 1974, the Attorney General designated Pearl River Co., Miss., for examiners on the basis of citizen complaints. Deposition of J. Stanley Pottinger, p. 9 in Connor v. Waller, Civil No. 3830 (S.D. Miss. Nov. 13, 1974).

73. J. Stanley Pottinger, Assistant Attorney General for Civil Rights, letter to John A. Buggs, Staff Director, U.S. Commission on Civil Rights, Dec. 23, 1974, attachment.

74. See 45 C.F.R. Part 801 for the Civil Service Commission's regulations for examiners.

75. 45 C.F.R. § 801.205.

76. 45 C.F.R. § 801.207. Shortly after the program began, State courts in Alabama, Louisiana, and Mississippi enjoined local officials from registering federally-listed persons, but Federal courts voided the injunctions and ordered that they be registered. Reynolds v. Katzenbach, 248 F. Supp. 593 (S.D. Ala. 1965); United States v. Louisiana, 265 F. Supp. 703 (E.D. La. 1966), affirmed 386 U.S. 270 (1967); United States v. Mississippi, 256 F. Supp. 344 (S.D. Miss. 1966).

challenging listings and for removing the names of persons who have died or lost their eligibility to vote.[77]

Despite fears expressed when the Voting Rights Act was passed (or perhaps because of them), examiners have been used sparingly and most served during the first few years after the act went into effect.[78] Although local registrars continue to complain about the use of examiners,[79] only 60 counties and parishes have ever had examiners in the 10 years of the Voting Rights Act.[80] Only 155,000 of the more than 1 million new minority registrants in the covered States were registered through Federal listing.[81] No examiners have

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77. 45 C.F.R. § 801.301 et seq. and 45 C.F.R. § 801.401 et seq.

78. For detailed and critical discussion of the policy on and use of examiners up until 1972, see Shameful Blight, pp. 51-60. During the years 1972 through 1974 examiners have been used in only two Mississippi counties for a total of 10 days. They listed 454 new registrants. Gerald W. Jones, Chief, Voting Section, Civil Rights Division, U.S. Department of Justice, letter to David H. Hunter, U.S. Commission on Civil Rights, Dec. 6, 1974, Attachment 8.

79. For example, Nell Hunter, Chairman of the Board of Registrars, Jefferson Co., Ala., interview, July 17, 1974; Cecil Manning, Registrar, East Carroll Parish, La., interview, Sept. 5, 1974.

80. Seventy-three of the 553 counties in the seven covered Southern States have been designated for examiners, including two new ones on Oct. 31, 1974 (U.S., Department of Justice, Press Release, Nov. 5, 1974). That designation is a necessary formality for the appointment of observers. See appendix 3 for the list of designated counties and the total number of persons listed by Federal examiners in each.

81. In the 10 years, 170,276 persons (of whom about 7 percent are white) have been listed. Slightly over 15,000 were rejected or have since had their names removed from the lists. U.S., Civil Service Commission, Bureau of Manpower Information Systems, "Cumulative Totals on Voting Rights Examining" (June 30, 1974).

ever been sent to North Carolina and Virginia. (See table 1.)

Table 1. SUMMARY OF EXAMINER ACTIVITY AS OF JUNE 30, 1974

State	Number of Examiner Counties	Number of Persons Listed (Net)
Alabama	12	62,798
Louisiana	9	21,107
Mississippi	34	62,273
South Carolina	2	4,582
Georgia	3	3,388
TOTAL	60	155,148

Source: U.S., Civil Service Commission, Bureau of Manpower Information Systems, "Cumulative Totals on Voting Rights Examining" (June 30, 1974).

Some persons told the Commission that the mere threat of examiners stimulated local registrars to begin registering blacks.[82] A black politician stressed the deterrent effect of the examiner program when he commented, "Birmingham would be appalled and embarrassed if examiners were sent back here."[83]

Federal observers are appointed by the Civil Service Commission at the request of the Attorney General to serve in jurisdictions which

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82. For example, Sam Ely, Circuit Clerk, Sunflower Co., Miss., interview, Aug. 9, 1974.

83. Dr. Richard Arrington, city council member, Birmingham, Ala., interview, July 19, 1974.

have been designated by the Attorney General for the appointment of Federal examiners.[84] The duty of the observers is to act as poll watchers to observe whether all eligible persons are allowed to vote and whether all ballots are accurately counted. The people who serve as observers are either Civil Service Commission field employees or field employees of other Federal agencies who are recruited by the Civil Service Commission.[85]

Since enactment of the Voting Rights Act, more than 6,500 observers have been sent to cover elections in five Southern States.[86] Almost half of all observers have been used in Mississippi. In 1974, 430 observers watched primary and general elections in Alabama, Georgia, Louisiana, and Mississippi.[87]

Black residents of jurisdictions that have had observers view the program with mixed reactions.[88] Most believe that the presence of observers deters local officials from preventing blacks from voting and, to a lesser extent, from treating black voters discourteously.

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84. 42 U.S.C. § 1973f (1970).

85. Charles Dullea, Voting Rights Task Force, U.S. Civil Service Commission, Washington, D.C., telephone interviews, Dec. 10 and 16, 1974. For background on the observer program see Political Participation, pp. 157-162 and Shameful Blight, pp. 87-88.

86. See appendix 4 for distribution of observers by county and year.

87. Jones letter to Hunter (n. 78 above), Attachment 2.

88. Staff interviews in Alabama, Louisiana, Mississippi, and South Carolina, July-Sept. 1974.

Most also believe that the presence of observers, if known in advance, encourages blacks to vote because the Federal presence can help to alleviate the widespread distrust of local election officials. Department of Justice staff attorneys who have served with observers have expressed similar views.[89]

Nevertheless, black residents of observer jurisdictions visited by the Commission staff expressed some dissatisfaction with the program. They complain that most observers are white Southerners from nearby States and often indistinguishable from the local election officials.

Neither the Department of Justice nor the Civil Service Commission maintains records showing the race of all observers,[90] but the limited information available indicates that few observers are black. According to the Civil Service Commission, 126 of the 191 Federal observers present at the November 1974 election were recruited from other Federal agencies, and there is no record of their race. Only 7 of the 65 who were Civil Service Commission employees were black.[91] A Civil Service Commission spokesman explained that arrangements for observers are made just before an election when there is no time to attempt to ensure that a substantial percentage of the observers are minorities.[92]

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89. Staff interviews with Department of Justice staff attorneys, August-September, 1974.

90. Jones letter to Hunter (n. 78 above); Dullea interviews.

91. Dullea interviews.

92. Ibid.

Black residents of observer jurisdictions also complain that the practice of last-minute assignment of observers tends to diminish the effectiveness of the program. One attorney noted that the observers arrive just before the election and are not well informed about local conditions.[93] Their last-minute assignment precludes widespread publicity about their presence, so the reassuring effect of their presence for minority voters may well be lost.

One of the least understood aspects of the Federal observer program is the role of the observer in actual practice. The number of complaints about the passivity of observers or the need for observers made to Commission staff during the preparation of this report indicates a lingering belief, or perhaps hope, that the observers are there on election day either to "do something" or "prevent the doing of something."[94] In fact, Federal observers merely observe and report the conduct of the election in the polling place they are assigned to; they do not participate in managing the poll in any way.[95]

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93. J. L. Chestnut, Selma, Ala., interview, Sept. 3, 1974.

94. Staff interviews in Alabama, Louisiana, Mississippi, and South Carolina, July-Sept. 1974.

95. James v. Humphreys County Board of Election Commissioners, No. GC-72-70-K (N.D. Miss. Oct. 4, 1974) illustrates the function of observers and use of the fruits of poll watching by a court. For the general election on Nov. 2, 1971, 30 Federal observers served in Humphreys County. The observers witnessed at least 634 assisted voters as they voted. They noted the method and manner of assistance at each polling place. The observer reports provided a relatively complete record of the conduct of the election that the court relied on in ordering that illiterates receive the same form of assistance afforded blind and disabled persons.

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The Voting Rights Act works through the interaction of its provisions. If a jurisdiction meets the conditions of the section 4 trigger, it is automatically covered by the special provisions. Coverage automatically suspended a jurisdiction's test or device (until the national suspension of literacy tests temporarily banned them all) and brings the section 5 review requirement into force. Use of examiners and observers under sections 6 through 9 is at the discretion of the Attorney General. Litigation under the act is both independent of the temporary provisions and in support of them. The act addressed the immediate problem of facilitating registration of minorities through provision for suspension of literacy tests and assignment of Federal examiners. It also anticipated the development of later problems through provision for observation of elections and review of changes in electoral laws and procedures.

As minority citizens have begun to exercise their political rights, the Justice Department's enforcement emphasis has shifted from using examiners for registration to using section 5 preclearance to block efforts to minimize the influence of new minority voters, candidates, and officeholders.

The Voting Rights Act was designed and has been implemented to change local circumstances in which minorities encountered severe difficulties in exercising their constitutional rights. Its impact can be seen through analysis of statistics on political participation and through review of the recent experience of minority citizens in the political process in jurisdictions covered by the act.

3. IMPACT OF THE VOTING RIGHTS ACT

Minority political participation has increased substantially in the 10 years since enactment of the Voting Rights Act. There are more minority citizens registered, voting, running for office, and holding office than at any time in the Nation's past. Though the potential of minority political participation has yet to be realized, the progress of the last 10 years is striking. A large part of this progress is due directly or indirectly to the impact of the Voting Rights Act. Minority citizens are no longer politically invisible. As a close observer of black politics commented, "[B]lack politics is much too important these days to be ignored."[1]

The extremely low participation of blacks in the South was a major stimulus for enactment of the Voting Rights Act. Review of "before and after" statistics on registration, voting, and office-holding for the seven Southern States wholly or partially covered by the act shows both that more blacks are participating in the political process

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1. Eddie N. Williams, president, Joint Center for Political Studies, "The Impact of the Black Vote on National Politics" (speech before the Public Affairs Council, Nov. 7, 1974), p. 2.

now and that the disparity between white and black participation has diminished substantially. Real progress has been made in ensuring that all citizens may exercise their political rights, and the available statistical evidence indicates that minority citizens have responded to the opportunity to participate.

PROGRESS IN THE COVERED SOUTHERN STATES

Inability or failure to register to vote usually prevents a citizen from running for or holding office as well as from voting. Thus, low registration generally means low levels of other forms of political participation. While increased registration rates are achievements in themselves, their real importance is that they create the potential for increased impact on the political process through voting, candidacy, and office-holding. Not only are black votes almost always critical to the success of black candidates, they are also often essential for the victory of white candidates as well. Thus, increased registration allows black voters to influence and sometimes determine election outcomes. In addition, the existence of a substantial number of black voters requires that candidates pay some heed to their needs and policy preferences. Registration is the key to full political participation.

More than 1 million new black voters were registered in the seven covered Southern States between 1964 and 1972, increasing the percentage of eligible blacks registered from about 29 percent to

over 56 percent.[2] The numerical increase in black registration in each State is shown in table 2.

Table 2. NUMERICAL INCREASE IN BLACK REGISTRATION IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT, 1964-1972

State	Number of New Black Registrants
Alabama	197,320
Georgia	282,337
Louisiana	190,006
Mississippi	239,940
North Carolina	40,427
South Carolina	67,850
Virginia	130,741
TOTAL	1,148,621

Sources: Calculated from "pre-act" estimates in U.S. Commission on Civil Rights, Political Participation (1968), appendix VII, and 1971-72 data provided by the Voter Education Project, Inc.

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2. Most registration data by race are unofficial figures estimated by county personnel, the Department of Justice, the Voter Education Project, or other unofficial sources. The pre-act dates of estimates vary widely from State to State; for a complete list of sources and dates, see U.S. Commission on Civil Rights, Political Participation (1968), Appendix VII (hereafter cited as Political Participation). Only Louisiana kept official figures in 1965; that State, North Carolina, and South Carolina maintained such data in 1972. Although Title VIII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(f), requires the Bureau of the Census to conduct surveys on registration for selected jurisdictions, these surveys have never been done. See Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972), pp. 49-50 and sources there cited (hereafter cited as Shameful Blight).

The sharp increase in numbers of blacks registered in these States has also contributed to the substantial reduction in the gap between white and black registration rates.[3] Registration rates report the percentage of voting age population that is registered. Table 3 presents black and white registration rates in each State before and after the Voting Rights Act was passed and for 1971-72. In addition, the table shows the gap, or difference, between white and black registration rates. The rates are based on statewide figures and thus do not indicate the differences in registration rates among the counties of one State or all the States.[4]

The most striking feature of these data is the steady decline in the gap between white and black registration rates since passage of the act. In the seven States, this disparity has been reduced from 44.1 percentage points to 11.2 percentage points. The gap diminished in each of the States, though in some States it remained relatively large. For example, the statewide gaps in South Carolina and Georgia were reduced by 1972 to less than 5 percentage points, but in Alabama and Louisiana the gaps were still greater than 20 percentage points.

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3. It should be noted that in some States reduction of the gap is attributable to decreased white registration as well as to increased black registration.

4. Registration rates vary widely within a State. Analysis of 1974 data for three States shows a very wide range in disparities among counties. See pp. 55-56 and appendix 1.

Table 3. REGISTRATION BY RACE AND STATE IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT

	Pre-act Estimate[a]			Post-act Estimate[b]			1971-72 Estimate		
	White	Black	Gap*	White	Black	Gap*	White	Black	Gap*
Alabama	69.2%	19.3%	49.9	89.6%**	51.6%	38.0	80.7%	57.1%	23.6
Georgia	62.6	27.4	35.2	80.3**	52.6	27.7	70.6	67.8	2.8
Louisiana	80.5	31.6	48.9	93.1	58.9	34.2	80.0	59.1	20.9
Mississippi	69.9	6.7	63.2	91.5	59.8	31.7	71.6	62.2	9.4
North Carolina	96.8	46.8	50.0	83.0	51.3	31.7	62.2	46.3	15.9
South Carolina	75.7	37.3	38.4	81.7	51.2	30.5	51.2	48.0	3.2
Virginia	61.1	38.3	22.8	63.4	55.6	7.8	61.2	54.0	7.2
TOTAL	73.4	29.3	44.1	79.5	52.1	27.4	67.8	56.6	11.2

a. Available registration data as of March 1965.

b. Available registration data as of Sept. 1967.

* The gap is the percentage point difference between white and black registration rates.

** The race was unknown for 14,297 registered voters in Alabama, and for 22,776 in Georgia.

Sources: U.S. Commission on Civil Rights, Political Participation (1968), appendix VII; Voter Education Project, Attachment to Press Release, Oct. 3, 1972.

Although blacks are still underregistered, compared to whites, substantial progress has been made toward equalizing statewide registration. Some of this progress is due to listing for registration by Federal examiners appointed pursuant to the Voting Rights Act.[5] Most of it, however, is due to the willingness of blacks to seek to register and of registrars to comply with the law.

The substantial increases in registration since 1964 are reflected in increased voting by blacks in the seven Southern States wholly or partially covered by the Voting Rights Act. It is impossible to document that assertion with exact statistics because most States do not maintain records of voting by race.[6] However, analysis of statewide turnout in national elections and of survey data indicates trends which support that conclusion. Also, the gap between turnout in those States and national turnout has diminished, a change which may be attributable to both increased voting by Southern blacks and decreased voting by others in the population.

Table 4 shows the percentage of persons of voting age that voted for President in the elections of 1964, 1968, and 1972, in the United States as a whole and in each of the seven Southern States discussed in

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5. The Federal examiner program is discussed in chapter 2.

6. South Carolina now reports turnout by race (see p. 61).

this report. Presidential election data are used because in most cases turnout in Presidential elections is higher than in any other kind of election and because turnout in Presidential elections is less likely to be affected by strictly local considerations. The figures are totals for States and therefore do not indicate either the range of turnout among counties within a State or the race of the voters. The table also shows the change in turnout between the 1964 and 1968 elections and between the 1964 and 1972 elections.

Table 4. VOTER TURNOUT IN THE PRESIDENTIAL ELECTIONS OF 1964, 1968, AND 1972 IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT

	1964	1968	1972	Percentage Point Change in Turnout 1964 to 1968	Percentage Point Change in Turnout 1964 to 1972
Alabama	35.9%	52.7%	44.2%	+16.8	+ 8.3
Georgia	43.3	43.4	37.8	+ 0.1	- 5.5
Louisiana	47.3	54.8	45.0	+ 7.5	- 2.3
Mississippi	33.9	53.2	46.0	+19.3	+12.1
North Carolina	52.3	54.3	43.9	+ 2.0	- 8.4
South Carolina	39.4	46.7	39.5	+ 7.3	+ .1
Virginia	41.1	50.1	45.6	+ 9.0	+ 4.5
United States	61.8	60.7	55.7	- 1.1	- 6.1

Source: U.S., Department of Commerce, Bureau of the Census, Statistical Abstract of the United States 1974, 95th ed., table no. 704, p. 438.

In the 1964 election, all of the States fell well below the national average, and only in North Carolina did statewide turnout exceed 50 percent of the voting age population. In 1968, while national turnout dropped slightly, turnout increased in all seven Southern States covered by the Voting Rights Act in 1965-66. The increase ranged from 0.1 percentage point in Georgia to 19.3 percentage points in Mississippi. Some of this increase in voting is probably due to the impact of the Voting Rights Act in the covered States.

Furthermore, although turnout in all seven States declined between the 1968 and 1972 elections and national turnout dropped sharply during the same period, in four of the seven States 1972 turnout remained higher than 1964 turnout. In North Carolina, which had the highest turnout among these States in the 1964 election, turnout had dropped 8.4 percentage points by the 1972 election. But in Mississippi, which had the lowest turnout in 1964, turnout by 1972 had increased 12.1 percentage points. Similarly, in Alabama, which had the second lowest turnout in 1964, turnout between 1964 and 1972 increased 8.3 percentage points. Where persons vote in States with traditionally low turnout, despite a strong national trend toward nonvoting, it seems likely that many of the voters are persons who had previously been denied the opportunity to vote.

Survey data concerning reported voting by race and region also tend to support this inference. After each national election since 1964 the Bureau of the Census has conducted a survey on voting in that election.[7] Although these are the most complete surveys available, their utility is limited by the fact that more persons are reported as having voted than actual votes were cast.[8] Their utility for this study is further limited by the fact that, although statistics are presented for blacks and whites by major regions of the country, there are no data by race for individual States and the Bureau of the Census definition of the South includes the District of Columbia and nine other States in addition to the seven Southern States discussed in this report. Also, the Bureau of the Census has not surveyed voting by any other minority group discussed in this report.[9]

With these qualifications stated, the surveys show clearly that the pattern of participation in Presidential elections reported by

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7. The surveys since 1966 have also included some questions about registration.

8. There are several explanations to account for this overreporting, including, e.g., spoiled ballots as well as simple misreporting by the persons surveyed. Because the overreported figures are different from the actual turnout discussed above, to avoid confusion this discussion describes patterns of voting rather than the reported numbers.

9. In 1972 the Bureau of the Census did obtain a national figure for registration and voting by persons of Spanish origin, but no regional breakdowns were obtained.

Southern blacks is toward increased participation since passage of the Voting Rights Act.[10] Southern black voting increased sharply between 1964 and 1968. Though it declined somewhat between 1968 and 1972, Southern black voting in 1972 remained higher than in 1964. That is, the pattern of voting reported by Southern blacks was similar to that exhibited by several of the seven States, whose 1972 turnout remained higher than 1964 turnout despite the low national turnout in 1972.

Thus, both types of data suggest that Southern blacks are taking advantage of the opportunity to participate in politics that the Voting Rights Act has attempted to secure. There has been substantial progress even though turnout in the seven Southern States and voting by Southern blacks continues to lag behind national turnout and voting by whites.

Increased registration and voting by blacks in the seven Southern States covered by the Voting Rights Act has resulted in a substantial increase in the number of blacks running for and winning election to

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10. This discussion is based on analysis of data reported in the post-election surveys of the three most recent Presidential elections: U.S., Department of Commerce, Bureau of the Census, Voter Participation in the National Election November 1964, Series P-20, no. 253 (Oct. 1965); Voting and Registration in the Election of November 1968, Series P-20, no. 192 (Dec. 1969); and Voting and Registration in the Election of November 1972, Series P-20, no. 253 (Oct. 1973) (hereafter cited as Voting and Registration in the Election of November 1972).

public office. The number of black elected officials has grown throughout the country, but the change is especially striking in the States discussed in this report.

There is no available estimate of the number of black elected officials in the seven States before passage of the Voting Rights Act. Certainly it was a small number, well under 100 black officials.[11] By February 1968, 156 blacks had been elected to various offices in the seven States. This total included 14 State legislators, 81 county officials, and 61 municipal officials.[12] Table 5 shows their distribution by State and type of office.

More recent statistics show greater progress in electing black officials. By April 1974, the total number of black elected officials in the seven States had increased to 963. This total included 1 Member of the United States Congress, 36 State legislators, 429 county officials, and 497 municipal officials. Table 6 sets out their distribution by State and type of office.

In all of the covered Southern States there are now some blacks in the State legislature[13] and in at least some counties of each State

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11. Political Participation, p. 15.

12. Ibid.

13. The number of blacks elected to State legislatures in these States has increased again as a result of the Nov. 1974 election. The total is now 68 black State legislators. See p. 62.

Table 5. BLACK ELECTED OFFICIALS, AS OF FEBRUARY 1, 1968, IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT

	State Legislature	County Offices				Municipal Offices			
	Senate/House	Governing Body	Law Enforcement	School Board	Others	Mayor	Council	Others	Total
Alabama	0/0	0	3	3	4	2	12	0	24
Georgia	2/9	3	0	1	0	0	4	2	21
Louisiana	0/1	10	16	4	0	1	5	0	37
Mississippi	0/1	4	15	1	2	1	5	0	29
North Carolina	0/0	0	0	1	0	0	9	0	10
South Carolina	0/0	3	2	0	5	0	1	0	11
Virginia	0/1	2	1	0	1	0	12	7	24
SEVEN STATES	2/12	22	37	10	12	4	48	9	156
TOTALS	14	81				61			156

Source: U.S. Commission on Civil Rights, Political Participation (1968), appendix 1.

Table 6. BLACK ELECTED OFFICIALS, AS OF APRIL 1, 1974, IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT

	U.S. Congress	State Legislature	County Offices				Municipal Offices			Total
		Senate/House	Governing Body	Law Enforcement	School Board	Others	Mayor	Council	Others	
Alabama	0	0/3	9	52	16	12	8	48	1	149
Georgia	1	2/14	8	6	26	3	2	69	6	137
Louisiana	0	0/8	32	19	41	0	4	38	7	149
Mississippi	0	0/1	8	41	23	19	7	62	30	191
North Carolina	0	0/3	7	2	29	0	8	104	5	158
South Carolina	0	0/3	18	12	23	2	6	51	1	116
Virginia	0	1/1	15	4	0	2	1	38	1	63
SEVEN STATES	1	3/33	97	136	158	38	36	410	51	963
TOTALS	1	36	429				497			963

Source: Joint Center for Political Studies, National Roster of Black Elected Officials, vol. 4 (April 1974).

there are blacks on county governing boards. Although the number of offices held by blacks is rather small in comparison to the total number of offices in these States, the rapid increase in the number of black elected officials is one of the most significant changes in political life in the seven States since passage of the Voting Rights Act.

ANALYSIS OF CURRENT STATISTICS

Although blacks are beginning to catch up, the U.S. Assistant Attorney General for Civil Rights noted recently, "Some of the gains of the past ten years are more apparent than real."[14] Analysis of current statistics shows that, though the gaps between white and black participation rates have diminished, there remain significant disparities. Furthermore, though the number of black elected officials has increased rapidly, blacks have gained only a meager hold on the most significant offices. Participation data on other minority groups discussed in this report are very scarce; but, overall, their participation seems to lag behind that of both whites and blacks in the covered Southern States.

The most recent estimates of registration by race for the seven covered Southern States as a group are those of the Voter Education Project for 1971-72.[15] Table 7 shows black and white voting age

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14. J. Stanley Pottinger, "Justice and the Voting Rights Act of 1970" (speech before the Congressional Black Caucus, Sept. 27, 1974), p. 12.

15. As noted previously, the Bureau of the Census has never done a registration survey as required by Title VIII of the Civil Rights Act of 1964 (42 U.S.C. 2000(f)).

Table 7. VOTER REGISTRATION IN SOUTHERN STATES COVERED BY THE VOTING RIGHTS ACT, 1971-1972

State	White VAP*	Black VAP*	Whites Registered**	Blacks Registered**	Percent White VAP Registered	Percent Black VAP Registered
Alabama	1,697,434	508,326	1,369,542	290,057	80.7%	57.1%
Georgia	2,263,467	663,581	1,598,268	450,000	70.6	67.8
Louisiana	1,644,732	600,425	1,315,981	354,607	80.0	59.1
Mississippi	936,704	431,617	670,710	268,440	71.6	62.2
North Carolina	2,647,812	644,511	1,648,254	298,427	62.2	46.3
South Carolina	1,200,907	429,598	614,383	206,394	51.2	48.0
Virginia	2,532,537	508,995	1,550,000	275,000	61.2	54.0
TOTALS	12,923,589	3,787,053	8,767,138	2,142,925	67.8	56.6

* VAP or voting age population is the number of persons 18 years old or older in 1970, according to the 1970 census, calculated by Commission staff. The Voter Education Project population figures are projections to 1972.

** Registration figures shown are for the following dates: Ala., Jan. 1972; Ga., May 1971; La., Dec. 1971; Miss., Dec. 1971; N.C., Dec. 1971; S.C., Dec. 1971; and Va., Jan. 1972.

Source: Voter Education Project, Inc., 1972.

populations and numbers registered as well as registration rates. In all of the States black registration was lower than white. The disparity ranged from 3 percentage points in Georgia to 24 in Alabama.

Of the seven Southern States covered by the act, only three--Louisiana, North Carolina, and South Carolina--collect registration data by race. Table 8 shows 1974 registration in those States.

Table 8. VOTER REGISTRATION IN LOUISIANA, NORTH CAROLINA, AND SOUTH CAROLINA, 1974

State	Whites Registered	Blacks Registered	Percent White VAP Registered	Percent Black VAP Registered
Louisiana	1,335,027	391,666	81.2	65.2
North Carolina	1,911,448	350,560	72.2	54.4
South Carolina	736,302	261,110	61.3	60.8

Voting age populations (VAP) as of the 1970 census are shown in table 7 above.

Sources: Louisiana State Board of Registration (as of Oct. 5, 1974); North Carolina State Board of Elections (as of Oct. 30, 1974); South Carolina State Election Commission (as of Oct. 25, 1974).

The trend of increasing black registration has continued in these three States since 1971-72. Also, in Louisiana and South Carolina the statewide gap between white and black registration rates has been further reduced, by 4.9 and 2.7 percentage points, respectively. In North Carolina, however, the disparity between white and black registration has increased by 1.9 percentage points since 1972.

The lack of current data on registration by race for the other covered Southern States precludes drawing firm conclusions about

registration for all the covered States.[16] If the three States are typical, then the black registration rate will have increased, but the disparity between black and white registration may have increased or decreased slightly.

All of the registration figures mentioned above are statewide figures. They obscure the disparities between white and black registration rates which actually exist within the States.[17] In Louisiana where 81 percent of eligible whites are registered, compared to 65 percent of the eligible blacks, the gap is much more evident in rural than in urban parishes.[18] In 8 of the 10 least populous parishes, the disparity is greater than 20 percentage points, while only 2 of the 10 most populous parishes have gaps of that size. For example, in Orleans Parish (New Orleans), the difference is only 3 percentage points while in Lincoln Parish (population 34,000) there is a 34 percentage point interval. Blacks constitute 45 percent and 40 percent of the population in the two parishes, respectively.[19]

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16. The Voter Education Project estimates that overall the gap is about 15 percent. John Lewis, Executive Director of the Voter Education Project, Inc., Atlanta, Ga., speech reported in the Washington Post, Nov. 15, 1974, p. A-8.

17. See appendix 1 for 1974 registration by race and the gap between white and black registration by county for these three States.

18. Data supplied by Louisiana State Board of Registration as of Oct. 5, 1974.

19. Unless otherwise noted in this report, all population and voting age population figures are calculated from 1970 census data for each State: U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population: General Characteristics of the Population, vol. 1. For black percentages of the population in counties 25 percent or more black in the seven Southern States, see appendix 2-A.

A similar range of disparities exists in North Carolina. In the State as a whole the white registration rate is 18 percentage points higher than the black rate, and in the 39 counties covered by the act white registration exceeds black by 11 percentage points.[20] The difference is more than 25 percentage points in 6 of the covered counties. For example, in 54 percent black Halifax County, the gap is 31 percentage points. The gap is 33 percentage points in Beaufort County, which is 44 percent black.

In South Carolina the black registration rate now approaches that of whites.[21] This is so both because the black rate is actually higher than the white rate in two urban counties (Charleston and Richland) and because the white rate has dropped substantially since 1964. In many rural counties, however, whites are registered at much higher rates than blacks. For example, in Newberry County (33 percent black population) the gap is 37 percentage points and in McCormick County (60 percent black population) it is 28 percentage points.

Thus, despite the increase in numbers of blacks registered and the steady decline in the disparity between white and black registra-

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20. Data supplied by North Carolina State Board of Elections as of Oct. 30, 1974.

21. Data supplied by South Carolina State Election Commission as of Oct. 25, 1974.

tion in Southern States covered by the Voting Rights Act, black registration continues to lag behind that of whites. Among counties for which data are available, a wide range of disparities exists. There is no reason to believe that this is not also true in the States for which racial data are not available. To the extent that the Voting Rights Act was intended to equalize black and white registration rates, its promise has yet to be fulfilled.[22]

Data on registration of Mexican Americans, Puerto Ricans, and Native Americans in the covered jurisdictions are even more scarce than data on black registration. Apparently, registration of Spanish-speaking voters throughout the United States lags behind that of blacks and well behind that of whites. According to the Bureau of the Census' postelection survey in 1972, only 46.0 percent of Mexican Americans and 52.7 percent of Puerto Ricans reported themselves registered, compared to 65.5 percent of blacks and 73.4 percent of whites.[23] One study reports that the registration rate of Mexican Americans in South Tucson, Arizona, was reduced to about 35 percent after a 1970 re-

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22. Only 9 of Louisiana's 64 parishes and 2 of South Carolina's 46 counties have had Federal examiners. No examiners have been used in North Carolina. See appendix 3.

23. Voting and Registration in the Election of November 1972, table 1, pp. 22-23, and table 2, p. 27. As mentioned above, p. 47, data from these surveys are overreported so the figures should be considered as estimates of the differences among the groups rather than as actual registration rates. See ibid., pp. 7-8.

registration.[24] Another study estimated Puerto Rican registration in New York City at 30 percent, about half that of the city as a whole.[25] More recent data, which might reflect the impact of the suspension of literacy tests, are not available. Whatever the actual numbers, there is general agreement that registration of Spanish-speaking voters is very low.

Lack of data prevents direct comparison of white and Native American registration rates in covered counties of Arizona.[26] However, Navajo registration has increased substantially in recent years, reflecting both the suspension of literacy tests and energetic efforts by Navajo leaders. In Apache County, where Native Americans account for 74 percent of the population and about 69 percent of the voting age population, the overall registration rate has increased from 62.8 percent for the 1972 primary to 81.8 percent for the 1974 general election.[27] During the same period the share of the total registra-

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24. Penn Kimball, The Disconnected (New York: Columbia Univ. Press, 1972), p. 193.

25. Mark R. Levy and Michael S. Kramer, The Ethnic Factor: How America's Minorities Decide Elections (New York: Simon and Schuster, 1972), p. 90.

26. The Bureau of the Census does not report registration and voting statistics for Native Americans. One study estimated 1972 registration in two heavily Native American Arizona counties to be 20 to 40 percent below the rest of the State. Kimball, The Disconnected, p. 191.

27. Registration data supplied by Virgie B. Heap, County Recorder, Apache Co., Ariz. Assessing the meaning of changes in Arizona registration data is difficult because of the frequent purges (see chapter 4). Also, some Arizona counties have been covered, exempted, and re-covered by the Voting Rights Act.

tion accounted for by reservation precincts increased from 71.1 percent to 78.6 percent.[28]

In Coconino County, which also includes part of the Navajo Reservation, Native Americans constitute 25 percent of the population and about 17 percent of the voting age population. Total registration in the county has increased from 44.1 percent for the 1970 primary to 80.1 percent for the 1974 primary.[29] The proportion of registration accounted for by the reservation precincts has increased from 10.8 percent for the 1970 primary to 23.5 percent for the 1974 primary. The actual number of persons registered in those precincts has increased fourfold during the same period. The most substantial increase in registration in the reservation precincts occurred between 1970 and 1972, after the reregistration and the literacy test suspension.

In sum, the available data indicate that minority registration rates in jurisdictions covered by the Voting Rights Act are increasing. Where the data permit comparison of white and minority registration, however, minority registration continues to lag behind that of whites.

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28. Reservation precincts are those which are located on the Navajo Reservation. Most, but not all, of the registered voters in those precincts are Native Americans. Furthermore, not all Native Americans live on the reservation, so these figures only partially reveal the status of Native American registration.

29. Registration data supplied by Pat Fabritz, County Recorder, Coconino Co., Ariz. The caveats in notes 27 and 28 also apply to Coconino County.

As mentioned above, increased black registration apparently results in increased voting.[30] This is probably true for other minority groups as well. Nevertheless, minority turnout apparently continues to lag behind that of whites.

In the 1972 Presidential election national voter turnout was 55.7 percent. Turnout in all but 2 of the 10 States discussed in this report was below the national average.[31] It is likely that some of this difference is due to relatively low minority voting rates. According to the 1972 postelection survey, minority turnout nationally was significantly lower than white turnout. Voters in different groups reported the following turnout percentages: white, 64.5; black, 52.1; Puerto Rican, 44.6; and Mexican American, 37.4.[32] No figure was reported for Native American voting. Furthermore, black turnout in the South was reported to be 9.2 percentage points lower than Southern white turnout and 19.7 percentage points below white turnout in the North and West.[33]

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30. See p. 44 above for discussion of the problems of ascertaining the racial composition of voter turnout.

31. For turnout in the seven Southern States, see table 4 above. Turnout in Arizona (50.3 percent) also fell below the national average. Turnout in New York (56.1 percent) and California (60.0 percent) was above the national average. U.S., Department of Commerce, Bureau of the Census, Statistical Abstract of the United States 1974, 95th ed., table 704, p. 438.

32. Voting and Registration in the Election of November 1972, table 1, pp. 22-23 and table 2, p. 27. For difficulties in the use of this survey data, see p. 47 above.

33. Ibid., table 1, pp. 24, 26.

Review of recent election returns in South Carolina, which maintains records of voter turnout by race, supports the conclusion that minority turnout is lower than white turnout. In the 1974 general election 44.4 percent of the white voting age population and 35.5 percent of the nonwhite (almost all black) population voted.[34] The statewide disparity of 8.9 percentage points may mask a wide range of disparities in turnout by race among the counties, as is the case with registration statistics.

Just as examination of current statistics on registration and voting reveals persistent disparities between minority and white political participation, analysis of the types of offices to which blacks have been elected in covered jurisdictions reveals that the overall picture is not as bright as sheer numbers suggest. Most offices held by blacks are relatively minor and located in small municipalities or counties with overwhelmingly black population.[35] Atlanta is the most notable exception to this phenomenon.

There is only one black representative in Congress from the seven Southern States which are wholly or partially covered by the

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34. Calculated from election returns supplied by the South Carolina State Election Commission.

35. Data for this analysis are taken from Joint Center for Political Studies, National Roster of Black Elected Officials, vol. 4 (April 1974). There are no similar rosters of Mexican American, Puerto Rican, or Native American elected officials.

Voting Rights Act. No black holds statewide office in the South and no black candidate for statewide office has even come close to election. Under the impact of the Voting Rights Act and court-ordered, single-member districting, blacks have begun to appear in State legislatures, county commissions, school boards, and city councils. But this occurs almost always in places where blacks are sufficiently numerous and concentrated residentially to dominate a district by a substantial population margin and a comfortable registration margin.

As a result of the November 1974 general election, 68 blacks will now serve in the seven State legislatures, over half of them in Alabama and Georgia.[36] (See table 9.) Blacks will hold 60 of 856 lower house seats (7.0 percent) and 8 of 318 senate seats (2.5 percent). This is a substantial increase over previous years, but it does not even approach the proportion of the population which is black. Mississippi, which is 37 percent black, has only one black legislator, first elected in 1967. Alabama, with the highest percentage of blacks in the legislature, still falls short of fair representation of blacks.

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36. Data supplied by Voter Education Project and Joint Center for Political Studies, Nov. 15, 1974. No regular State legislative elections were held in Louisiana, Mississippi, and Virginia in 1974. One black was elected to the Louisiana senate in a special election in 1974.

Table 9. BLACKS ELECTED TO STATE LEGISLATIVE SEATS IN SOUTHERN STATES COVERED BY VOTING RIGHTS ACT, AS OF NOVEMBER 15, 1974

State	Lower House			Upper House			Percent of Total Seats Held by Blacks	Black Percent of Population (1970)
	Black Seats	Total Seats	Percent Black Seats	Black Seats	Total Seats	Percent Black Seats		
Alabama	13	105	12.3%	2	35	5.7%	10.6%	26.2%
Georgia	20	180	11.1	2	56	3.6	9.3	25.9
Louisiana	8	105	7.6	1	39	2.6	6.3	29.8
Mississippi	1	122	0.8	0	52	0.0	0.6	36.8
North Carolina	4	120	3.3	2	50	4.0	3.5	22.2
South Carolina	13	124	10.5	0	46	0.0	7.6	30.7
Virginia	1	100	1.0	1	40	2.5	1.4	18.5
TOTALS	60	856	7.0	8	318	2.5	5.8	25.8

Sources: Joint Center for Political Studies, Washington, D.C.; Voter Education Project, Atlanta, Ga.

Political power continues to elude blacks in most local governments as well.[37] In Mississippi, for example, of the 410 county supervisors, only 10 are black.[38] There are no black sheriffs or judges. Thirteen of the 25 counties with majority black populations have no blacks elected to any county office. Most black elected county officials are justices of the peace, constables, or school board members, with little authority for county policymaking.

Blacks in the other covered Southern States have had little more success. They have barely begun to appear on county governing boards. In Alabama there are nine black supervisors in four counties, all of which have an overwhelmingly black population majority. In the 39 covered counties in North Carolina there are only three black county supervisors. Louisiana has only 32 black police jurors, while South Carolina and Virginia have only 18 and 15 black county commissioners, respectively. There are eight black county commissioners in Georgia. There are only five black elected judges in all seven States. The only four black sheriffs in the seven States are from the same four counties in Alabama with black county supervisors.

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37. See appendix 2, table 2-A, for the distribution by type of office of black elected officials in counties with 25 percent or more black population in the seven Southern States covered by the Voting Rights Act.

38. Since the national roster was compiled, blacks have been elected as county supervisors in special elections in Adams and Marshall Counties, Miss., bringing that State's total to 10. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Miss., letter to Rims Barber, Delta Ministry, Jackson, Miss., July 3, 1974 (copy in Commission on Civil Rights files); county clerk's office, Marshall Co., Miss., telephone interview, Dec. 5, 1974.

Although substantial numbers of blacks have been elected to municipal governing bodies, most of them serve in small towns which often have an overwhelmingly black population.[39] While the functions of mayors and council members may be similar regardless of the size of a municipality, the political influence of such officials often varies directly with the size of the municipality. A large majority of cities have only one or two black elected officials.

The lack of data on the election of other minorities precludes drawing strong conclusions about their political success. However, there is no reason to assume that Mexican Americans, Puerto Ricans, and Native Americans in the covered jurisdictions are more successful than blacks in winning public office.

In situations where members of a minority group dominate in the population, they have begun to elect representatives from their group. For example, in Arizona, the reservation Navajos dominate one legislative district from which one senator and two representatives are elected. In the 1974 general election three Native Americans were elected to the State legislature from that district. The first Native American county supervisor was elected in 1972. Native Americans also sit on school boards serving the reservation.[40]

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39. See appendix 2, table 2-B, for the distribution of black elected municipal officials by type of office and size of municipality.

40. Staff interviews, Apache Co., Ariz., July 1974, and telephone interviews, Nov. 1974. See chapter 6 for discussion of the election of the Native American county supervisor.

Similarly in the covered counties of New York City, Puerto Ricans have been elected to six State legislative seats, representing districts either predominantly Puerto Rican or predominantly Puerto Rican and black. One member of the congressional delegation is Puerto Rican. They have been less successful, however, in winning city council elections. Two of 43 city council members are Puerto Rican, though the city's population is about 10 percent Puerto Rican.[41]

In Monterey County, California, which is 21 percent Mexican American, none of the five county supervisors is Mexican American. Salinas, the largest city in Monterey County with 59,000 people, 27 percent of whom are Mexican American, has no Mexican Americans on its five-member city council.[42]

Some minorities have been elected even though their group is not dominant in a district. For example, black registration is less than 40 percent of the total in the Georgia congressional district served by Andrew Young.[43] Similarly, Mexican Americans hold two of

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41. Staff interviews, New York City, Oct. 1974, and telephone interviews, Nov. 1974. See also the discussion of New York redistricting in chapter 8.

42. Staff interviews, Monterey Co., Calif., Nov. 1974, and telephone interviews, Dec. 1974. It was reported in 1971 that 3 of 205 local government offices in Monterey County were held by Mexican Americans. See California State Advisory Committee Report to the U.S. Commission on Civil Rights, Political Participation of Mexican Americans in California (1971), pp. 84-88.

43. Stuart E. Eizenstat and William H. Baruto, Andrew Young: The Path to History (Atlanta, Ga.: Voter Education Project, Inc., 1973), p. 2.

five city council seats in Tucson, Arizona (24 percent Mexican American) and one of five supervisor seats in Pima County (18 percent Mexican American). In the 1974 general election, a Mexican American was elected to one of five seats on the Tucson District One School Board, which encompasses most of the city.[44] A Mexican American was also elected Governor of Arizona in 1974.

Progress obviously has been made in recent years in electing minorities to public office in jurisdictions covered by the Voting Rights Act. However, the significance of the apparently startling gains in numbers of minorities elected diminishes when the types of offices won are analyzed. There is a very long way to go before minorities have gained an equitable share of political offices.

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Despite the substantial progress toward full enjoyment of political rights by minority citizens in jurisdictions covered by the Voting Rights Act, significant disparities between white and minority participation rates persist. In part such disparities

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44. Staff interviews, Pima Co., Ariz., Nov. 1974, and telephone interviews, Dec. 1974.

simply reflect the fact that minorities have only recently begun to participate in all aspects of the political process. The years of the Voting Rights Act have been years of catching up, a process that is clearly underway, but also clearly not completed.

The statistical review presented in this chapter sheds some light on the current status of minority voting rights, but statistics, particularly statewide or national data and estimates, cannot communicate the experience of minority citizens as they become involved in the political process. Statistics provide clues, but they do not answer the question of whether minorities encounter discrimination in their efforts to exercise their voting rights. In the following chapters, this report addresses directly the issue of persistent barriers to full political participation. Since rights are exercised or denied in local contexts, the focus now shifts from aggregate data and a national perspective to the problems and events which comprise the actual experience of minorities attempting to register, vote, and run for office in localities around the country, many of which have long been hostile to the idea of minority political participation.

4. BARRIERS TO REGISTRATION

Registration prior to 1965 frequently functioned as a barrier to exclude minorities from political participation rather than being an entry into the process.[1] The end of formal barriers brought about by the Voting Rights Act resulted in an immediate increase in minority registration. The use or threat of use of Federal examiners and the suspension of literacy tests are undoubtedly important factors leading to that increase.

Perhaps an equally important factor in the immediate success of the Voting Rights Act was the work of private organizations in voter registration drives.[2] These drives depended chiefly on foundations for financial support. Congress in 1969 enacted legislation, however, which prevents an organization from receiving more than 25 percent of its support from one foundation and which prohibits the use of foundation grants to finance voter registration programs in more than one State or in more than one "election season."[3] According to John Lewis,

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1. See chapter 1, p. 3, n. 5, for a listing of earlier Commission reports which contain information on registration barriers to minorities prior to passage of the Voting Rights Act.

2. See U.S. Commission on Civil Rights, Political Participation (1968), pp. 154-56 (hereafter cited as Political Participation); Pat Watters and Reese Cleghorn, Climbing Jacob's Ladder: The Arrival of Negroes in Southern Politics (New York: Harcourt, Brace & World, 1967).

3. 26 U.S.C. § 4945(d)(2) and (f)(4) (Supp. 1974).

executive director of the Voter Education Project, these restrictions have "seriously hampered" the ability of his organization, the principal voter registration organization in the South, to remain active in voter registration work.[4]

The work of organizations such as this is important because the Voting Rights Act does not require affirmative efforts to register voters on the part of county registrars. The attitude of many of these registrars is that people who really want to vote can find the time and the means to come to the courthouse to register. As one registrar said, "They can come in during these hours [8:00 a.m. - 4:30 p.m.] if they really want to."[5] The chairman of one State board of registrars commented: "If people really care about voting, they will come to the registrar's office like they are supposed to."[6]

While formal barriers for the most part no longer exist, the lack of interest and of affirmative attempts to register voters on the part of county registrars become hindrances to participation. These hindrances include restrictive time and location for registration, the inadequate number of minority registration personnel, and purging of the registration rolls and reregistration. These are more than minor

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4. John Lewis, Atlanta, Ga., telephone interview, Nov. 25, 1974.

5. Staff interview, Louisiana, Sept. 1974.

6. Staff interview, Sept. 1974.

annoyances. To minority persons, who not long ago were excluded almost entirely from the political process, they represent more obstructions on the part of white officials to prevent their participation. In many cases these officials are the same persons who were in charge of registration before the Voting Rights Act. The memories of violence and economic repression linger on in the minds of many blacks and others. Furthermore, minority registration still lags behind that of whites, in some cases far behind.[7] Any hindrance which makes it hard to register ensures that the gap will persist.

TIME AND PLACE OF REGISTRATION

Restrictive periods and location of registration, inadequate information, and dual registration for county and municipal elections reportedly contribute to low registration of minorities in the areas visited by Commission staff members.[8] Registration is usually centralized in the county courthouse during normal business hours. Counties in most of the States visited also permit registration offices to open during other hours or take registration books into other parts of the counties.[9]

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7. See chapter 3, and appendix 1.

8. Staff interviews in Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina, July-Sept. 1974.

9. For specific laws regarding time and place of registration in the States discussed in this section, see the following State election codes: Code of Ala., Tit. 17 §§ 28, 30, 30(1) (1959); A.R.S. § 16-106 (Supp. 1974); Ga. Code Ann. § 34-610 (1970); L.S.A.-R.S. 18:270.301, 270.302 (Supp. 1974); Miss. Code § 23-5-29 (1972); N.C. Election Laws § 163-67 (1972); S.C. Code Ann. 23-63, - 65.1 (Supp. 1973).

Black leaders allege that in many areas the hours and location of registration offices are so restrictive that a large number of blacks are unable to register.[10] For example, hours of registration in York County, South Carolina, are allegedly inconvenient for blacks in Rock Hill, the county's largest city. People must travel 20 miles from Rock Hill to the county seat in the town of York to register. The hours are 8:30 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m., Monday through Friday. County officials travelled to Rock Hill and registered voters for 1 day during working hours just prior to the 1973 municipal primary elections in that city. Blacks in Rock Hill believe that because of these restrictions many persons who wanted to register for the primary were denied the opportunity.[11]

In some areas even the hours prescribed by law are reportedly not followed. In one county in Alabama a politically active black told a Commission interviewer that the registrar's office literally had no set hours of business. The office, according to this person, is supposed to be open from 8:30 a.m. to 5:00 p.m.[12]

> I have told people to be there at 8:30 a.m. and they tell their employers that they will be a little late and then they get there and the registration people don't show up. After waiting an hour or so they get disgusted and leave. The registrar, of course, closes the office during the lunch hour and in the afternoon when he feels like it. Before the

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10. Staff interviews in Alabama, Mississippi, and North Carolina, July-Sept. 1974.

11. Complaint, p. 4, Cleveland v. Reese, Civil No. 73-1618 (D.S.C. filed Dec. 5, 1973).

12. Staff interview, Alabama, Sept. 1974.

> 1972 election, it seemed that when there was a line of people to be registered the registrar would close the doors and go home; and it certainly wasn't five o'clock. 13

According to Myrtis Bishop, the registrar in Madison Parish, Louisiana, she closes the registration office only "on rare occasions for meetings and such, but I always put it in the paper."[14] Zelma Wyche, chief of police of Tallulah, the parish seat, and president of the Madison Voters League, said that the registrar is ready with excuses for closing the office whenever she feels like it, often to the disadvantage of blacks, as for example, during a voter registration drive.[15] Frequently the office is closed earlier than it should be.

Blacks in Humphreys County, Mississippi, informed the Commission that when they do go to register, there is no way of knowing whether G.H. Hood, the circuit clerk and registrar, will be there. On some days when a number of blacks were brought in to register, the circuit cleark had left.[16]

The scheduled hours for registration in one county in Georgia are 9 a.m. to 4 p.m. Monday through Friday with an hour off for lunch,

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13. Ibid.

14. Myrtis Bishop, Tallulah, La., interview, Sept. 4, 1974.

15. Zelma Wyche, Tallulah, La., interview, Sept. 3, 1974. As required by law the Commission has offered Mrs. Bishop the opportunity to reply to these statements. Her reply is included in appendix 7.

16. Staff interviews, Belzoni, Miss., Sept. 1974; see also Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972), pp. 13-14 (hereafter cited as Shameful Blight). As required by law the Commission has offered Mr. Hood the opportunity to reply to these statements. His reply is included in appendix 7.

and 9 a.m. to 1 p.m. Saturday. Blacks have had continuing problems with the registrar's not keeping the registration office open, especially when a group of blacks try to register.[17] One black leader told the Commission, "If you bring in a lot of people to the courthouse, like two carloads at once, the registrar says there isn't time to register everyone and closes the office."[18]

If the courthouse is the only place to register, even if it has regular hours, there may still be the problem of having to travel long distances to register. Especially in rural areas such travel puts a great burden on persons without transportation and on people who cannot leave work for long periods. In rural Wilcox County, Alabama, it is 30 miles from Boykin, an all-black town, to Camden, the county seat.[19] In Talladega County, Alabama, blacks from Munford, mainly sharecroppers and farmers, must travel 20 miles to the county seat, losing a half day's work and a half day's pay. "These are all [poor] working people...they can't afford this."[20]

Blacks also report problems in finding transportation to travel the long distances to the courthouse in Jasper and Beaufort Counties, South Carolina, and in Bertie County, North Carolina.[21] Mexican Americans

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17. Shameful Blight, p. 15.

18. Staff interview, Aug. 1974.

19. The Rev. Thomas L. Threadgill and Charles McCarthy, community leaders and former candidates, Camden, Ala., interview, Sept. 5, 1974.

20. Frank Strickland, NAACP leader, Talladega, Ala., interview, Sept. 7, 1974.

21. Staff interviews, South Carolina, Sept. 1974; staff interview, North Carolina, July 1974.

have experienced the same problems in Pima County, Arizona.[22]

The restricted times and places of registration have led many minority group persons to ask registrars to visit other parts of the county to register. Blacks in two predominantly black parishes in Louisiana--Madison and Tensas--have asked for such visits by the registrars. Their requests have been refused.[23] White registration rates in both parishes exceed the black rates by more than 25 percentage points.[24]

Charleston County, South Carolina, is over 100 miles long and 20 miles wide. Most registration is centered in Charleston, the county seat. Although mobile units may be sent into the county upon request, it is reported that they have not been sent to areas of heavy black concentration despite requests.[25]

Even when there is decentralized registration, there often is no notification of the times and places. The registrar in one county in Alabama rarely adheres to a schedule to go to various locations in the county. Notices of time and place usually are not posted, and even

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22. William Edward Morgan, attorney and professor, Tucson, Ariz., interview, Nov. 7, 1974.

23. Bruce Baines, Madison Voters League, Tallulah, La., interview, Sept. 3, 1974; Woodrow Wiley, Tensas Parish police juror, Waterproof, La., interview, Sept. 5, 1974.

24. Registration information supplied by State of Louisiana, Board of Registration, Oct. 5, 1974.

25. Septima Clark, author and long time civil rights activist, Charleston, S.C., interview, Sept. 4, 1974.

when they are, often the registrar does not appear.[26] In another county registration personnel do not post notice of their schedule for precinct visits. The only way blacks know the time and place of these visits is through notices sent out by the NAACP or other black organizations.[27]

In an effort to alleviate the problems related to having a small registration staff and limited hours, many minority persons have expressed a need for deputy registrars who would be able to register voters at any time. In Talbot County, Georgia, blacks recently requested the appointment of 11 black deputy registrars whose names they submitted to the county. In a July 26, 1974, agreement between the black community and representatives of local government in Talbot County all parties agreed that deputy registrars would be appointed. Despite urgings of the official representatives and the Georgia Secretary of State, the registrar, who did not sign the agreement, has refused to appoint any deputies.[28]

Problems with registration are multiplied if dual registration is required. In some areas persons must register with the county to

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26. Staff interview, Alabama, Sept. 6, 1974.

27. Staff interview, Alabama, Sept. 7, 1974.

28. J.B. King, Jr., former candidate, Talbot Co., Ga., interview, Sept. 3, 1974.

be eligible to vote in county, State, and national elections, but must register separately with the municipality in which they reside to vote in municipal elections.[29] This requirement imposes a burden because registering twice and at two different places increases the costs of time and transportation. In addition, many persons complain that minorities are not informed by county officials that they must register with the city in order to vote in city elections. This has resulted in confusion and frustration at the polls when minorities are told that they are not registered for a particular election.

In Leflore County, Mississippi, blacks are not informed that they must register separately for municipal elections, and many think that they are registered. Election officials have a difficult time convincing blacks that they cannot vote.[30] A deputy clerk in Warren County, Mississippi, said: "We try to send Vicksburg residents to city hall to register but sometimes we forget."[31] Blacks in Bertie County, North Carolina, do not realize they must register separately for municipal elections and are not told at the registrar's office in

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29. Five States have provisions requiring or permitting dual registration: A.R.S. § 16-114 (1974) (West 1956); Ga. Code Ann. § 34A-501(b) (1970); Miss. Code § 21-11-3 (1972); N.C. Election Laws § 163-285 (1972); Va. Const., art. 11, § 8.

30. David Jordan, Greenwood Voters League, Greenwood, Miss., interview, Aug. 8, 1974; James Moore, Chairman, Greenwood Movement, and John Henry Johnson, former candidate for mayor, Greenwood, Miss., interview, Aug. 8, 1974.

31. Staff interview, Vicksburg, Miss., Sept. 3, 1974.

Windsor to register in the towns for these elections.[32]

REGISTRATION PERSONNEL

When minorities go to the registration office they are frequently greeted by whites unsympathetic with their desire to register. In the case of blacks, very often it is the same person who refused to register them before the passage of the Voting Rights Act. For Puerto Ricans, Mexican Americans, and Native Americans, it may be someone who has little knowledge or feeling for their language and culture. Only rarely are registration personnel of the same race or ethnic background as the minorities they register.

The process of selecting registrars and other registration personnel is generally in the hands of public or party officials who are almost always white.[33] In only one of the jurisdictions visited by Commission staff was the registrar or other officials responsible for registration a minority person. In most cases the staffs were also predominantly white.[34]

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32. Staff interview, Bertie Co., N.C., July 1974.

33. The following State election code provisions specify the method of selection of county registration officials in those States discussed in this section: A.R.S. § 16-105, 16-141 (Supp. 1974); Code of Ala., Tit. 17 § 21 (1959); Ga. Code Ann. § 34-603 (1970); S.C. Code Ann. § 23-51 (Supp. 1973); Miss. Code Ann. §§ 23-5-1, 23-5-7 (1972); Va. Code Ann. §§ 24.1-32, 24.1-43 (1973); N.C. Election Laws § 163-41 (1972); L.S.A.-R.S. 18:1 (1969).

34. In Tucson, Arizona, the registrar and over half the staff are Mexican American. Observation by Commission on Civil Rights staff, Nov. 6, 1974.

In Birmingham, Alabama, the chairman of the board of registrars is a white who has a staff consisting of 16 full-time clerks and typists, with part-time help hired for rush periods. Blacks have been hired but only as part-time help during rush periods around election time.[35]

The black communities in two rural counties in Alabama for a number of years have sought the appointment of black registrars. But this has been a very frustrating experience for blacks, since appointment of registrars is in the hands of persons not sympathetic to their requests. Although the governor, the State auditor, and the commissioner of agriculture and industries jointly appoint the registration board,[36] in reality, a Commission staff member was told, "The governor's office calls the probate judge and that's who decides, and he's not going to appoint a black."[37] In two Virginia counties blacks have also requested that a black registrar or assistant be appointed, but with no success.[38]

Many white registrars reportedly treat blacks discourteously at the registration office. Blacks find the registration process under these circumstances at best embarrassing and humiliating. In Madison

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35. Nell Hunter, Chairman of the Board of Registrars of Jefferson Co., Birmingham, Ala., interview, July 17, 1974. As required by law the Commission has offered Ms. Hunter the opportunity to reply to this statement.

36. Code of Ala., Tit. 17 § 21 (Supp. 1973).

37. Staff interview, Alabama, Sept. 1974.

38. Staff interviews, Virginia, July 1974.

Parish, Louisiana, the person to handle the entire registration process is the registrar, Myrtis Bishop. Black community leaders and officials have found her incompetent, uncooperative, and hostile. One black official stated that her behavior was that of a "vicious racist."[39] In addition to closing the office without notice when it is scheduled to be open, the registrar is charged with harassing black registrants. She is particularly strict in demands for identification. Many blacks, especially the more elderly, do not have adequate identification with them, lacking such things as social security cards or birth certificates. Even blacks who have identification with them have difficulties.[40]

> Sometimes she will accept social security cards as sufficient identification. Other times she will require much more and make people go back home three and four times. [41]

According to another source, Mrs. Bishop often intimidates registrants. A black volunteer in a registration drive took two young blacks to register. One of them, while filling out the registration form, asked the registration volunteer a question, at which point Mrs. Bishop yelled: "I'll answer your questions here...you don't ask anyone for information here except me."[42] In another instance she

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39. Zelma Wyche, Chief of Police, Tallulah, La., interview, Sept. 3, 1974.

40. Ibid.

41. Ibid.

42. Staff interview, Tallulah, La., Sept. 4, 1974. As required by law the Commission has offered Ms. Bishop the opportunity to reply to these statements. Her reply is included in appendix 7.

was involved in a fight with a registrant.[43]

According to a black civic leader in another Louisiana parish, when blacks come to register, the registrar constantly finds ways to slow down the process. He tells people to come back with more proof of their identification. He seems especially adept in delaying the registration process just before elections. His occasional demonstrations of anger also intimidate some black registrants.[44]

The registrar in Humphreys County, Mississippi, G.H. Hood, has been in the position since 1960 and has steadfastly opposed the black franchise. A few years ago he is reported to have operated a segregated facility with separate waiting areas for the races in the registration office.[45] Among the complaints made against him at that time was that "he operates his office in such an arrogant manner that registrees come away thoroughly denigrated, embarrassed and intimidated."[46] Black political leaders in Humphreys County indicated that the registrar's reputation was such "that many people would not register if he came knocking at their door."[47] In a recent interview a Commission staff

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43. This incident is described in chapter 7, pp. 183-185.

44. Staff interview, Louisiana, Sept. 1974.

45. Staff interviews, Belzoni, Miss., Sept. 4, 1974.

46. Lawrence Tardy, chairman, Humphreys County Advancement Project, and others, letter to Richard Bourne, Voting and Accommodations Section, Department of Justice, cited in Shameful Blight, p. 24.

47. Ibid.

member was told that the registrar continues to behave in a manner that makes registration a grueling process.[48]

The circuit clerk in another Mississippi county has a reputation in the black community for discourtesy. "She lets you stand there a long time" and "looks at you as though you have no business in her office."[49] Often when blacks go to register she asks them, "Who sent you here?" or "Who told you to come here and register?" In many instances she tells them they don't have to register.[50]

The registration personnel in one Alabama county are reportedly composed of whites who are unconcerned with the voting rights of blacks. They have shown a lack of courtesy to black registrants with such comments as, "I don't see why you need to vote if you can't even read."[51]

A recent case in Marshall County, Mississippi, illustrates some of the more subtle tactics currently used to minimize black registration. The Department of Justice charged that county registration officials improperly entered the names of 256 white persons on the registration books before the 1971 elections.[52] These persons voted in the primary

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48. Staff interview, Belzoni, Miss., Sept. 4, 1974. As required by law the Commission has offered Mr. Hood the opportunity to reply to these statements. His reply is included in appendix 7.

49. Staff interview, Aug. 1974.

50. Ibid.

51. Staff interview, Sept. 1974.

52. Complaint, p. 4, United States v. Marshall County, Miss., Civil No. WC-73-28-K (N.D. Miss. filed Jan. 26, 1973).

and general election. The complaint further alleged that 104 voters, the majority of whom were black, were assigned to the wrong polling places, thereby preventing most of them from voting.[53] The court ordered the defendants to purge the names of improperly registered persons and to specifically notify the misassigned black voters of their proper polling places.[54]

PURGING AND REREGISTRATION

When registered voters move away, die, or are convicted of a felony, their names may be purged from the registration rolls. Most of the States visited by Commission staff also remove names of persons who have not voted within a specified length of time.[55]

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53. Ibid., p. 5.

54. United States v. Marshall County, Miss., Civil No. 73-28-K (N.D. Miss., consent decree, June 10, 1974). Other litigation in Marshall County resulted in an order requiring that uniform standards be applied to all applicants for registration, including black students attending college in Marshall County. Registration officials were enjoined from refusing to register all student applicants who had previously been denied registration because of the application of a stricter or more stringent standard than that applied to other applicants. Frazier v. Callicutt, Civil No. WC-72-77-S and U.S. v. Callicutt, Civil No. WC-73-28-S (N.D. Miss. Sept. 1974).

55. A.R.S. § 16-151 (Supp. 1974); Cal. Election Code § 383(f) (West Supp. 1974); Ga. Code Ann. § 34-620(c) (1970); L.S.A.-R.S. 18:240, 165 (1969); N.Y. Election Law § 17-405 (McKinney 1964); N.C. Election Laws § 163-69 (1972); Va. Code Ann. § 24.1-59 (1973).

Notification that a voter is to be purged is an important factor in the process. Notification may provide the necessary means of preserving the registration, through such measures as the return of the notice with indication of a desire to remain on the rolls or by other more time-consuming requirements such as reregistration or reapplication.

Purging may have many salutary effects on the electoral process. It removes names of persons who never participate as well as those no longer available to do so. It decreases opportunity for vote fraud because it prevents persons out of the area from voting and persons voting under the names of others who no longer participate in the political process. Nevertheless, purging, particularly when it is done for nonvoting at short time intervals, removes from the registration rolls large numbers of minority voters. Their lack of participation may be due to a combination of factors, including long working hours, lack of transportation, or previous mistreatment at the polls. Purging may be for nonvoting in the general election when the primary may be perceived by minority persons to have greater importance.

In addition, minority voters often are not adequately notified that they are to be purged. Frequently they fail to receive the notice. In jurisdictions with large non-English-speaking populations

notices are provided only in English, so that many people are not aware that they are being purged.

Arizona has particularly strict purging statutes. Failure to vote every 2 years in the general election results in the cancellation and removal from the general county registration rolls.[56] The county recorder then mails to the elector a postcard stating that registration has been cancelled and informs that voter that he or she has 2 months to sign and return the card in order to be reinstated.[57]

This purging procedure has eliminated large numbers of Native Americans from the rolls in Coconino and Apache Counties, Arizona. The attrition rates in these counties, both of which have large Navajo populations, were particularly high after the 1972 election. In Apache County 4,277 of 11,783 (36 percent) registered voters were purged for not voting.[58] In Coconino County 25 percent of the 24,358 registered voters were purged for failure to vote. Most of the more than 6,000 purged were Navajos.[59] According to Pat Fabritz, the Coconino County

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56. A.R.S. § 16-151A (Supp. 1974).

57. A.R.S. § 16-151B, C (Supp. 1974).

58. Unpublished data on "Cancellation totals after general election 1972," obtained from Virgie Heap, County Recorder, Apache County, n.d.

59. Unpublished registration and voting data, Nov. 1972 general election, obtained from Pat Fabritz, County Recorder, Coconino County.

Recorder, many Navajos received their notice of cancellation after a delay of several weeks. Most get their mail at the trading post and in bad weather infrequently make the trip from their homes to the post. Moreover, purge notices are often discarded, since few Navajos can read English.[60]

The attrition rate for nonvoting among Chicanos in Tucson also has reportedly been very high. In 1974 research in Tucson on lists of challenged and purged voters in Pima County showed that a much higher percentage of Mexican Americans had been purged than of other voters. A sample of these cancelled voters showed that many were not aware they had been purged and did not know what to do to get reinstated.[61]

New York law also contains strict purge provisions.[62] Many Puerto Ricans in New York also have been eliminated from the rolls for not voting. According to a Puerto Rican community leader:

> It seems so unfair to remove voters from the list for failing to vote in the general election. Many people vote only in the primaries and believe that

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60. Pat Fabritz, Flagstaff, Ariz., interview, July 25, 1974.

61. Dr. Anne McConnell, community leader, Tucson, Ariz., interview, Nov. 6, 1974.

62. Voters can be purged if they do not vote in the general election every 2 years. For nonvoters who have not voted since a previous reinstatement the registration is cancelled. Other nonvoters are notified and unless they fill out, sign, and return an affidavit within 3 weeks of the date of postmark, their registration is cancelled. N.Y. Election Law § 405.2 (McKinney Supp. 1974).

> the general elections are mostly pro forma. The Democratic candidate elected in the primary is usually assured of victory. 63

The system of notification has also caused Puerto Rican voters problems, according to a campaign organizer in New York. Frequently people do not receive their purge notification in the mail. Even if they do, they are often not able to understand what the notice says because they do not read English.[64]

In Monterey County, California, the system of notification of purging allegedly does not work well for Mexican Americans.[65] John Saavedra, mayor of Soledad, California, told a Commission staff member that many people do not receive such notifications.[66] The county clerk said that the cards are mailed out but only a few are returned. None of the purge notices are in Spanish.[67]

Discriminatory purging, among other irregularities, led a Federal court to set aside the April 1970 Democratic primary in Tallulah,

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63. Frank Lugoviña, president, Mobicentrics Consultant Corporation, New York City, interview, Oct. 10, 1974.

64. Paul Mejia, campaign manager and community leader, New York City, interview, Oct. 3, 1974.

65. Staff interviews, Salinas, Cal., Nov. 4, 1974. According to California law, not later than the first of January following a general election the county clerk mails a double postcard to those persons who have failed to vote. The individual can either contact the clerk prior to cancellation or return the postcard within 60 days to remain on the list. Cal. Election Code §§ 383(f), 386, 387 (West Supp. 1974).

66. Staff interview, Nov. 6, 1974.

67. Ernest Maggini, Salinas, Cal., telephone interview, Nov. 22, 1974.

Madison Parish, Louisiana.[68] According to the court, the registrar failed to provide adequate notification of the purge and reinstatement procedures to 141 persons purged for nonvoting, all but 11 of whom were black. Conducting the purge during the 30-day preelection period when the books were closed violated the spirit of the law, according to the State attorney general.[69] Louisiana requires that purged voters have 10 days in which to appear personally to reaffirm their eligibility, but the registrar's office was open only for 4 days during the 10-day period. Although the registrar extended the reinstatement period for 4 days, she failed to inform the public or the purged voters of that fact. In addition, the registrar purged 29 other blacks from registration lists when whites submitted their names allegedly for failing to report nonresidence or a change of address in the town.[70] In purging these names she failed to follow procedures to safeguard the rights of registrants set forth by Louisiana law. She also failed to require

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68. Toney v. White, 348 F. Supp. 188 (W.D. La. 1972) rev. in part, 476 F.2d 203 (5th Cir.), original dec. reinstated as modified, 488 F.2d (5th Cir. 1973) (en banc). The lower court had previously set aside elections in Madison Parish. See Brown v. Post, 279 F. Supp. 60 (W.D. La. 1968) and U.S. v. Post, 297 F. Supp. 46 (W.D. La. 1969). See generally, Note, "Voting Rights: A Case Study of Madison Parish, Louisiana," Univ. of Chicago Law Review, vol. 38 (1971), pp. 726ff.

69. Toney v. White, 348 F. Supp. 188, 192-93 (W.D. La. 1972).

70. 348 F. Supp. 193.

affidavits from the whites presenting the lists and to satisfy notice requirements. Moreover, some of the 29 names were improperly included.[71]

Another discriminatory purging technique was allegedly used by white officials in a small Georgia town.[72] In December 1971 blacks won three of five city council seats in the municipal election. Whites, it is alleged, were determined to prevent a similar black election victory in 1973.[73] According to a complaint filed by black plaintiffs, white election officials illegally purged black voters from the voting list.[74] Prior to the December 5, 1973, election, a committee of four was established to purge voters for nonresidency in the town. There were, however, no procedures to determine whether a registered voter lived in the town. This decision was left to the unsupported personal opinion of those members of the committee who were in attendance at particular sessions. It was further alleged that the purge "was instituted for the purpose of removing black voters from the list of electors in order to insure that black candidates for office would be defeated in the December 5, 1973, general election."[75] The

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71. 348 F. Supp., p. 193-94. Failure to administer the law requiring verification of the eligibility of persons who regularly vote absentee resulted in the casting of illegal absentee ballots. See chapter 5, p. 126.

72. Seals v. Moye, Civil No. 74-16 MAC (M.D. Ga., filed Jan. 23, 1974).

73. Staff interview, Sept. 1974.

74. Complaint, p. 7, Seals v. Moye.

75. Complaint, p. 8, Seals v. Moye.

result of the election was that blacks lost all five seats on the municipal council.[76]

In addition, the plaintiffs alleged that neither the committee nor the municipal officials charged with supervising the elections notified blacks that their names had been removed from the list. In fact, it was further alleged that the purged voters did not discover that they had been disqualified until the day of the election when it was too late for them to be reinstated, a practice in violation of Georgia laws.[77]

Blacks in the town filed suit to overturn the December 1973 election. They argued that the failure to give notice as required by statute amounted to changes in the practice and procedure of conducting the general election which should have been submitted to the Justice Department for approval under section 5 of the Voting Rights Act.[78] The plaintiffs subsequently voluntarily accepted a consent judgment from the court. In the consent decree issued on September 9, 1974, the court's judgment was that to the extent that changes in municipal elections are made they must be submitted for section 5 preclearance.[79]

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76. Julian Davis, black community leader, Sandersville, Ga., interview, Sept. 4, 1974.

77. Complaint, p. 7, Seals v. Moye.

78. Ibid., p. 8.

79. Seals v. Moye, Civil No. 74-16 MAC (M.D. Ga., consent decree, Sept. 9, 1974).

Purging of individuals convicted of a felony or other disqualifying crime is usually an automatic process. It particularly affects minorities in that a disproportionate share of their numbers are convicted of crimes that disqualify them from voting. Moreover, in addition to being purged, minorities often find difficulty in having their rights restored since they may face discrimination in obtaining a pardon.

In several of the jurisdictions visited, the Commission was told of problems minorities convicted of crimes encounter in attempting to have their civil rights restored.[80]

Woodrow Wiley, a black police juror in Tensas Parish, Louisiana, said that he knew from personal experience that blacks encounter major difficulties in having their right to vote restored "if they have been convicted of any offense, even misdemeanors."[81] In a number of instances where minor offenses have been involved, blacks have been told by the registrar that they have lost their right to vote; and, rather than argue or seek expensive legal counsel, they have allowed their names to be stricken from the rolls.[82]

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80. Staff interviews in Louisiana, South Carolina, and Virginia, July-Sept., 1974.

81. Wiley Interview.

82. Ibid.

In some cases young people who have had difficulties with the law as juveniles are denied the right to vote when they reach voting age. Wiley cited the example of a young woman who as a juvenile had been charged with assault and battery. She was registered by the registrar, who later learned about the conviction and purged her from the rolls without informing her. This young woman has been in the process of trying to reregister for several months.[83]

A black attorney in Columbia, South Carolina, informed a Commission staff member that a significant number of blacks in South Carolina are denied the right to vote because of criminal convictions.[84] It is charged that the police in many towns file serious charges against blacks without just cause. The blacks, who are afraid of jail sentences, may plead guilty even when innocent, in exchange for a suspended sentence or fine. They then lose their voting rights and pardons to restore these rights are difficult to obtain.[85]

In Dorchester County, South Carolina, Victoria DeLee, a black community leader, said that large numbers of blacks are unable to vote

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83. Ibid.

84. Thomas Broadwater, attorney, Columbia, S.C., interview, July 31, 1974.

85. Ibid.

because they have been convicted of crimes. DeLee also reports that she has seen whites voting who she knows have been convicted of crimes. The chances of a black in Dorchester County ever voting again after conviction appear almost nil, since no black in Dorchester County has ever been pardoned.[86]

A large number of blacks in Southampton County, Virginia, are unable to vote because they have served time at the county correctional farm. Many have tried but have been unable to have their civil rights restored.[87]

Closely related to purging, both in its function and in its effect on minority voters, is reregistration. This requires that every person, regardless of past voting habits, register again if he or she wishes to remain on the rolls. Reregistration is undertaken in order to eliminate from the rolls persons who have died or moved away or have no interest in voting.

The process places a substantial burden on the minority voter, who has often succeeded in registering only after overcoming many obstacles. The result of a reregistration can be a decline in the number of minorities who are registered. For example, a complete reregistration in Arizona in 1970 eliminated from the books the names of many Native

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86. Victoria DeLee, long-time civil rights activist and former congressional candidate, Dorchester Co., S.C., interview, Aug. 2, 1974.

87. Staff interviews, Southampton Co., Va., July 10-13. 1974.

Americans and Mexican Americans who had only recently been able to register because of the Voting Rights Act.[88]

Many counties in Mississippi have undergone reregistration, generally in connection with the adoption of a new districting plan. These counties have been widely criticized for undertaking reregistration and the Department of Justice has been criticized for not objecting to reregistration under section 5 of the Voting Rights Act or suing to prevent reregistrations which have not received section 5 clearance.[89] The most recent reregistration in Mississippi is that of Grenada County, approval for which was requested from the Attorney General on May 25, 1974.[90]

Warren County conducted a reregistration in 1971 without section 5 clearance.[91] The president of a black civic association in the county told a Commission interviewer that it was difficult getting blacks registered originally. He felt that many would not go back again. The reregistration, he said, was "another trick" which "accomplished its aim." It "got many black people off the books."[92]

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88. See Shameful Blight, pp. 47-49 and Pat Fabritz Interview.

89. See Shameful Blight, pp. 24-27 and sources there cited.

90. Section 5 printout, as of July 30, 1974.

91. Shameful Blight, pp. 43-44.

92. Frank Summers, president, Warren County Improvement League, Vicksburg, Miss., interview, Sept. 3, 1974.

Another black active in county politics was critical of the requirement that a voter go in person to reregister. He said this was difficult to accomplish.[93]

In Sunflower County there was underway, as of late 1974, a reregistration of registered voters.[94] According to the circuit clerk, notices of reregistration were sent to all persons with their property tax assessment. In addition to regular hours at the courthouse, the clerk plans to visit each precinct in the county for a period of 2 or 3 days. The only way to reregister is at the courthouse or during these visits. Reregistration by mail is not allowed.[95]

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93. Eddie Thomas, former candidate for election commissioner, Vicksburg, Miss., interview, Sept. 3, 1974.

94. The reregistration was not objected to by the Department of Justice, June 8, 1972. Section 5 printout, as of May 8, 1974.

95. Sam Ely, Indianola, Miss., interview, Aug. 9, 1974.

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The Voting Rights Act of 1965 led to large increases in the registration of minority persons. These increases for the most part have been the result of large scale efforts on the part of minority organizations who have informed people of their right to vote. Nevertheless, these efforts and increases are threatened by such tactics of registration officials as making registration an inconvenient or humiliating experience or forcing newly-enfranchised voters to register again. Registration should be an easy step for all who wish to cast the ballot. It is not. Instead it is often difficult and inconvenient. For those who only recently have been able to exercise the franchise, it is often a barrier that is not surmounted.

5. BARRIERS TO VOTING

Registration is merely the beginning of participation in the political process. Once registered, minorities have no guarantee that they may easily cast a ballot. What is done at the local level by local officials has the most impact upon the ability of minorities to vote and the effectiveness of that vote. Minority persons do not control the election or appointment of local officials and are seldom in positions of influence. Many obstacles placed by these officials frighten, discourage, frustrate, or otherwise inhibit minority persons from voting. Outright exclusion and intimidation at the polls are only two of the problems they face.

Other problems that have a discriminatory impact on minority voters are denial of the ballot by such means as failing to locate voters' names on precinct lists; location of polls at places where minority voters feel unwelcome or uncomfortable, or which are inconvenient to them; inadequacy of voting facilities; underrepresentation of minority persons as poll workers; unavailability or inadequacy of assistance to illiterate voters; lack of bilingual materials at the polls for non-English-speaking persons; and problems with the use of absentee ballots. Memories of past discourtesies or physical abuse may compound the problems for many minority voters. The people in charge are frequently the same ones who so recently excluded minorities

from the political process.

DENYING MINORITIES THE BALLOT

Minority persons may be denied the right to vote for various reasons. In some places, white officials may treat minority voters in a discourteous manner or otherwise show a bias against them or minority candidates. One poll watcher in the 1971 election in Noxubee County, Mississippi, reported:

> The white officials who checked the list of registered voters were consistently hostile and uncooperative with black voters. They were difficult and technical in verifying the registration of blacks, and they frequently cross-examined blacks about their identity and registration. This was in marked contrast to the manner in which they received and treated white voters. They were consistently helpful to whites, but not to blacks.[1]

Frequently, election officials are not able to find a person's name on the roster for that precinct. This may be legitimate; for example, if a person moves from one precinct to another and does not notify the county registrar. In other cases, however, many minority persons registered in the precinct, some for many years, go to vote only to find that their names are not on the roster. They are turned away without any aid from election officials or are told to go to another precinct. This presents a special hardship for the elderly or

1. Affidavit of Larry Miller, Stewart v. Waller, Civil No. EC-73-42-S (N.D. Miss., filed May 3, 1973).

others with limited means of transportation, those who vote after work and may not have time to straighten out the situation, and non-English-speaking persons who may not understand what is happening.

According to black candidates and campaign workers in Oktibbeha County, Mississippi, election officials frequently claim they cannot find black voters' names on the list. The voters are told to go to the city hall or the courthouse to verify their registration. In most cases, the registration is verified and the voter is eventually allowed to vote.[2] Such incidents, however, waste voters' time and tend to deter people from voting.

> The effect of incidents such as these on voters whom I have driven to polling places has been to discourage these persons from voting, especially since most of the voters we drive to the polls are elderly persons or persons otherwise unable to get to the polls.[3]

Sometimes voters whose names are allegedly not on the precinct list are not allowed to vote at all. In the 1973 municipal election in Starkville, Mississippi, election officials refused to allow a woman to cast a challenge ballot when she came to vote about 20 minutes before the polls closed. They claimed her name was not on the list, and it was impossible for her to verify her registration before the polls closed.[4]

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2. Affidavits of Harold Williams and Dr. Douglas L. Conner, Stewart v. Waller.

3. Affidavit of Harold Williams, Stewart v. Waller.

4. Affidavit of Dr. Douglas L. Conner, Stewart v. Waller.

In a similar incident in the 1973 municipal election in Moss Point, Mississippi, two blacks were not allowed to vote because the election officials could not locate their names on the list at their usual polling place. The precinct manager refused to call city hall and also refused to let them cast challenge ballots. A black poll watcher reports:

> When I and other poll watchers inquired why the election official refused to let them file challenge ballots, she replied, "you all can't talk to me like that 'cause I'm a white."[5]

Another black voter in Mississippi described her experience when she attempted to vote in a 1973 municipal election:

> In the election in Macon last year I attempted to vote at the polling place at the Courthouse. I was told that they could not find my name on the list of registered voters. As a result, I did not vote. Two or three days later my sister and I went back to the Courthouse and asked them again to look for my name. That time he found my name easily.[6]

Similar incidents led to a suit to void the November 7, 1972, election in Wilcox County, Alabama. Several National Democratic Party of Alabama candidates charged that the names of numerous black electors were left off lists provided to election officials at several polling places. Those whose names were not on lists were not permitted

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5. Affidavit of Marcus Harris, Stewart v. Waller.

6. Affidavit of Fannie Bee Hopkins, Stewart v. Waller.

to cast challenge ballots.[7] The defendant election officials agreed to instruct all poll workers to inform voters whose names cannot be found on the official voter list of their right to cast challenge ballots and the procedure for doing so.[8]

Black voters in Camden in Wilcox County were also denied the ballot through questionable challenges at the polls. According to Charles McCarthy, an official with the Alabama Migrant and Seasonal Farm Workers Union, no one really knows Camden's boundaries. During the 1972 municipal election, however, any blacks who did not live near the center of the city were likely to be refused ballots. Two blacks hired by the white voting officials sat at one poll McCarthy visited and pointed out blacks who supposedly did not live within the city limits. These individuals were then denied ballots. As a result, several hundred blacks were not permitted to vote. On the other hand, whites were not questioned on residence nor were they denied a ballot, in spite of the fact that many of them, according to McCarthy, lived much farther from the center of town than some of the blacks who were not permitted to vote.[9]

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7. Complaint, p. 5, Threadgill v. Bonner, Civil No. 7475-72-P (S.D. Ala. Nov. 7, 1973).

8. Consent Decree, Threadgill v. Bonner.

9. The Rev. Thomas L. Threadgill and Charles McCarthy, community leaders and former candidates, Wilcox Co., Ala., interview, Sept. 5, 1974.

Blacks have complained of problems of names being left off voter lists in several Georgia counties.[10] One black community leader reported that in the 1973 municipal election in Sandersville white election officials told elderly blacks that their names were not on the list. The rejected registrants had to go to city hall to verify their registration. Many did not do this. Others, who found that their names were listed, did not return to the polling place to challenge white election officials and ask again for a ballot.[11]

In Southampton County, Virginia, there have been a number of instances where blacks reported that they registered but were unable to vote when election officials could not find their names listed. According to a black who has been active in voter registration drives:

> When black people go to vote, often the polling officials do not have a record of their names. This has happened fairly frequently. The blacks come to me and tell me their problem. I know some of these people are registered because I went with them so I could see them registered.[12]

In one instance the omission of blacks' names from the list was reportedly a significant factor in the election of a county supervisor in Southampton County in 1972.[13] Blacks were not informed of polling

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10. Lynmore James, former candidate for county commissioner, Macon Co., Ga., interview, Sept. 4, 1974; Joseph B. Williams, president, Stewart County Movement, Louvale, Ga., interview, Aug. 15, 1974.

11. Julian Davis, Sandersville, Ga., interview, Sept. 4, 1974.

12. Staff interview, Southampton Co., Va., July 13, 1974.

13. Ibid.

place changes after redistricting in 1971. Many went to their old precinct to vote, but election officials said that they did not have their names, and that they should go to the new polling site. In most cases the second polling place did not have their names either and many blacks could not vote at all. The black candidate lost by 16 votes.[14]

A Mexican American voter who went to the polls in the November 1974 election in Monterey County, California, could not find his name on the list posted outside the polling place and asked the election workers if he could vote there. He showed them his registration stub dated October 3, 1974. He was told he could not vote because he had registered too late.[15] In fact the deadline for registering was October 5.

Poll workers who speak only English sometimes have difficulty finding names of persons with Spanish or other non-English surnames. In the 1974 election in Tucson, Arizona, a Chicana voter told a campaign worker that she was unable to vote because the roster clerk did not find her name on the list. The clerk had offered no further information or assistance as to how the voter might verify her registration or cast a challenge ballot. The campaign worker took the voter to the courthouse and found that she was registered to vote in that

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14. Ibid.

15. Staff interview, Salinas, Cal., Nov. 6, 1974.

precinct. They returned to the polls and showed the roster clerk her name on the list, and she was allowed to vote.[16] One community leader alleged that this is not an uncommon occurrence in predominantly Chicano precincts.[17]

POLLING PLACES: LOCATION AND ADEQUACY

The location and adequacy of polling facilities are of special importance to minority voters. Many polls are located in all-white clubs or lodges, where minority persons are otherwise not allowed to go, or in white homes or stores that present a hostile atmosphere for minorities. Some blacks have complained that they are often required to vote in white areas but the reverse is rarely the case, allegedly because whites do not want to go into black neighborhoods to vote.[18]

Polling places include the National Guard Armory in a white neighborhood in Talladega, Alabama;[19] the all-white American Legion Hall and Elks Club in Vicksburg, Mississippi;[20] and white-owned general

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16. Connie Duarte, community leader, Tucson, Ariz., interview, Nov. 5, 1974. Election day observation by Commission on Civil Rights staff, Tucson, Ariz., Nov. 5, 1974.

17. Dr. Anne McConnell, Tucson, Ariz., interview, Nov. 6, 1974.

18. Moses Knox, chairman, Greensville County NAACP, Emporia, Va., interview, July 11, 1974.

19. Frank Strickland, NAACP leader, Talladega Co., Ala., interview, Sept. 7, 1974.

20. Staff interview, Vicksburg, Miss., Sept. 3, 1974.

stores, private homes of whites, and white churches in various parts of the South.[21] In the 1971 election in Humphreys County, Mississippi, one polling place was in the same building as a white candidate's office.[22]

The courts and the Department of Justice have been concerned about the location of polling places and have objected when a proposed change would put the polling place in a more inconvenient location or in a more hostile environment. When Leflore County, Mississippi, was redistricted in 1973, changes were made in election precincts and polling place locations. The court found all changes reasonable except for the selection of the VFW Club as one of the polling places.

> The VFW Club, a private organization, has a membership of whites only; and black citizens who constitute the voter majority in Southeast Greenwood may likely be inhibited or embarrassed in free access to vote at that location.[23]

In another case, a group of black voters successfully sued the Atlanta election officials in Federal court for changing polls to inconvenient or too-distant places after the 1971 decennial redistricting.[24] The complaint alleged that officials changed virtually all the

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21. Staff interviews in Louisiana, Mississippi, and Virginia, July-Sept. 1974.

22. James v. Humphreys County Board of Election Commissioners, Civil No. GC-72-70-K (N.D. Miss. Oct. 4, 1974).

23. Moore v. Leflore County Board of Election Commissioners, 361 F. Supp. 609, 613 (N.D. Miss. 1973), affirmed, Civil No. 73-3090 (5th Cir. Oct. 10, 1974).

24. Davis v. Graham, Civil No. 16891 (N.D. Ga. 1972).

polling places located in predominantly black areas of the Fifth Congressional District without considering possible discriminatory effects on poor and black voters.[25] The court found that 9 of the 18 sites objected to by the plaintiffs were discriminatory and ordered the defendants to establish new or additional polls more convenient to the voters.[26] Subsequently the Department of Justice objected to a number of polling place changes in Atlanta.[27]

The Department of Justice has also objected to moving a polling place in Jones County, Georgia, from a store in the central part of the precinct to the Lions Club Fairground Building on the outer fringe. In addition to the fact that the Lions Club does not accept blacks as members, many blacks would have had to travel an additional 3 1/2 miles to vote.[28]

Another polling place change was objected to by the Department of Justice in a 95 percent black precinct in New Orleans because it would have required voters to travel an excessive distance outside

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25. Complaint, p. 5, Davis v. Graham.

26. Davis v. Graham.

27. Objection letters, Nov. 27, 1972, and March 1, 1973.

28. Section 5 Summary, Aug. 12, 1974.

the precinct to vote. Furthermore, the change was deemed unnecessary because several more convenient polling sites were available.[29]

A recent objection was made to polling place changes in Newport News, Virginia. The city planned to move one polling place from the courthouse to an elementary school. The change would have meant that blacks had to travel an additional 1 to 1 1/2 miles to vote, without public transportation.[30]

Whenever changes in polling place location are made, voters accustomed to voting at a particular place are burdened. This is especially true for minority voters who may already be hesitant about voting. When a polling place change is not publicized, many voters go to the wrong place to vote. Told to go somewhere else, many see it as a runaround and may not vote at all.

Most States covered by the Voting Rights Act have minimal provisions for notifying voters of polling place changes. Alabama and Virginia provide for publishing changes in newspapers.[31] Posting changes in several locations is required in Alabama and Georgia.[32] North Carolina county election boards may use either of these methods.[33]

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29. Section 5 Summary, July 17, 1974.

30. Objection letter, May 17, 1974.

31. Code of Ala., Tit. 17 § 85 (1959); Va. Code Ann. § 24.1-36 (1973).

32. Code of Ala., Tit. 17 § 85 (1959); Ga. Code Ann. § 34-703 (1970).

33. N.C. Election Laws § 163-128 (Supp. 1972).

Notices are mailed to registered voters in Virginia and South Carolina.[34] In Arizona, the county may either indicate the new polling site on the sample ballot mailed to each voter or mail a separate notice.[35] Similarly, in California, the location of new polling sites may be determined from sample ballots mailed to all voters.[36] Changes are published in the parish police jury proceedings in Louisiana.[37]

Counties frequently do only the minimum the law requires. Many minority persons have reported that voters are unaware of changes. Several polling sites were recently changed in East Carroll Parish, Louisiana, to more central locations. However, many blacks were confused about where to vote. A black civic organization, the East Carroll Citizens for Progress, has been chiefly responsible for undertaking the difficult task of letting blacks in rural areas know about the changes.[38]

The campaign manager in Tucson for Governor Raul Castro told Commission staff that in a predominantly Chicano precinct a polling place change had been made for the November 1974 election from "the traditional landmark in that neighborhood to a place that is less

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34. Va. Code Ann. § 24.1-39 (1973); S.C. Code Ann. § 23-222 (Supp. 1973).

35. A.R.S. § 16-762 (Supp. 1974).

36. Cal. Election Code § 10009 (West Supp. 1974).

37. L.S.A.-R.S. 18:585 (1969).

38. Theodore Lane, president, East Carroll Citizens for Progress, Lake Providence, La., interview, Sept. 4, 1974.

centrally located and less accessible."[39] Reportedly, people were not informed of the change. "No signs had been put up at the old polling place to inform people of the change. The typical voter in this precinct has no transportation [or] money to pay for transportation."[40]

Similarly in Soledad, California (about 80 percent Mexican American), a polling place was changed from an entrance on the side of the police station to the new city hall directly behind it. The only indication of the new polling place was a small flag required by State law. Persons arriving at the old polling place found the door locked. If they inquired at the police station, they were directed to the new polling place.[41] No sign was there to inform voters of the new location.

Even when some type of notification is made, it is not effective unless it is in the language a voter knows. In Arizona, as well as in California, the only notification each registered voter received prior to the 1974 election was a sample ballot saying, "Your polling place is. . .[location]."[42] This announcement was in English only.

Inadequate facilities at the polls may lead to crowded situations that deter voters from returning to the polls in future elections. A

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39. R. Dan Valdenegro, Tucson, Ariz., interview, Nov. 7, 1974.

40. Ibid.

41. B. J. Jimenez, Chief of Police, Soledad, Cal., interview, Nov. 5, 1974. Election day observation by Commission on Civil Rights staff, Soledad, Cal., Nov. 5, 1974.

42. Election day observation by Commission on Civil Rights staff, Pima Co., Ariz., and Monterey Co., Cal., Nov. 5, 1974.

serious shortage of polling places on the Navajo Reservation in Apache and Coconino Counties in Arizona caused hardships and curtailed the reservation vote in the 1972 general election.[43] In Apache County only 10 polling places served the extensive reservation area,[44] where turnout was heavy. Many Navajos waited several hours in bad weather to vote. At Chinle, in the northern part of the county, 900 voters were expected but nearly 3,000 came, causing voters to wait 2 1/2 hours to cast their ballots.[45] According to the Apache County manager, it was 12:30 a.m. before all the people in line at the Chinle polling place voted. Many did not have the stamina for the long wait; others had to return to work.[46]

After much haggling with the county board of supervisors, the reservation portion of Apache County recently obtained new polling places, raising the total number of polling places on the reservation to 21.[47] Some problems remain, however, because the county assigned people to precincts arbitrarily and without firsthand knowledge of location of residence.[48]

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43. Benjamin Hanley, member of the Arizona House of Representatives for District 3, Window Rock, Ariz., interview, July 19, 1974.

44. Office of County Recorder, Apache Co., Ariz., General Election Registration List for 1972.

45. Lucy Hilgendorf, Justice of the Peace, Chinle, Ariz., interview, July 22, 1974.

46. Buzz Hawes, St. John, Ariz., interview, July 26, 1974.

47. Office of County Recorder, Apache Co., Ariz., Registration for General Election 1974.

48. Lucy Hilgendorf, Chinle, Ariz., letter to David H. Hunter, U.S. Commission on Civil Rights, Nov. 10, 1974.

In neighboring Coconino County, the overcrowding of voting facilities in the 1972 election was most obvious at the community center in Tuba City on the Navajo Reservation, where people waited in line for several hours before voting.[49] According to the county recorder, the number of polling places in the county has increased from 31 to 39 since the 1972 election.[50] Eight of those polling places are on the Navajo Reservation, an increase of four over the 1972 total.[51]

Crowded and confused conditions prevailed at several schools in predominantly Mexican American areas of Tucson during the 1974 election. Voting booths were placed in hallways near the front door and students and other persons who were not voting continually walked through the polling area. At one polling place, conditions were so crowded that the line of persons waiting to vote wound around the booths. Some of those waiting were so close to the booths that they could see the choices of persons voting.[52]

ELECTION OFFICIALS

One of the major obstacles to minority voting is the inadequate number of minority election workers. Minority persons frequently view

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49. Hanley Interview.

50. Pat Fabritz, Flagstaff, Ariz., interview, July 25, 1974.

51. Unpublished maps and tables, 1972-74, obtained by Commission staff from Pat Fabritz, Sept. 1974.

52. Election day observations by Commission on Civil Rights staff member, Tucson, Ariz., Nov. 5, 1974.

whites as opposed to minority enfranchisement. They feel that needed assistance is not nearly as likely to come from whites as from persons of their own background. Although the number of minority election workers has grown since the passage of the Voting Rights Act, they are still seriously underrepresented.

Even when minorities do work as poll workers, they are generally not in supervisory positions. Since the choice of poll workers is made by election officials[53] who are almost always white, blacks charge that only those blacks who are easily influenced are chosen.[54] According to one black leader in Alabama, blacks are asked to serve "who don't know what they are doing and whom they can tell, 'Go take a long lunch hour.'"[55]

Most counties rarely have to recruit new election officials for each election. When blacks in Sandersville, Georgia, complained about the lack of black poll workers, county officials said that the people who work at the polls had served for years and that training new people

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53. Code of Ala., Tit. 17 §§ 120-125 (1959); A.R.S. § 16-771 (Supp., 1974); Cal. Election Code §§ 1618-1618.5 (West Supp. 1974); Ga. Code Ann. § 34-401, § 34-501 (1970); L.S.A.-R.S. 18:555 (1969); N.Y. Election Law §§ 39-40 (McKinney, 1964); N.C. Election Laws § 163-41 (Supp. 1972); S.C. Code Ann. § 23-400 (1962); Va. Code Ann. § 24.1-32.

54. Staff interviews in Mississippi, Sept. 1974, Virginia, July 1974, Alabama, Aug. 1974, and Louisiana, Aug. 1974.

55. Albert Gordon, 1974 candidate for State senate, Camden, Ala., interview, Sept. 5, 1974.

would be difficult.[56] There was only 1 black among the 20 poll workers in the September 1974 runoff even though the city is 53 percent black. One source said that blacks usually constitute only 5 or 10 percent of the poll workers in county elections, even though Washington County is 54 percent black.[57] Blacks are never poll managers.

In Macon County, Georgia, 61 percent black, 3 of the 30 election workers in the September 3, 1974, primary were black. None of them was in charge. Although blacks requested more black poll workers, white officials refused to appoint them.[58]

One source in Tucson, Arizona, stated:

> There are simply too few minorities working at the polls and there is no doubt that this has a serious adverse effect on the participation of minorities in voting. They are made to feel like strangers at the polling places.[59]

In a Mississippi town in 1973, a black poll worker was not asked to work in the runoff election because of her participation in a voting rights lawsuit against the city. She was the only black of six officials in one precinct in the first election. As election returns were announced on the radio, the announcer stated that she had instituted a suit challenging at-large voting. When she asked a local party

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56. James Interview.

57. Davis Interview.

58. James Interview.

59. William Edward Morgan, attorney and professor, Tucson, Ariz., interview, Nov. 7, 1974.

official why she was not reappointed, he told her it was because of the lawsuit.[60]

The need for minority poll workers is accentuated in areas where large portions of the population do not speak English. Communication between a non-English speaker and a person who speaks only English becomes almost impossible. As a result the poll worker may become angry, the voter frustrated or embarrassed and not vote.

Recent legislation in California and court orders in New York require the recruitment of bilingual poll workers, but this has not always been carried out adequately.

California law now requires county officials to recruit bilingual poll workers in precincts where 3 percent of the voting age population is non-English-speaking.[61] Nevertheless, in obtaining poll workers, the county clerk of Monterey County depends chiefly on word of mouth for publicity.[62] Not only were no special recruitment efforts made,[63] but interested and qualified Chicanos who requested assignments from the

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60. Affidavit of Rosa Stewart, Stewart v. Waller, Civil No. EC-73-42-S (N.D. Miss., filed May 3, 1973).

61. Cal. Election Code § 1611(c) (West Supp. 1974).

62. Ernest Maggini, County Clerk, Monterey County, Salinas, Calif., interview, Nov. 6, 1974.

63. The job announcement for Monterey County on October 15, 1974, listed a job opening for Election Aide III ($3.052/hr.) or Election Aide II ($2.69/hr.). Nowhere did the announcement specifically advertise for bilingual election aides.

county clerk were told that the quota was already filled.[64] Visits to eight polling places by a Commission staff member revealed that there were only two bilingual election officials, both at one precinct in Soledad.[65] At one polling place in a Salinas elementary school, an election worker said: "We had a few voters who couldn't speak English, but we finally got through to them. We had some of the teachers come and help with interpretation."[66]

California has recently passed legislation that allows Spanish to be spoken at the polls. Nevertheless, a Commission staff person was told by one election official: "We are not supposed to speak Spanish, but someone can for the purposes of interpretation."[67]

According to John Saavedra, mayor of Soledad, California, older whites with "hard core anti-Chicano attitudes" generally work at the polls in Monterey County. Although some poll workers are bilingual, they are not given positions of major responsibility. A Chicano whom Saavedra had recommended worked at the last election but was not hired for the 1974 election.[68]

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64. Staff interview, Salinas, Calif., Nov. 5, 1974. As required by law the Commission has offered Mr. Maggini the opportunity to reply to these statements. His reply is included in appendix 7.

65. Election day observation by Commission on Civil Rights staff, Monterey Co., Calif., Nov. 5, 1974.

66. Ibid.

67. Ibid.

68. John Saavedra, Soledad, Calif., interview, Nov. 6, 1974.

One former candidate for New York city council criticized that city's efforts to obtain bilingual poll workers:

> In recent years a few Hispanos have been appointed poll workers but they are definitely not a good cross section of the community nor are their numbers proportionate to the total population.[69]

Congressman Herman Badillo also criticized the fact that there is an insufficient number of bilingual election workers. He pointed out that the burden of assisting the voter is borne by volunteer groups when it should be the responsibility of election officials.[70]

Despite assurances from Arizona officials which were accepted by the Department of Justice that bilingual election workers would be available where they were needed,[71] visits by a Commission staff member to several polling sites in November 1974 revealed that there were few, if any, bilingual workers in most precincts. At one precinct, the election inspector had to ask campaign workers to interpret for non-English-speaking voters several times during the day. In addition, only one of the election supervisors in the eight predominantly Chicano precincts visited was bilingual.[72]

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69. Yolanda Sanchez, New York City, N.Y., interview, Oct. 3, 1974.

70. U.S. Representative Herman Badillo, New York City, N.Y., interview, Oct. 3, 1974.

71. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, Department of Justice, letter to N. Warner Lee, Attorney General, State of Arizona, Oct. 3, 1974.

72. Election day observations by Commission on Civil Rights staff, Tucson, Ariz., Nov. 5, 1974.

The need for adequate assistance in the voter's language is perhaps best exemplified by the situation on November 5, 1974, at the Tuba City precinct on the Navajo Reservation in Coconino County. Since many Navajos do not speak or read English, they needed assistance in the use of voting machines and in translating the 10 propositions on the ballot. Even though there were 13 voting booths, there was only one interpreter to assist all the voters who needed help. Consequently the lines were 3 hours long throughout the day. Many people left without voting and indicated that they would not want to vote again because of the difficulties they encountered.[73]

INADEQUATE BILINGUAL INFORMATION AND MATERIALS

In the past the laws of most States required that most governmental proceedings, including elections, be conducted only in English.[74] Realization that bilingual materials are needed if a non-English-speaking voter is to cast an effective ballot is a recent phenomenon. Court cases in New York and other areas and recent legislation in California and New Jersey have required bilingual assistance and translation of parts

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73. Robert Miller, attorney, Dinebeiina Nahiilna Be Agaditahe (DNA), Tuba City, Ariz., telephone interview, Nov. 13, 1974. DNA is a Navajo legal services organization.

74. For a State-by-State compilation of laws which discriminate against the non-English-speaking, see Arnold H. Leibowitz, "English Literacy: Legal Sanction for Discrimination," Notre Dame Lawyer, vol. 45 (1969), pp. 52-53.

of the voting instructions and the ballot.[75]

Of the three States under consideration which have substantial non-English-speaking populations, only California has a law requiring the translation of propositions and voting instructions into a language other than English. The translation must be posted in at least one conspicuous place at each polling site and be available for non-English-speaking voters to use as sample ballots.[76] New York City is under court order to provide bilingual assistance, including personnel, publicity, ballots, signs, and other election materials.[77]

California county officials have yet to comply fully with the translation provisions. Before the 1972 election the secretary of state sent instructions on the use of the Spanish ballot to all county clerks.[78] Nevertheless, there was still confusion about its use during the 1974 election. In the instructions sent by Ernest A. Maggini, county clerk of Monterey County, to all election officers, the only instruction regarding the Spanish ballots was to "[p]lace...about the polling place...Spanish facsimile ballots."[79] Although the county offers

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75. For a discussion of recent legislation and litigation regarding bilingual developments, see chapter 2.

76. Cal. Election Code § 14201.5 (West Supp. 1974).

77. Torres v. Sachs, 381 F. Supp. 309 (S.D. N.Y. 1974).

78. Memo to the County Clerk and Registrar of Voters from Edmund G. Brown, Jr., Secretary of State, Nov. 3, 1972.

79. Votomatic Election General Instructions to election officers, p. 2A.

training for election workers, attendance is voluntary and many do not attend and may not be aware of new legislation. The assistant registrar, who conducts the training, reported that she told the workers to "distribute the Spanish ballot around the precinct."[80]

No Spanish facsimile ballot was posted at any of the eight polling places in Monterey County visited by a Commission staff member on November 5, 1974. Asked about use of the Spanish ballot, some election officials did not know what they were to do with them; others said they were supposed to be placed on the tables and made available to people who asked for them.[81] According to some persons in the area, the existence of Spanish facsimile ballots is not well known by the Spanish speaking citizens, nor is the fact publicized by the county either in English or Spanish.[82]

In New York City, the election board is under court order to provide Spanish translation of the ballot.[83] According to one Puerto Rican candidate, translation for the September 10, 1974, primary was so inadequate that it created "confusion and disillusionment" among

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80. Doris J. Peterson, Salinas, Cal., interview, Nov. 6, 1974.

81. Election day observations by Commission on Civil Rights staff, Monterey Co., Cal., Nov. 5, 1974.

82. Staff interviews, Salinas and Soledad, Cal., Nov. 1974.

83. Torres v. Sachs, 381 F. Supp. 309, 312 (S.D. N.Y. 1974).

Puerto Ricans.[84] A New York Times article reported that it was "so full of mistakes that Spanish-speaking voters may be confused or seriously misled...."[85] Some of the voting instructions were at best ambiguous and, at worst, diametrically opposite to their meaning. For example,

> ...the English version tells voters to "vote for any two" candidates for the Court of Appeals.... The Spanish tells voters to vote for "cualquiera de los dos" [which means] any of the two....[86]

Arizona has no law governing the use of bilingual voting materials. Chicano and Navajo leaders agree that such materials would be extremely helpful. A Tucson attorney active in civil rights work suggested that "complete, balanced information on elections and the issues involved should be the responsibility of the board of elections."[87] A local television station aired a half hour voter education class in Spanish prior to the 1974 election, but one politically active Chicano believes that "this should be an official function of those who are responsible for the participation of all people in the voting process."[88] The only official effort was a translation of a small section on the sample ballot

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84. Sanchez Interview.

85. New York Times, Sept. 10, 1974, p. 70.

86. Ibid. As required by law the Commission has offered the New York City election board the opportunity to reply to these statements. Its reply is included in appendix 7.

87. Morgan Interview.

88. Valdenegro Interview.

mailed to each voter listing three recent changes in election law. Neither the section on the use of the voting machine nor the propositions were translated. Several years ago Pima County prepared a leaflet with instructions in Spanish on the use of the Votomatic.[89] However, some election workers are not aware of the existence of this leaflet.[90]

Navajos are concerned about the lack of information in their native language. Suggestions include putting candidates' pictures on the ballots and the use of cassette recordings translating the ballot for non-English-speaking voters. Apache County has not made any provisions, however, for making translations available.[91]

THE PROBLEMS OF ILLITERATE VOTERS

The Voting Rights Act Amendments of 1970 temporarily banned the use of literacy tests. Nevertheless, to make their votes effective illiterate voters must receive some type of aid at the polls in casting their ballots. Both the people permitted to assist illiterate voters and the kind and quality of the assistance they provide constitute serious problems for illiterate voters. There is a belief among some minority persons that a white poll worker assisting an illiterate

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89. The Votomatic is a voting device in which a stylus is used to indicate choices on a punch card using a booklet form ballot.

90. Election day observations by Commission on Civil Rights staff, Tucson, Ariz., Nov. 5, 1974.

91. Staff interviews, Window Rock, Ariz., July 1974.

minority voter will vote for the candidate the poll worker chooses, or advise the voter for whom to vote regardless of the voter's preference.[92]

The Mississippi State legislature repealed the provision regarding assistance to illiterates just prior to the passage of the Voting Rights Act of 1965.[93] A Federal court held that it was "the duty and the responsibility of the precinct officials at each election to provide to each illiterate voter who may request it such reasonable assistance as may be necessary to permit such voter to cast his ballot in accordance with the voter's own decision."[94] The State interpreted this to mean that illiterate voters could receive assistance only from election officials, although blind or disabled persons may receive help from a poll manager or other persons of their choice.[95] This distinction, however, has been held a violation of the equal protection clause of the 14th amendment.[96] The court declined to require that the assistance be provided by persons of the same race.[97]

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92. Staff interviews in Mississippi, Aug. 1974.

93. Miss. Code § 3212.7.

94. United States v. Mississippi, 256 F. Supp. 344 (S.D. Miss. 1966).

95. Miss. Code § 23-5-157.

96. James v. Humphreys County Board of Election Commissioners, Civil No. GC-72-70-K (N.D. Miss. Oct. 4, 1974).

97. Ibid., p. 30.

Straight party voting allows an elector to vote for a full slate of candidates in a particular party by pulling one lever on a voting machine or marking one box on a ballot. Where straight party voting exists, it allows illiterates who wish to vote for candidates of one party to vote with a minimum amount of assistance. Without straight party voting, the illiterate voter may have to receive assistance for each race or may not be able to finish voting because of time limits. For this reason, the Department of Justice approved Arizona's prohibition of straight party voting on the condition that adequate assistance would be available to minority voters and that sufficient time would be allowed for voting.[98]

Nevertheless, in the November 1974 election in Tucson, a Commission staff member observed a Chicana who was quite confused by not being able to vote a straight party ballot. She continued to ask for an explanation from an election supervisor who did not offer assistance but merely said, "I can't tell you how to vote, I can only tell you that straight party voting is no longer allowed."[99]

In Madison Parish, Louisiana, and Surry County, Virginia, poll workers reportedly do not assist black illiterate voters but, instead, leave them alone so that they will make a mistake and disqualify their ballot.[100]

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98. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, letter to N. Warner Lee, Attorney General, State of Arizona, Oct. 3, 1974.

99. Election day observation by Commission on Civil Rights staff, Tucson, Ariz., Nov. 5, 1974.

100. Zelma Wyche, Chief of Police, Tallulah, La., interview, Sept. 3, 1974; M. Sherlock Holmes, Chairman, Surry County Board of Supervisors, Surry, Va., interview, July 9, 1974.

A black political leader in South Carolina alleged that in the July 1974 primary a white candidate had paid his campaign workers to masquerade as election officials at the polls. These people saw how illiterates voted and in some instances took ballots from them and cast them themselves.[101] He further noted that in Hampton County campaign workers for a white candidate allegedly took illiterates into the booths and marked their ballots for them.[102]

Two incidents involving illiterate voters reportedly occurred in Macon County, Georgia, in the September 1974 primary. In one case two blacks asked for assistance from a poll worker. She said that the first man, after voting, could help the second, even though both required assistance. In another case a voter was receiving assistance when a poll worker pulled the lever to open the curtain before the voter was finished.[103]

ABSENTEE VOTING

Problems with absentee voting were reported in many of the States visited by Commission staff. Because the process is very complex, there is ample opportunity for abuse. Blacks report that they have more difficulty obtaining absentee ballots than whites. Blacks look suspiciously at the large number of white absentee voters compared to

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101. George Hamilton, former executive director, South Carolina Human Relations Commission, Walterboro, S.C., interview, July 27, 1974.

102. Ibid.

103. James Interview.

black, as well as at the vote totals giving white candidates substantial majorities in the absentee vote count. In some close elections this has meant defeat for black candidates.

All States allow absentee voting for certain groups of voters, including the military, students, sick people, institutionalized persons, and those who are out of the county on business or vacation.[104] A person wishing to vote absentee may obtain an application either in person or by mail from the county registrar. The application usually contains an oath or affidavit of identity and eligibility that must be signed before a notary public. The application is returned and the person's signature verified by the appropriate county official. The ballot, instructions, and special envelopes are then mailed to the voter. If the oath is taken before a county official, these materials may be obtained in person.

The voter must mark the ballot in the presence of, but not in view of, a county official if in person, or a notary public if to be mailed, and place it in the envelope according to specific instructions. On

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104. This explanation is not meant to present the procedures for any particular State but only to demonstrate the complexity of the process. It is based on the following sections from State Election Codes: Code of Ala., Tit. 17 § 64(15) to 16-64(34) (1959); A.R.S. § 16-1101 to 16-1110 (Supp. 1974); Cal. Election Code § 14600 to 14634 (West 1961); Ga. Code Ann. § 34-1401 to 34-1411 (1970); L.S.A.-R.S. 18:1071 to 18:1081 (1969); Miss. Code § 23-9-401 to 23-9-613 (Supp. 1974); N.Y. Election Law § 117 to 130 (McKinney, 1974-75); N.C. Election Laws § 163-226 to 163-253 (Supp. 1974); S.C. Code Ann. § 23-441 to 23-449.41 (Supp. 1973); Va. Code Ann., § 24.1-227 to 24.1-234 (Supp. 1974).

the outside of the sealed envelope is usually a ballot affidavit, which is to be executed by the official or notary. The ballot is then placed in an outer envelope and mailed or given to the county official. Absentee ballots, usually due prior to or on election day, are counted separately after the close of the polls. The whole process usually must be completed within 30 days, including mailing time.

Blacks in Madison Parish, Louisiana, brought suit in Federal court to void the 1970 Democratic primary in Tallulah.[105] If only votes cast in person had been counted, blacks would have won every office in which they were candidates. Only two of the nine blacks won election, however. The victorious whites won by margins ranging from 24 to 104 votes, all provided by absentee ballots. Of the 222 absentee ballots cast, 62 were cast by whites whose eligibility to vote absentee should have been challenged under Louisiana law, but the county registrar had failed to do this.

Though a Federal court set aside the election,[106] a panel of the Fifth Circuit Court of Appeals reinstated its outcome.[107] The full Fifth Circuit Court of Appeals agreed with the lower court,[108] but by then it was almost time for the regularly scheduled election in 1974.

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105. For a discussion of discriminatory purging prior to this election, see chapter 4, pp. 87-89.

106. Toney v. White, 348 F. Supp. 188 (W.D. La., 1974).

107. 476 F.2d 203 (5th Cir.).

108. 488 F.2d 310 (5th Cir. 1973) (en banc.).

In the 1972 municipal election in Fort Valley, Georgia, three blacks were defeated by whites in the runoff on the strength of absentee votes. In 1973 the Department of Justice filed suit to overturn the election, alleging that city officials had allowed ineligible white voters to cast absentee ballots.[109] Although the court declined to set aside the election, it enjoined the city officials from issuing absentee ballots to nonresidents of Fort Valley and from issuing them on grounds of disability without a medical certificate. All future applications must show the reason the voter required an absentee ballot.[110]

In Talbot County, Georgia (68 percent black), irregularities with absentee ballots allegedly occurred in the June 1973 special election for school superintendent between a white teacher and a black principal. There were only 15 days between the white candidate's announcement and the deadline for receiving absentee ballots. Blacks believe that there was not enough time for the 102 people to receive absentee ballots and return them either in person or by mail. Most of the margin of victory for the white candidate came from absentee votes.[111]

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109. Complaint, pp. 5-8, United States v. Anthone, Civil No. 2872 (M.D. Ga., filed June 29, 1973).

110. United States v. Anthone.

111. Bob Marvin, Voter Education Project, letter to Lawrence Guyot, Jr., attorney, Lawyers' Committee for Civil Rights Under Law, Washington, D.C., June 28, 1973 (copy in Commission on Civil Rights files).

In the 1972 general election in Wilcox County, Alabama (68.5 percent black), the count of absentee ballots showed the white candidate for county commissioner receiving 178 votes, the black candidate, 2. The black candidate would have won by more than 100 votes had it not been for the absentee votes.[112] Subsequent investigation indicated that blacks had great difficulty even obtaining absentee ballots. According to a black attorney, county officials

> ...always found something wrong with black applications for absentee ballots, they were signed wrong...or they checked the wrong box ....This never happened to whites...their applications weren't rejected...and perhaps 200 absentee ballots were mailed to whites. 113

In addition, a black poll watcher charged that people known to be sympathetic to the black candidates but unable to vote in person did not receive absentee ballots at all or received them too late to be returned in time to be counted.[114]

John Hulett, black sheriff of Lowndes County, Alabama, said that many blacks had trouble voting absentee. In the 1972 election blacks who were ill had difficulty obtaining a doctor's certificate to allow them to vote absentee. The attitude of the doctors purportedly was that "people should be able to go out on their own and vote." All doctors in Lowndes County are white.[115]

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112. Threadgill and McCarthy Interview.

113. Henry Sanders, Selma, Ala., interview, Sept. 4, 1974.

114. Threadgill and McCarthy Interview.

115. Hulett Interview.

In Eutaw, Greene County, Alabama, blacks charged that in the 1972 municipal election, in which white candidates won all offices, white election officials had violated various State laws concerning absentee voting.[116] The blacks contended that the official list of qualified voters was not published in the county paper prior to the election, as required by Alabama law;[117] a separate list of absentee voters was not made; and absentee ballots were not separated from other ballots.[118] The NAACP field office forwarded the complaint to the Department of Justice on August 16, 1972, and asked to be informed of further action.[119] On August 20, 1972, the Department acknowledged the NAACP letter, saying that they would investigate and

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116. O. B. Harris, chairman, Investigating Committee, Eutaw Chapter NAACP, letter to the Rev. K. L. Buford, Alabama Field Director, NAACP, Tuskegee Institute, Ala., Aug. 10, 1972 (copy in Commission on Civil Rights files).

117. Code of Ala., Tit. 17 § 38 states that a list of qualified electors by precinct shall be published by April 15 in some newspaper with a general circulation in the county.

118. Code of Ala., Tit. 17 § 64 (Supp. 1973), requires that by March 15 of each year a list of absentee voters of each county be filed with the county probate judge and the secretary of state. The ballots of these voters must be placed in an absentee box and nowhere else.

119. The Rev. K. L. Buford, letter to Gerald W. Jones, Chief, Voting and Public Accommodations Section, Civil Rights Division, U. S. Department of Justice, Washington, D.C., Aug. 16, 1972 (copy in NAACP Field Office files, Tuskegee Institute, Ala.).

inform the NAACP if they found grounds for complaint.[120] No further reply had been received as of September 4, 1974.[121]

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The Voting Rights Act of 1965 has had a great impact on the opportunity of minority persons to vote. The number of overt actions to exclude them on the part of white officials has decreased substantially. Nevertheless, abuses of the past have left scars on the memories of many minority group members. Furthermore, certain methods used by county officials and poll workers have the intent or the effect of convincing them not to vote or making their votes less effective. This chapter has been concerned with several of these methods which discourage or inhibit minority voters. In the areas covered by the Voting Rights Act many Puerto Ricans, Native Americans, Mexican Americans, and blacks believe that these attempts to discourage them from voting will continue as long as there are barriers which keep them from gaining political office.

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120. Gerald W. Jones, Chief, Voting and Public Accommodations Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C., letter to the Rev. K. L. Buford, Alabama Field Director, NAACP, Tuskegee Institute, Ala., Sept. 20, 1972 (copy in Commission on Civil Rights files).

121. The Rev. K. L. Buford, Ala. Field Director, NAACP, and Rufus C. Huffman, NAACP Education Field Director, Tuskegee Institute, Ala., interview, Sept. 4, 1974.

6. BARRIERS TO CANDIDACY

Since the passage of the Voting Rights Act of 1965 minority citizens have begun to seek elective office in ever-increasing numbers. To a great extent whether they are elected or not depends on the same factors that determine whether any candidate is elected. But minority candidates also face problems which other candidates typically do not have.

Minority candidates are more likely than white candidates to feel helpless in trying to cope with the difficulties of running for office. As a group they are inexperienced at politics. Moreover, they do not have the luxury of assuming the good will of officials whose cooperation is necessary. Unlike whites they start as outsiders in the political process and do not have the practical experience of coping with the inevitable problems of a political campaign. Intensifying these problems in many rural areas is a shortage of lawyers who are able and willing to defend the political rights of minorities and to give legal guidance to minority candidates.

The problems which minority candidates encounter range from structural problems, like expensive filing fees or legal restrictions on third party or independent candidates, to problems of the abuse of discretion, such as the dishonest counting of votes.

Some of the events described may strike the reader as minor and the complaints petty. This is not how they are viewed by those who experience them. They may affect the outcome of an election and are even more likely to discourage future candidates, reinforcing the notion that minorities should stay away from politics.

FILING FEES

Typically a candidate for office must pay a fee as part of the qualifying process. Because minorities are more likely to be poor than whites, a substantial filing fee is a more significant barrier to them. Even when a minority candidate is able to pay the fee, that much money is taken away from the campaign effort.

Two justifications are given for fees: They help meet the expenses of elections, and they deter frivolous candidates from running. There are, of course, other ways to finance an election and other ways--such as petition requirements--to limit the field to serious candidates. Moreover, fees do nothing to deter the frivolous candidate who happens to be rich.[1]

The fact that filing fees are set or administered by political party committees does not exempt them from the scrutiny of the courts under the 14th and 15th amendments. The fees are an integral part of the electoral

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1. See Lubin v. Panish, 415 U.S. 709 (1974), and Harper v. Vance, 342 F. Supp. 136 (N.D. Ala. 1972).

system which is controlled by the State and thus requiring a fee is "state action" for constitutional purposes.[2]

Because a change in the method of qualifying to run for office is a change with respect to voting, it is subject to the requirements of section 5 of the Voting Rights Act.[3] It must be submitted either to the United States District Court for the District of Columbia or to the Attorney General for a determination that its purpose is not discriminatory and that it will not have a discriminatory effect. Under section 5 the Attorney General has objected to fees and to other qualifying requirements that might be burdensome for minorities.[4]

Recent decisions of the Supreme Court of the United States have made highly questionable the legal standing of more than a nominal filing fee where there is no readily accessible alternative to paying the fee.[5] Yet the barrier to minority candidates of substantial fees has not been removed in many jurisdictions. Where increases in fees have been prevented

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2. Bullock v. Carter, 405 U.S. 134, 140 (1972). See Smith v. Allwright, 321 U.S. 649 (1944), and Terry v. Adams, 345 U.S. 461 (1953).

3. See discussion of section 5, chapter 2, pp. 25-31.

4. But see Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972), pp. 72-73 (hereafter cited as Shameful Blight) for a description of Department policy in the past.

5. See Lubin v. Panish and Bullock v. Carter.

or already substantial fees lowered it has been through the time- and resource-consuming efforts of private litigation, through the aid of section 5, or through a combination of the two.

In 1970 a Federal court found the qualifying fee for candidates for the Mobile, Alabama, city commission unconstitutional.[6] Two percent of the commissioner's salary, or $360, was required. In response to the court's decision the city created two alternatives to the fee: a petition containing the names of 2,000 registered voters or a pauper's oath. In August 1973 the Attorney General objected under section 5 to these alternatives.[7] The petition put a greater burden on blacks than whites because there are fewer blacks than whites in the city. The pauper's oath did not relieve the financial burden of the fee on those who were not totally destitute. The Attorney General withdrew his objection after the city revised its oath and agreed to interpret it liberally, allowing anyone who shows a reasonable inability to pay the fee to use the oath.[8]

In 1970 the Georgia legislature set the qualifying fee for the general assembly at $400. For other State and local offices the fee was set at 5 percent of the annual salary for the office.[9] The Attorney General did

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6. Thomas v. Mims, 317 F. Supp. 179 (S.D. Ala. 1970).

7. Objection letter, Aug. 3, 1973.

8. Section 5 summary for Oct. 10 and Oct. 24, 1973. The city was also allowed to reinstate the petition requirement, although no reason was given for this change in attitude on the part of the Attorney General.

9. Ga. Code. Ann. § 34-1013 (1970).

not object to this schedule of fees when it was submitted in 1970,[10] but in Fulton County a court struck down the 5 percent requirement in 1972.[11] In 1973 the 5 percent requirement was still being applied elsewhere in Georgia. For example, candidates for county superintendent of education in Talbot County in 1973 were required to pay a fee of $600.[12] The legislature in 1974 reduced the fee to 3 percent and allowed qualifying by a petition as an alternative.[13]

Fees have also been reduced through section 5 objections or litigation in Ocilla and Albany, Georgia, and in Rock Hill, South Carolina. Increases in fees in Ocilla and Albany were disallowed by the Attorney General.[14] A Federal court struck down the $818 filing fee for the office of mayor in Rock Hill, South Carolina.[15]

Section 5 has been useful as a bargaining tool in preventing fees from being raised. The city of Bessemer, Alabama, adopted a $50 qualifying

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10. Non-objection letter, May 22, 1970.

11. The court ordered the name of a candidate placed on the ballot though he had not paid a fee of $1,006. Price v. Fulton County, Civil No. B-75710 (Super. Ct. of Fulton Co., Ga., June 29, 1972).

12. Talbotton New Era, June 14, 1973, p. 1.

13. Act No. 757, H.B. 227, 1974 General Assembly. The new provision has not yet been cleared under section 5.

14. Ocilla, Ga.: June 27, 1972. Albany, Ga.: Dec. 7, 1973.

15. Agurs v. Reese, Civil No. 73-1411 (D.S.C. Nov. 6, 1973).

fee for commission candidates, reportedly to discourage "spurious candidates." When informed by the Legal Evaluation Action Project that the new fee would have to be submitted to the Attorney General, the fee was rescinded.[16]

In many other areas, however, minorities are still burdened by qualifying fees. Zelma Wyche, chief of police, Tallulah, Louisiana, and president of the Madison Voters League, reported that filing fees in the parish have been raised repeatedly since 1966. Until that year, he said, fees had always been set at the minimum allowed by State law. As more and more blacks have run for office the Democratic Party executive committee has raised the fees, which are now at the maximum allowable.[17] No change in fee from the parish has been submitted to the Attorney General under section 5 of the Voting Rights Act.[18] Wyche further alleged that this tactic is widespread in other parts of Louisiana.[19]

In 1968 the Louisiana legislature passed special legislation setting the filing fees for offices in Caddo Parish. The fee required for members of the legislature, sheriff, clerk of court, treasurer, coroner, and district judge was $250. For police jury and school board a fee of $75

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16. Walter Jackson, director, Legal Evaluation Action Project, Birmingham, Ala., interview, July 17, 1974.

17. Zelma Wyche, Tallulah, La., interview, Sept. 3, 1974.

18. Section 5 Printout, as of May 8, 1974.

19. Wyche Interview.

was set; for constable and justice of the peace, $25.[20] This provision has not received section 5 clearance.[21]

A black candidate for the Louisiana State Senate, Mrs. Annie Smart, who is the mother of 13 and a welfare activist, reportedly attempted to be excepted from the qualifying fee requirement to run in the primary but was unsuccessful. Exceptions for indigents were only made for delegates to the Democratic Party national convention. The fee for the senate can be as much as $500.[22]

OBSTACLES TO QUALIFYING

The informal qualifying requirements can be as great a barrier to potential minority candidates as the formal. At the outset they may find it difficult to obtain the required information on the legal requirements of candidacy. In some instances they may encounter a lack of cooperation or resistance from officials to their candidacy. A variety of other difficulties--rarely twice the same--can prevent minorities from becoming viable candidates.

In 1972 a black businessman who had been active in registration efforts among blacks attempted to run for the city council in a small town in Sussex County, Virginia. When he and another black candidate filed their

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20. L.S.A.-R.S. 18:311 (1968).

21. Section 5 Printout, as of May 8, 1974.

22. David Robinson, school board member, East Feliciana Parish, La., interview, Aug. 17, 1974.

petitions on the last day for filing they were assured by the clerk at the courthouse that nothing more had to be done in order to qualify. Subsequently, the two candidates were informed that they had not satisfied the recently enacted requirement of naming a campaign treasurer and, therefore, their names would not appear on the ballot on election day.[23]

In the most recent county elections in Humphreys County, Mississippi, held in 1971, blacks had great difficulty finding out how to qualify. One prospective candidate phoned the circuit clerk to find out how to run for the county board of education. He told a Commission interviewer that the clerk claimed not to know the answer or whom he should ask. The chairman of the election commission was also uncooperative, he reported. Another prospective candidate succeeded in getting information only with the assistance of an attorney from the Lawyers' Committee for Civil Rights Under Law in Jackson.[24]

Blacks reportedly also have difficulties obtaining information about qualifying to run for office in Sharkey County, Mississippi. According to one person active in black political efforts in the county, election information appears in the newspaper only a few days before the deadline

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23. Wiley Mitchell, Waverly, Va., and the Rev. Curtis Harris, Hopewell, Va., interviews, July 9, 1974. A State court denied them relief because they had not exhausted administrative remedies.

24. Sam Liddell and Kermit James, Humphreys Co., Miss., interviews, Sept. 4, 1974.

for qualifying. For example, before the 1973 municipal election in Rolling Fork, the county seat, a newspaper notice of the election appeared only 2 days before the deadline. County officials, a Commission interviewer was told, make it hard for blacks to participate in politics by denying they have information that potential candidates need.[25]

In one Alabama county the probate judge has attempted to make it more difficult for blacks to run for office by giving them inaccurate information, according to an active member of the National Democratic Party of Alabama, a predominantly black party. He told a potential challenger for his position that the filing fee was higher than it actually was.[26]

Blacks have also reported difficulties in obtaining information about running for office in Southampton[27] and Greensville Counties,[28] Virginia, Tensas Parish, Louisiana,[29] and Camp Hill, Alabama.[30]

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25. Staff interview, Sharkey Co., Miss., Sept. 1974.

26. Staff interview in Alabama, Sept. 5, 1974.

27. Staff interview, Southampton Co., Va., July 10, 1974.

28. Moses Knox, chairman, Greensville County NAACP, Emporia, Va., interview, July 11, 1974.

29. Woodrow Wiley, police juror, Tensas Parish, Waterproof, La., interview, Sept. 5, 1974.

30. Lewis Martin, Camp Hill, Ala., letter to the Rev. K. L. Buford, Alabama Field Director, NAACP, Tuskegee Institute, Ala. (n.d., refers to the Aug. 8, 1972 municipal election) (copy in Commission on Civil Rights files).

An unsuccessful black candidate for county commissioner in Macon County, Georgia, in 1974, told a Commission interviewer that William F. Blanks, chairman of the county Democratic executive committee, had tried to discourage him from running. The candidate said that, when he went to see him at his office, Blanks treated him discourteously and argued that he should not run. Blanks reportedly told the candidate that the other commissioners would not work with him and that he did not have the proper knowledge and sufficient time for the job. In addition, at a meeting Blanks reportedly had said that they "could not afford to let this damn nigger win."[31] At the time Blanks was also the vice chairman of the Georgia State election board.[32]

In 1974 Dorothy Jones ran for school board in East Carroll Parish, Louisiana, but only with difficulty, according to the president of East Carroll Citizens for Progress. Because Jones, who had taken the name of her common-law husband, had registered to vote under her maiden name, Dorothy Lee, the local newspaper questioned whether she was a registered voter and thus eligible to be a candidate. The Democratic county executive committee disqualified her and returned her filing fee. Later, after blacks in the parish had hired a lawyer, the committee agreed to let her run.[33]

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31. Staff interviews, Montezuma, Ga., Sept. 1974.

32. As required by law the Commission has offered Mr. Blanks the opportunity to reply to these statements. His reply is included in appendix 7.

33. Theodore Lane, Lake Providence, La., interview, Sept. 4, 1974.

In 1971 Casey Clark ran for sheriff in Sharkey County, Mississippi. According to persons knowledgeable about the political efforts of blacks in the county, an attempt was made by whites to disqualify Clark by hiding narcotics in his car. Local police tore his car apart in search of the narcotics which had allegedly been planted. He subsequently left the area.[34]

In 1973 Doug Durant was a candidate for city council in Itta Bena, the second largest town in Leflore County, Mississippi. According to a leader of the county voters league, local officials tried to prevent Durant from qualifying for the race on the ground that he had served time in the State prison. In fact, it was someone else with the same surname in a neighboring county who was the ex-felon. Durant was allowed to run but allegedly received "threats" of an unspecified nature.[35]

Florence Farley, a candidate in the 1973 municipal election in Petersburg, Virginia, reported that her opponent sought to have the title M.D. placed after his name on the ballot. When she asked to have her profession, psychologist, listed, the board of electors refused. Only after she threatened court action did the board agree to drop her opponent's title.[36] When a black ran for a second term on the Southampton

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34. Staff interviews, Sharkey Co., Miss., Sept. 1974.

35. William McGee, Leflore Co., Miss., interview, Aug. 8, 1974.

36. Florence Farley, former councilmember, Petersburg, Va., interview, July 9, 1974.

County, Virginia, board of supervisors in 1972, he was listed on the ballot by his first name although he is generally known in the community by his initials and would have preferred their use on the ballot. He lost the election by 16 votes.[37]

CAMPAIGNING

Once the qualifying obstacles have been hurdled, the minority candidate still faces the campaign necessary to get elected. A particularly bothersome problem for minority candidates, who are often new to politics, is how to get the information necessary for a serious campaign from officials who are uncooperative.

One prerequisite to an effective campaign and a fair election is that a candidate know who his or her opponent is. Without this basic knowledge the candidate will not be able to campaign effectively or know how much effort to expend. Voters have on their part as great an interest in knowing who the candidates will be. It is, therefore, reasonable to have some regulation of write-in candidates to guard against surprise and to assure that such a candidate meets the statutory requirements for filling the office.[38]

In Stewart County, Georgia, a black, David White, ran unopposed in the August 1974 primary for the Democratic nomination for school board

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37. Staff interview, Southampton Co., Va., July 1974.

38. See Byrd v. Short, 228 Ark. 369, 307 S.W.2d 871 (1957).

in the majority black Louvale district.[39] At that time there was some suspicion in the black community that there would be a write-in campaign for a white candidate in the general election.[40] Rumors circulated in the black community prior to the election that such a campaign was under way, but no confirmation could be obtained from county officials.[41]

On election day the write-in effort was still a secret withheld from the black community. At the Louvale polling place no black election workers and no black poll watchers were present during the voting or the count. The tally showed that Raymond Miller, a white, had received 59 votes and David White, 58.[42] Miller, however, had failed to satisfy the 20-day notice requirement for write-in candidates contained in Georgia law.[43] Representatives of the black community suspected also that the vote totals were rigged. They have complained to the Department of Justice and sought the assistance of Georgia Legal Services.[44]

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39. Charles L. Rodgers, former school board candidate, Richland, Ga., interview, Aug. 15, 1974.

40. Joseph B. Williams, president, Stewart County Movement, Louvale, Ga., telephone interview, Aug. 15, 1974.

41. Robert Mants, Voter Education Project, Albany, Ga., telephone interview, Nov. 12, 1974; Williams, telephone interview, Nov. 13, 1974.

42. Ibid.

43. Ga. Const. Art. 2., § 7, par. 1.

44. Williams Interview, Nov. 13, 1974; Mants Interview; staff attorney, Voting Section, Civil Rights Division, Department of Justice, telephone interview, Nov. 12, 1974; Dan Steer, attorney, Georgia Legal Services, Columbus, Ga., telephone interview, Dec. 6, 1974.

While not knowing the name or even the existence of one's competitor is an extreme problem, more prosaic information problems also inhibit the campaigns of minority candidates. One necessary ingredient of a successful campaign is a list of the registered voters, which tells the candidate whom he has to reach and who can be ignored.

A leader of the Leflore County (Mississippi) Voters League told a Commission interviewer that black candidates in that county were not allowed to have a certified list of registered voters. Blacks had to copy names from the official list themselves and could not prove the registration of challenged black voters at the polls because they did not have the certified list.[45]

Black candidates in St. Helena Parish, Louisiana, were also unable to obtain a list of registered voters from the registrar. A black leader in the parish reported spending many days handcopying names of registered voters from the parish books.[46]

The Tucson manager for the 1974 Arizona gubernatorial campaign of Mexican American Raul Castro reported that Castro campaign workers received "very, very rude" treatment from the Pima County Recorder's office when they went there for information or assistance. "They reacted like they were being bothered by these requests."[47]

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45. McGee Interview.

46. Pearl Bryant, St. Helena Parish, La., interview, Aug. 17, 1974.

47. R. Dan Valdenegro, Tucson, Ariz., interview, Nov. 7, 1974.

ACCESS TO VOTERS AT THE POLLING PLACE

To preserve the neutrality of the polling place States prohibit campaigning within the place of voting itself and usually limit campaign activities in the vicinity of polling places. Such regulations are a necessary safeguard, but, if carried to extremes, they can infringe upon the candidate's right to communicate with the voter. Traditionally, candidates take advantage of the polling place on election day as the last chance to communicate with the voter. Overly restrictive regulations can be especially burdensome for minority candidates. They are less likely than whites to be incumbents and therefore need more publicity. In addition, they often have less money for their campaigns and consequently are less able to reach the voter through television, radio, and newspaper advertising.

While Alabama believes that keeping a distance of 30 feet from the polls clear of campaign activity is sufficient, Louisiana has a 300-foot limit; Georgia, 250 feet; South Carolina, 200 feet; and Mississippi, 150 feet.[48] Such distances can often prevent the campaign worker from having any contact with the person going to vote. Even more serious are the instances in which the statutory prohibitions of campaigning within a certain distance of polling places are enforced in a way that discriminates against minority candidates.

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48. Code of Ala., Tit. 17 § 144 (Recomp. 1958); L.S.A.-R.S. 18:1534; Ga. Code Ann. § 34-1307; S.C. Code Ann. § 23-658 (1952); Miss. Code § 23-3-17 (1972).

The campaign of Raul Grijalva, a Mexican American elected to the Tucson, Arizona, school board in November 1974, encountered difficulties because of heavy-handed enforcement of regulations on campaigning near polling places. Under Arizona law posters may be placed no closer than 150 feet from a polling place.[49] At the Santa Cruz Church School polling place the sign indicating the 150-foot limit appeared to Grijalva campaign workers to be about 250 or 300 feet away. Campaign workers requested that the sign be moved. Instead two police cars arrived. The workers were threatened with arrest but, though they were told three times that they were under arrest, they were never taken into custody. The signs were moved, but not enough to satisfy the campaign workers. By 1:30 p.m., when a representative of the county attorney's office arrived with a tape measure, the campaign workers had gone to another polling place.[50]

At the Manzo School polling place the election marshal tried to prevent Grijalva campaign workers from passing out their literature. In response to his request they indicated that they were beyond the sign marking the 150-foot limit.[51] They were allowed to stay. At three other polling places[52] Grijalva workers protested to marshals that the signs

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49. A.R.S. § 16-862.

50. Election day observations by Commission on Civil Rights staff, Tucson, Ariz., Nov. 5, 1974.

51. While Arizona law prohibits posters within 150 feet of the polling place, campaign workers are allowed as close as 50 feet. A.R.S. § 16-862. This distinction was apparently not observed at some polling places.

52. Tully School, No. 37; Menlo Park, No. 19; Pueblo Gardens, No. 85.

had been placed without proper measurement and were located too far away from the polling place.[53]

In one Louisiana town, a polling place official, who happened to be the relative of one of the white candidates, vigorously enforced the 300-foot rule. The one black candidate sat most of the day behind a post on a porch across the street from the poll. She was prevented from communicating with her poll watchers unless they came out to see her. The official, however, had frequent conferences with his relative, apparently keeping him informed of all the events inside the poll.[54] At several other polling places in the parish, campaign posters for white candidates were observed within the 300-foot limit.[55]

On election day in 1973 in Petersburg, Virginia, law enforcement officers stationed at the polling places removed signs of black city council candidates that they said were posted illegally but did not touch signs in the same area belonging to white candidates.[56]

Campaign workers for a black candidate in Moss Point, Mississippi, in 1973 were standing beyond the State's 150-foot limit while distributing sample ballots on election day. Nevertheless, "they were repeatedly

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53. Election day observations.

54. Election day observations by Commission on Civil Rights staff, St. Helena Parish, La., Aug. 17, 1974.

55. Ibid.

56. The Rev. Clyde Johnson, councilman, Petersburg, Va., interview, July 8, 1974.

harassed by police officials, who said that they did not have a right to hand out such ballots."[57]

In Stewart County, Georgia, in the August 1974 primary, a "checkoff" worker for an unsuccessful black school board candidate, was not allowed to sit outside the polling place checking off the names of persons who entered to vote. In addition, although the black candidates' white opponent was allowed to enter the polling place freely during the day to check the voting machines, which were being used for the first time, the black candidate was not.[58]

Lynmore James, who lost in his bid to become a commissioner of Macon County, Georgia, in 1974, complained of partiality shown to his opponents by the election officials. At the Montezuma polling place James requested a table for the use of his checkoff people. He was told that none was available. When his opponent asked for a table, one that was being used for refreshments was made available immediately. Later, the polling place manager bought refreshments for the other election workers and for the checkoff people for James' opponent, but not for James' checkoff people.[59]

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57. Affidavit of Billy Frank Broomfield, Stewart v. Waller, Civil No. EC-73-42-S (N.D. Miss., filed May 3, 1973).

58. Staff interview in Georgia, Aug. 15, 1974.

59. Lynmore James and others, Montezuma, Ga., interview, Sept. 4, 1974.

POLL WATCHERS

It is traditional in the United States for political parties and candidates for public office to have poll watchers at primary and general elections. While the election officials are expected to run a fair election, the poll watcher is present as the advocate for a party or candidate--to challenge ineligible voters, to point out the errors in the conduct of an election that are inevitable on a long election day, and in general to assure that the candidate or the party and its supporters are treated fairly. Just as important are representatives at the count of the vote to assure that the votes are counted accurately and that disputes over ballots are resolved in the desired direction.

If the candidate is a black in the South who has no reason to trust the honesty of election personnel, the need to be represented when the votes are cast and counted becomes urgent. Despite this clear need--and in some cases because of it--black candidates have in some elections been unable to have poll watchers present for either the voting or the counting. In some instances watchers were present but not as many were allowed as were needed, they were not allowed to be effective, or they received less cooperation than did poll watchers for white candidates.

One example of an attempt to exclude a poll watcher for a black candidate from a polling place altogether comes from a special election in 1974 in Adams County, Mississippi. The white poll manager of one polling place would not let in the poll watcher for the black candidate

for county supervisor until after 10:00 a.m., 3 hours after the polls opened.[60]

In another incident which occurred during the 1974 election in Mississippi two poll watchers for a black candidate for school board in Copiah County were arrested. The poll watchers had tried unsuccessfully to challenge white voters who allegedly were not qualified to vote in the county school board election and to ensure that qualified black voters were given the proper ballot.[61]

In Wilcox County, Alabama, in 1972 black poll watchers at some polling places were either excluded from the polls entirely or otherwise hampered. In a village situated in the western part of the county, the polling place was located in a store owned by a white. Shortly after the poll watcher for a black candidate arrived, he was ordered off the property by the store owner. He spent the day standing on the road in the rain about 10 or 15 feet from the store.[62]

Juanita White, a defeated black candidate for the South Carolina State House in 1974, reported that one of her poll watchers was forceably barred from a polling place by a white candidate.[63]

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60. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Miss., letter to David H. Hunter, U.S. Commission on Civil Rights, Nov. 8, 1974.

61. Ibid.

62. The Rev. Thomas L. Threadgill and Charles McCarthy, community leaders and former candidates, Wilcox Co., Ala., interview, Sept. 5, 1974.

63. Juanita White, Hardeeville, S.C., interview, Sept. 6, 1974.

Even when poll watchers for black candidates are not physically excluded from the polling place, they frequently encounter isolation from the activities that they are to watch. In effect, they serve at the pleasure of the manager of the poll to which they are assigned.

According to the chairman of the Leflore County (Mississippi) Board of Election Commissioners, "anyone may observe an election but if they interfere the State statute allows poll workers to eject them."[64] A poll watcher's standing too close or looking over a poll worker's shoulder would be grounds for ejection.[65]

A black resident of Moss Point, Mississippi, was assigned to be a poll watcher during the March 1974 municipal election. She was instructed by the precinct manager of the old City Garage polling place to sit at a location about 30 feet from the ballot box. Later she moved closer to the ballot box and was able to remain there until the polls closed.[66]

Similarly, a black who was defeated in a race for a county board of supervisors in Virginia in 1972 reported that his watcher at the election was not permitted to be behind the table where the voters' names were checked off. He was thus unable to verify that the persons who voted were actually on the voters' list. He could only observe

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64. George Dulin, Chairman, Leflore County Board of Election Commissioners, Greenwood, Miss., interview, Aug. 7, 1974.

65. Ibid.

66. Affidavit of Melodie Shelton, Stewart v. Waller.

who went in and out of the voting booth. He was also not allowed to observe the counting of the ballots.[67]

The poll watcher who actually is close enough to observe the conduct of the election may see seriously improper behavior. A watcher for a black candidate in Moss Point, Mississippi, in 1973 has sworn:

> On at least two occasions white voters at the community center stated aloud that they weren't sure who they should vote for....[T]he precinct manager--who was a white woman--wrote a name on a slip of paper and handed it to these voters. On one of these two occasions I was close enough to see that the name of a white candidate was written on the piece of paper.[68]

Equally important as representation during voting is representation after the polls have closed and the votes are being counted. Black candidates whose poll watchers have been excluded from this phase of the election day process often suspect that the votes have not been counted honestly.

During the 1972 election in Pine Apple, in the southeastern corner of Wilcox County, Alabama, the white election officials told the black poll watcher that the votes would not be counted that night. Arriving at the polling place in the morning, he found the results of the election posted on the door.[69] At another site, it was reported that shortly before the poll was to close the black poll watcher stepped outside to his

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67. Staff interview, July 1974.

68. Affidavit of Melodie Shelton, Stewart v. Waller.

69. Threadgill and McCarthy Interview.

car to get a pack of cigarettes and on his return found the door locked and whites inside busy counting the votes. Blacks in the county expressed the belief that a white poll watcher would not have been treated in this fashion.[70]

A similar incident was reported in Lafayette, Alabama, during the municipal elections of August 1972. According to the Chambers County branch of the NAACP, the black poll watchers were sent home at the close of the polls. The doors were then locked, the voting machines unlocked, and the votes tallied by the white election officials. In this election a black candidate lost by only two votes.[71]

Blacks in predominantly black Twiggs and Washington Counties, Georgia, alleged they were not allowed to see the counting of the vote in the August 1974 election primary.[72]

COUNTING THE VOTES

If voters and candidates cannot rely on the honesty of the persons counting the votes or on the system for counting votes, they will have

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70. Ibid.

71. Ruth Nunn, vice president, Chambers County-Valley Branch NAACP, letter to the Rev. K. L. Buford, Tuskegee Institute, Ala., Aug. 12, 1972. A complaint was filed with the Department of Justice, which determined the facts of the case did not justify their taking action. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, Department of Justice, letter to the Rev. K. L. Buford, Mar. 22, 1973. (Correspondence in NAACP Field Office files, Tuskegee Institute, Ala.)

72. Staff attorneys, Voting Section, Civil Rights Division, Department of Justice, telephone interviews, Aug. 29 and 30, 1974.

very little faith in the electoral system as a whole and will see little reason to participate in it. Commission staff interviews in Alabama, Georgia, Louisiana, and South Carolina revealed widespread distrust of the activities of this crucial phase of the electoral process.[73]

Some black citizens of Mississippi do not feel that they can win an election even if they receive a majority of the votes. A resident of Noxubee County active in the campaign of a black candidate for sheriff in the 1971 election recalled that blacks frequently felt that their votes would not matter.

> Many expressed the view that they could not get a black elected even if they all voted. Many felt that a black candidate would not win even if he or she, in fact, received a majority of the votes cast. These are both views that I myself shared at that time. I still have this view.[74]

A poll watcher who observed the count in that election indicated that this distrust was not without justification. He reported that the election workers discriminatorily reviewed ballots for disqualification:

> When a ballot cast for a black was examined, white vote counters would often remark, "Here's another one of <u>these</u>." Many ballots cast for black candidates were disqualified because the checkmark was on the boundaries of the parenthesis or box next to the candidate's name. Ballots cast for white candidates were much less frequently disqualified for similar technicalities.[75]

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73. Staff interviews in Alabama, Georgia, Louisiana, and South Carolina, July-Sept.. 1974.

74. Affidavit of Sherell Williams, Stewart v. Waller.

75. Affidavit of Larry Miller, Stewart v. Waller.

Blacks also had reason to distrust the count of the vote in Moss Point, Mississippi, in 1973. A defeated black candidate reported that, although normal procedure is for the votes to be counted by the Democratic election committee, at this election the votes "were counted by and called off by" two white candidates. "Black poll watchers present at the time objected to this procedure, but to no avail."[76]

A black candidate defeated for the nomination for the South Carolina State house seat from Hampton and Colleton Counties sought to investigate and obtain affidavits regarding possible election fraud by his opponent. He reported that he was prevented from carrying out his investigation by local law enforcement officials, who detained him without cause for 2 hours.[77]

OBSTACLES TO MULTIRACIAL AND MULTIETHNIC POLITICS

In many areas the great increase in minority registration and voting since the passage of the Voting Rights Act in 1965 has meant that politicians can no longer afford to ignore minority voters. This has brought about a significant decline in racial appeals by candidates and has made incumbents and candidates more responsive to minority needs. Nevertheless, in many areas the political process remains segregated. For example, black candidates in the South are often unable to reach white voters in their campaigns, and many white voters refuse to vote for black candidates

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76. Affidavit of Billy Frank Broomfield, Stewart v. Waller.

77. George Hamilton, former executive director, South Carolina Human Relations Commission, Walterboro, S.C., interview, July 27, 1974.

solely because of their race. This was the view of the United States District Court for the District of Columbia in its analysis of a 1970 election for a seat in the Louisiana legislature. In a New Orleans district a white Republican defeated a black Democrat, producing the first Republican legislator from that district in this century.[78]

In many situations minority candidates must receive a substantial number of votes from the white community in order to win. Even if white votes are not essential to victory, minority candidates have the right to take their campaign to the white community, and white voters have the right to hear from minority candidates. In some instances these rights have been denied.

A former black candidate for sheriff in Noxubee County, Mississippi, believes that black candidates running for office have virtually no access to the white community other than through newspaper advertisements. He stated: "I was never invited to appear before white organizations when I was a candidate. I, as a black, do not feel free or welcome to campaign in the white community."[79]

Another black candidate in Noxubee County reported that the separation of the white and black communities in Macon severely limited his access to the white community during his campaign. He doubts that it is possible in Macon to form coalitions with whites in support of a black

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78. Beer v. United States, 374 F. Supp. 363, 375 (D.D.C. 1974).

79. Affidavit of Albert Walker, Stewart v. Waller.

candidate. He recalled from his campaign experiences: "I entered the store of one white merchant in Macon, approached him, and told him that I was soliciting votes. When I said that, he and the other white with him broke into laughter."[80] One white who did work with him reported that he was "completely ostracized" from the white community because of his campaign activity and his other involvement with the black community.[81]

A black candidate in Moss Point, Mississippi, in 1973 reported approaching a prominent white politician to discuss the possibility of forming a coalition. His response was that there were "too many rednecks here and they are not ready for this yet."[82]

A black physician was a candidate for alderman in Starkville, Mississippi, in 1973. He reported:

> No black candidate in Starkville has ever been supported by the white business community or by white-dominated political organizations. The general atmosphere and political climate in Starkville deter attempts to form black-white coalitions in support of black candidates. I would be very reluctant to approach white organizations in Starkville and ask for their support for my candidacy. I have no realistic expectation that I could obtain the support of white business or political organizations in Starkville.[83]

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80. Affidavit of Garfield Triplett, Stewart v. Waller.

81. Affidavit of Larry Miller, Stewart v. Waller.

82. Affidavit of W. M. Williams, Stewart v. Waller.

83. Affidavit of Dr. Douglas L. Conner, Stewart V. Waller.

Black candidates also reported that they were not invited to appear before white organizations. In a 1973 campaign in Jackson County, Mississippi, a black reform ticket for the Moss Point aldermanic board included a white candidate. The white candidate before black community meetings, but a black candidate reported:

> [A] women's business club in Moss Point invited all the candidates running for mayor or alderman to come and appear before their organization. This was to be a political rally at the football field. I and other black candidates received written invitations. Before this rally was held, however, it was cancelled for no apparent reason.[84]

He and another black candidate in the same election reported that this was a general problem they encountered.[85]

Although racial or ethnic appeals to voters have declined as minority voting strength has increased, they still occur. They are more subtle now, but for many a clear message is presented.

Congressman Herman Badillo, a Puerto Rican who ran unsuccessfully for the Democratic nomination for mayor of New York in 1973, complained of campaign materials containing distorted statements and appeals to prejudice which were circulated.[86] The most extreme piece was a leaflet, written in Italian with an English translation and circulated in Italian neighborhoods, which included the following accusations:

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84. Affidavit of W. M. Williams, Stewart v. Waller.

85. Ibid.; Affidavit of Billy Frank Broomfield, Stewart v. Waller.

86. U.S. Representative Herman Badillo and Shirley Remeneski, Administrative Assistant to Mr. Badillo, New York City, N.Y., interview, Oct. 4, 1974.

"Abe Beame's opponent is in favor of quotas in hiring and education." "Abe Beame's opponent is supported by the Black Panthers and Young Lords."[87] Another of the unsigned, unidentified leaflets showed a picture of a burned-out slum block with the caption, "Badillo country."[88] There were several other pieces of literature used in the campaign which exploited the fear and frustrations of white urban dwellers toward minority group members.[89]

The October 1973 city council election in Birmingham, Alabama, was infected with "raw racial" campaigning, according to Dr. Richard Arrington, a black member of Birmingham's city council not up for election in 1973.[90] Four blacks and two whites were in the runoff for three positions, guaranteeing victory to at least one black.[91] An organization formed to support white incumbents, the Birmingham Action Group (BAG), sponsored advertising in the newspapers and on radio and television and telephoned voters in predominantly white areas to encourage turnout. One advertisement contained the following material:

> Do you want to let somebody else run Birmingham . . . or do you want to help run it? If you don't vote next Tuesday, somebody else <u>will</u> run Birmingham.

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87. Leaflet provided by Cong. Badillo.

88. Leaflet provided by Cong. Badillo.

89. Badillo and Remeneski Interview. As required by law the Commission has offered Mayor Beame the opportunity to reply to these statements. His reply is included in appendix 7.

90. Dr. Richard Arrington, Birmingham, Ala., interview, July 19, 1974.

91. Ibid.

> And they'll run Birmingham the way they want. Not the way you want it. Next Tuesday's election will determine the future of Birmingham . . . and whether you like it or not: the future of Birmingham is your future. It's entirely up to you.[92]

The advertisement encouraged citizens to vote for the incumbents, the two whites and one black.[93] Because of Birmingham's full-slate requirement voters were required to vote for three candidates for their votes to be counted. Thus, it was necessary for BAG to support one black candidate.[94] This advertising was criticized editorally by a Birmingham newspaper for injecting race into the campaign.[95]

In November 1974 Raul Castro, a Mexican American, defeated Russ Williams to become Governor of Arizona. Some Mexican Americans in Arizona charged that some of Williams' campaign slogans used on television contained racial slurs. Williams urged the voters to "Elect a man who looks like a governor." Another slogan was "Elect a governor you can be proud of."[96]

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92. Birmingham Post-Herald, Oct. 26, 1973, p. B5.

93. Ibid.

94. For a discussion of full-slate voting, see chapter 8, p. 207. For additional discussion concerning full-slate voting in Birmingham, see chapter 8, p. 207.

95. Birmingham Post-Herald, Oct. 27, 1973, p. A4.

96. Salomon Baldenegro, Raul Grijalva, and other community leaders, Tucson, Ariz., interview, Nov. 4, 1974.

PROBLEMS OF INDEPENDENT AND THIRD PARTY CANDIDATES

Because they have traditionally been excluded from the dominant Democratic Party in the South,[97] blacks have often found it necessary or advantageous to form a separate party or to run as independents. While blacks now have a role in the Democratic Party in several Southern States,[98] independent and third party efforts continue.

Third parties have been formed in three States: the Mississippi Freedom Democratic Party, the National Democratic Party of Alabama, and the United Citizens Party in South Carolina.[99] The independent candidates and third parties in Mississippi and Alabama have needed decisions of the Supreme Court of United States and other Federal courts and section 5 objections to counter restrictive measures taken by those

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97. See U.S. Commission on Civil Rights, Political Participation (1968), pp. 133-52 (hereafter cited as Political Participation); William C. Havard, ed., The Changing Politics of the South (Baton Rouge: Louisiana State Univ. Press, 1972); Commission on the Democratic Selection of Presidential Nominees, The Democratic Choice (1968), pp. 54-57; Commission on Party Structure and Delegate Selection to the Democratic National Committee, Mandate for Reform (Washington, D.C., 1970); Washington Post, Nov. 14, 1974, p. A2.

98. Staff interviews in Alabama, Mississippi, South Carolina, and Virginia, July-Sept. 1974. Curtis Harris was an independent candidate for Congress in 1974 in Virginia's Fourth District, which is 37 percent black. He finished third, receiving 16.9 percent of the vote.

99. See generally Hanes Walton, Jr., Black Political Parties; A Historical and Political Analysis (New York: The Free Press, 1972).

States.[100] The South Carolina party has sought court assistance each general election year since 1970, twice successfully and once, in 1974,[101] unsuccessfully.

A recent case from Wilcox County, Alabama, demonstrates the ingenuity of those who resist sharing political power with minorities. The number of blacks who are registered to vote in that county "far exceeds"[102] the number of registered whites. The 1972 county election

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100. Mississippi: Whitley v. Williams, decided sub nom. Allen v. State Board of Elections, 393 U.S. 544 (1969); Evers v. State Board of Election Commissioners, 327 F. Supp. 640 (S.D. Miss. 1971), appeal dismissed 405 U.S. 1001 (1972); objections of May 21, 1969 and April 26, 1974. For a discussion of the April 26, 1974, objection see pp. 273-74. A black candidate attempted in 1974 to run as an independent in the race for Congress in Mississippi's Second District after running in the Democratic primary for the same position. A Federal court denied his claim that he had a right to have his name on the ballot. Meredith v. Mississippi State Bd. of Election Commissioners, Civil No. J 74-253(R) (S.D. Miss. Oct. 30, 1974). Alabama: Hadnott v. Amos, 394 U.S. 358 (1969); Hadnott v. Amos, 320 F. Supp. 107 (M.D. Ala. 1970); objections of Aug. 1, 1969 and Aug. 14, 1972.

101. 1970: United Citizens Party v. South Carolina State Election Commission, 319 F. Supp. 784 (D.S.C. 1970). 1972: Harper v. West, decided sub nom. Toporek v. South Carolina State Election Commission, 362 F. Supp. 613 (D.S.C. 1973). 1974: Fowler v. White, Court of Common Pleas, Allendale Co., S.C., Oct. 22, 1974; Murdock v. Snipes, Order of Chief Justice, S.C. S.Ct., Nov. 1, 1974. A Federal suit is pending. White v. West, Civil No. 74-1709 (D.S.C., filed Oct. 31, 1974). Storer v. Brown, 415 U.S. 724 (1974), and American Party of Texas v. White, 415 U.S. 767 (1974), permit States to place some limitation on the access of third party and independent candidates to the ballot.

102. Complaint, p. 5, Threadgill v. Bonner, Civil No. 7475-72-P (S.D. Ala. Nov. 7, 1973).

was a contest between the predominantly white Democratic Party and the predominantly black National Democratic Party of Alabama (NDPA). The Democratic Party nominated a slate of white candidates and the NDPA a slate of black candidates.

In September 1972, following the primary, however, the Democratic Party added the names of 21 blacks to their slate for the office of constable. This was done without the knowledge or the consent of most of the people involved; in fact, many were active members of the NDPA. The purpose of this action, the NDPA alleged, was to confuse black voters and to split the black vote.[103] According to persons interviewed by Commission staff members, it succeeded in doing this.[104] Some blacks voted for the Democrats because there were blacks on their slate; others stayed home on election day because of the confusion. A lawsuit brought by blacks because of this and other irregularities ended in a consent decree, in which the Democratic Party was enjoined from "nominating and placing any person's name as a candidate on the ballot without first securing the written permission of the proposed candidate."[105]

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103. Ibid., pp. 4-5.

104. Threadgill and McCarthy Interview; Henry Sanders, attorney for plaintiffs in Threadgill v. Bonner, Selma, Ala., interview, Sept. 4, 1974.

105. Consent Decree, Threadgill v. Bonner.

The NDPA also encountered problems in 1974 in Dallas County. Four black candidates of the NDPA for the State legislature sought to run in the November 1974 general election but were prevented by the county probate judge. A fifth, who was white, was the NDPA candidate for district attorney and was also excluded.[106] The judge left the names of the five off the ballot because they had not satisfied the requirement of Alabama law that they inform the county probate judge of the names of the members of their financial committees within 5 days of announcing their candidacies.[107] In a suit brought to require the judge to place the names of the NDPA candidates on the ballot, the Department of Justice alleged that candidates of the Republican, Democratic, and Alabama Prohibition Parties had also not satisfied the notice requirement but that their names were placed on the ballot nevertheless.[108] The court granted temporary relief, requiring that the names be placed on the ballot for the November 5 election.[109]

A problem encountered by independent black candidates in Mississippi is that Mississippi law contains no provisions for poll watchers for independent candidates.[110] During the 1971 general election the State

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106. Complaint, pp. 2-3, United States v. Dallas County, Civil No. 74-459-H (S.D. Ala., filed Nov. 1, 1974).

107. Code of Ala., Tit. 17 § 274.

108. Complaint, p. 3, United States v. Dallas County.

109. Order of Nov. 1, 1974, United States v. Dallas County.

110. Miss. Code § 3267.

agreed to allow independents collectively to have two poll watchers at each polling place, the same number allowed a political party, even though not all the independents might be in alliance.[111]

Nevertheless, the State attorney general declined to inform county election officials of this ruling prior to the November 2, 1971, general election.[112] As a result independent black candidates in Humphreys County were denied the right to have poll watchers. Poll managers ordered the black poll watchers off the premises as soon as the polls opened at 7:00 a.m. They were only permitted to come back after a number of phone calls to the secretary of state and the attorney general.[113] There is no assurance, moreover, that poll watchers for independent candidates will be allowed in the 1975 elections.[114]

MINIMIZING THE IMPACT OF MINORITY SUCCESS

Not all the problems which a minority candidate faces are those of qualifying as a candidate, running an effective campaign, and receiving fair treatment on election day. In some instances legal obstacles have

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111. For a discussion of events leading to this decision, see Shameful Blight, p. 77.

112. James v. Humphreys County Board of Election Commissioners, Civil No. GC-72-70-K (N.D. Miss. Oct. 4, 1974), slip opinion, p. 10.

113. Kermit James Interview.

114. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Miss., interview, Nov. 18, 1974.

been placed in the path of candidates successful in the primary or general election. Some minorities who have been elected have found that lack of cooperation from other officials limits their effectiveness. And in some places the prospect of minority success has led communities or States to abolish the office that the minority candidate had a chance to win.

Apache County, Arizona, is 74 percent Native American. Most of the county's population resides on the Navajo Reservation. In November 1972 a Navajo was elected for the first time to the three-member county board of supervisors. He was not allowed to take office, however, without a favorable ruling from the State's supreme court.[115] Tom Shirley received 3,169 votes; his opponent, Thomas E. Minyard, 1,105. Despite this clear margin of victory, Minyard and others sued to prevent Shirley from taking office. Minyard argued principally that Shirley should not be seated because he is immune from civil process while on the Navajo Reservation and he does not own any taxable property. The State supreme court decided in favor of Shirley, finding Minyard's arguments unpersuasive.[116]

Bolton is a majority black town of fewer than 1,000 residents in Hinds County, Mississippi. Prior to the spring 1969 municipal elections no blacks held public office in Bolton.[117] In the May 13 primary

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115. Shirley v. Superior Court in and for County of Apache, 109 Ariz. 510, 513 P.2d 939 (1973), cert. denied, 415 U.S. 917 (1974).

116. Shirley v. Superior Court.

117. Political Participation, pp. 218-19.

three blacks received the Democratic nomination for alderman.[118] The losing white candidates brought an action challenging the result according to a new State procedure which had not received section 5 clearance. The United States Court of Appeals for the Fifth Circuit, therefore, ruled that the challenge proceeding violated the federally protected rights of the defendants.[119] Because the general election had already been held without challenge to the blacks' victory in it, the Fifth Circuit dismissed the case.[120]

Four years later, at the next municipal election in Bolton, blacks had greater success at the polls, winning the positions of mayor, town clerk, and five aldermen.[121] Again, defeated whites challenged the result. They filed with the Bolton Democratic executive committee a complaint alleging various irregularities. The white-controlled committee decided in favor of the contestants, declaring that the black candidates were not the nominees. The black-dominated municipal election committee went ahead with the general election and the black candidates won.[122]

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118. Thompson v. Brown, 434 F.2d 1092 (5th Cir. 1970).

119. Ibid., pp. 1095-96.

120. Ibid., p. 1096. The case had been removed from a State court to the Federal court system, which is allowed in civil rights cases under 28 U.S.C. § 1443.

121. Mashburn v. Daniel, Civil No. 73J-138(R) (S.D. Miss. Aug. 20, 1973), slip opinion, p. 1.

122. Ibid., pp. 3-4.

The party executive committee then brought suit in two Hinds County courts to set aside the election and to prevent the blacks from taking office.[123] The blacks were vindicated, however, by the Federal district court, which decided in their favor. The most important irregularity which the Federal court could find was that ballots of voters receiving assistance had been initialed on the wrong side.[124]

In some instances minorities have been elected to office only to find that the powers and responsibilities of the office have been reduced, either formally or in practice.

A 1974 election in Lake Providence, Louisiana, resulted in a black's being elected mayor and blacks winning control of the town council. Before the white council members of the 60 percent black town left office they attempted to transfer control of a municipal power plant to a newly created power commission, whose members would all be white. The power plant is the town's sole source of revenue.[125] The new government filed

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123. Mashburn v. Daniel, Cause No. 6518 (Chancery Court of the 2d Jud. Dist. of Hinds Co., Miss., filed June 13, 1973); Mashburn v. Thompson, Cause No. 3683 (Circuit Court of the 2d Jud. Dist. of Hinds Co., Miss., filed June 14, 1973). The two cases were removed by the defendants to the Federal district court, following the procedures used 4 years earlier.

124. Mashburn v. Daniel, slip opinion, pp. 9-10. The defendants in Mashburn brought a separate action in Federal court also. This was decided by consent following the decision in Mashburn. Thompson v. Bolton Municipal Democratic Executive Committee, Civil No. 73J-131 (N) (S.D. Miss., Order of Sept. 14, 1973).

125. Dr. Thomas E. Smith, Southern University, Baton Rouge, La., telephone interview, Dec. 5, 1974; Joint Center for Political Studies, Focus, Aug. 1974, p. 8.

for relief in the Federal district court, which enjoined the action of the deposed white council.[126]

In Wilcox County, Alabama, in the November 1972 general election, six black candidates of the National Democratic Party of Alabama were elected to the office of constable. It was reported to a Commission interviewer that the county probate judge, Roland Cooper, had failed to give these constables their cards of commission, as the judge is required to do by law. Numerous requests for the cards did not result in their issuance.[127] This reportedly has proved to be a handicap to the performance of the duties of constable.[128]

Whites attempted to circumvent the authority of the black-controlled Democratic Party county executive committee in Sumter County, Alabama, in 1974. Under Alabama law candidates in a party primary file their qualifying papers with the chairperson of the county party executive committee. The chairperson then certifies the names of candidates to the probate judge of the county.[129] In Sumter County the chairperson of the party committee is black, while the secretary is white. Black candidates filed their papers with the chairperson and white candidates (and one black) with the secretary. Both

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126. Jackson v. Town of Lake Providence, Civil No. 74-599 (W.D. La. July 11, 1974).

127. As required by law the Commission has offered Mr. Cooper the opportunity to reply to these statements. His reply is included in appendix 7.

128. Threadgill and McCarthy Interview.

129. Code of Ala., Tit. 17 §§ 344, 348.

party officials submitted lists to the probate judge, who announced that he would put both lists on the ballot. The black candidates and the county committee brought suit in Federal district court, claiming that the probate judge was depriving them of their rights as voters and candidates and that the certification of names by the secretary was a new practice not approved under section 5 of the Voting Rights Act.[130]

When a suit is filed alleging violation of section 5, it is the responsibility of the district court judge to convene a three-judge court. Neither the single judge nor the three-judge court is to decide whether the change is discriminatory. This question is reserved for the District Court for the District of Columbia or for the United States Attorney General. The duty of the three-judge court is simply to decide whether there has been a change in a practice or procedure with respect to voting and, if the court finds that there has been a change, to determine whether the requirements of section 5 have been satisified. If not, the court enjoins the change or gives other appropriate relief.[131]

Nevertheless, the single judge declined to call a three-judge court and decided the case on the merits himself, finding that the certification

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130. Brief for Appellants, pp. 3-4, Sumter County Democratic Executive Committee v. Dearman, appeal docketed, No. 74-2124, 5th Cir., Apr. 30, 1974.

131. Perkins v. Matthews, 400 U.S. 379, 383-85 (1971).

responsibility had been delegated to the secretary and denying plaintiffs any relief.[132] The case is on appeal.[133]

When an office is abolished or changed from elective to appointive in response to growing black electoral strength or when such changes would have the effect of reducing black voting effectiveness, the Attorney General has objected under section 5 of the Voting Rights Act.

In 1973 the Attorney General objected after Clarendon County, South Carolina, abolished the office of superintendent of education. The abolition came at a time when blacks had become 49 percent of the registered voters in the county.[134] The Attorney General also objected in 1973 when the offices of city clerk in Hollandale and in Shaw, Mississippi, both of which are 70 percent black, were changed from elective to appointive.[135] Earlier the Attorney General objected to Alabama's abolishing the office of justice of the peace[136] and to

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132. Brief for Appellants, p. 4, Sumter County Committee v. Dearman.

133. W. E. Still, Jr., counsel for plaintiffs, Tuscaloosa, Ala., letter to David H. Hunter, U.S. Commission on Civil Rights, Nov. 1, 1974. The court took the same action in Maples v. City of Tuscaloosa, Civil No. 73-M-663-W (N.D. Ala. Aug. 7, 1973), in which the change of date for the Tuscaloosa city election had not been cleared under section 5.

134. Objection letter, Nov. 13, 1973. Objection not withdrawn, March 22, 1974.

135. Objection letters, July 9 and Nov. 21, 1973.

136. Objection letter, Dec. 26, 1972.

Mississippi's changing the office of superintendent of education from elective to appointive in 11 counties generally having in common a predominantly black population.[137]

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As more and more minority group members have become registered and begun to vote since the passage of the Voting Rights Act, minorities have become an important political force. This has resulted in a diminution of racial appeals in political campaigns and greater influence of minority votes in deciding elections between whites. It also has resulted in many more minority group members deciding to become candidates. While many minority candidates have been successful, many among them have not been. Often their lack of success has been because of race or ethnic background, not because of any qualities that are relevant to their performance if elected. Some would-be minority candidates have been unable to qualify, either because of formal requirements or because of uncooperative local officials. Others have been unable to mount an effective campaign because of discriminatory actions taken against them. Some have been defeated by racial prejudice. Still others have been cheated. Finally, in some instances the prospect of minority success has led to changes in the rules of the game to try to prevent such success.

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137. Objection letter, May 21, 1969. See Bunton v. Patterson, decided sub nom. Allen v. State Board of Elections, 393 U.S. 544 (1969).

7. PHYSICAL AND ECONOMIC SUBORDINATION

Blacks, Mexican Americans, Puerto Ricans, and Native Americans, throughout their history in the United States, have been subordinated socially, economically, and physically by the white majority. While recent decades have witnessed an improvement in the treatment and status of all these groups, their subordinate position, its causes, and its effects persist.

Examination of the political participation of these minorities reveals the effects of this history. Although physical violence appears no longer to be commonly used to prevent blacks in the South from registering and voting, such episodes still occur. More common are economic reprisals against minority political activity. Fear of both violence and economic reprisals remains, especially in the rural South and among the older members of the black population. The events of 5, 10, or even 20 years ago and the experience of generations are not easily forgotten or discounted. An isolated recurrence of violence or economic reprisal can nullify years of progress.

Underlying many of the abuses reported here is the economic dependence of these minorities. People whose jobs, credit, or housing depend on someone who wishes to keep them politically powerless are not likely to

risk retaliation for asserting or acting on their views.[1]

MISSISSIPPI

Acts of violence against blacks involved in the political process still occur often enough in Mississippi that the atmosphere of intimidation and fear has not yet cleared.

In 1970 John Buffington, who is black, was a candidate for mayor in West Point, Mississippi.[2] During the campaign he received so many threatening telephone calls that it was necessary to get three additional lines in order to conduct the campaign. He recalled:

> Some of the callers threatened my life, others told me that I should not start the ignition of the car. Many were obscene or racial in nature. Frequently, my car was tailgated during the campaign by cars driven by whites. On several occasions white West Point police officers called obscenities to me as they drove by in their patrol cars.[3]

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1. See Lester Salamon and S. Van Evera, "Fear, Apathy, and Discrimination: A Test of Three Explanations of Political Participation," American Political Science Review, vol. 67 (1973), p. 1288; Lester Salamon, "The Time Dimension in Policy Evaluation: The Case of the New Deal Land Reform Experiments" (paper presented at the 1974 Annual Meeting of the American Political Science Association, Chicago, Ill., Aug. 29-Sept. 2, 1974); Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972) pp. 17-21, 89-92 (hereafter cited as Shameful Blight).

2. Affidavit of John Buffington, Stewart v. Waller, Civil No. EC-73-42-S (N.D. Miss., filed May 3, 1973).

3. Ibid.

Despite the threats and intimidation Buffington placed second in the first primary and resumed campaigning for the runoff. On August 15, 1970, John Thomas, Jr., a "key campaign worker" was murdered as he sat parked in a campaign van. "A white man approached the van and shot Johnnie Thomas five times and killed him."[4]

Although a white factory worker was disarmed at the scene of the crime and subsequently tried for the murder, he was acquitted by an all-white jury.[5]

The murder of John Thomas frightened Buffington's campaign workers. Some withdrew from the campaign. Buffington was also frightened:

> The killing also made me apprehensive about my own welfare. Following the shooting I never went anywhere alone; I campaigned only with a group of people. At night friends and campaign workers guarded my house.[6]

One campaign worker commented on the political effect:

> It caused me to stop attending political meetings held at night. The Thomas killing also scared many black persons in West Point and Clay County. After the killing attendance at black political meetings fell off substantially. At black political meetings after the incident many blacks tried to persuade John Buffington not to run. I was myself afraid that he might be assassinated, and I said so to many of my friends.[7]

Clearly the murder impeded the campaign of John Buffington, who was defeated in the runoff. More important than the political fate of

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4. Ibid.

5. Ibid.

6. Ibid.

7. Affidavit of Minnie Mae Johnson, Stewart v. Waller.

one candidate, however, is the long-lasting deterrent effect of the murder. Not only did a man lose his life, but blacks in West Point are still reluctant to participate actively in politics.

Fear of physical or economic harm inhibits black residents of Noxubee County also from taking an active role in politics. This fear is not an irrational reminder from an era long passed but has a rational basis in events preceding the most recent municipal and county elections.

A local black minister, who was active in voter registration from 1969 to 1971 and actively campaigned for a black candidate in 1972, described threatening telephone calls received during the former period:

> These anonymous callers threatened to bomb and burn my church, they threatened to run me off the highway in my automobile. In most instances the callers told me to get out of town. They also threatened to bomb Miller's Chapel where we were holding community meetings.[8]

The minister had reason to take these threats seriously. On two occasions in 1971 bottles were thrown at his house, and on another occasion bottles were thrown in front of his car while he was driving.[9]

A Noxubee County white has been threatened, harassed, and "completely ostracized by the white community" because he actively campaigned for the black candidate for alderman in Macon in 1972 and engaged in other civic activities in the black community. On one occasion a brick

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8. Affidavit of the Rev. John W. Hunter, Stewart v. Waller.

9. Ibid.

was thrown through the windshield of his car while his wife was driving. She was unhurt though the windshield was "completely destroyed." During the political campaign he was stopped by a Macon policeman for a burned-out headlight. Initially the officer did not give him a ticket, but as the policeman returned to his car he noticed the black candidate's bumper sticker on the man's car. He returned and gave him a ticket.[10]

The same man also received numerous threatening telephone calls:

> On several occasions callers told me that they were going to have to get me because I didn't catch on to what goes and what does not go around Noxubee County. On another occasion a caller said that he and others were going to have to kill me. [11]

Garfield Triplett, the black candidate in Macon stated that "widespread fear throughout the black community" deters participation in politics.[12] Albert Walker, a black candidate for sheriff of Noxubee County in 1971, said "many blacks expressed concern" that he "would be physically harmed."[13] He acknowledged receiving threatening phone calls and also stated that many blacks in the county "felt that if they registered or voted they might lose their jobs."[14]

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10. Affidavit of Larry Miller, Stewart v. Waller.

11. Ibid.

12. Affidavit of Garfield Triplett, Stewart v. Waller.

13. Affidavit of Albert Walker, Stewart v. Waller.

14. Ibid.

Physical violence against blacks occurred during the most recent general election in Humphreys County on November 2, 1971. According to Kermit James, who was a candidate for county supervisor in that election, several incidents took place at polling places. In the town of Midnight, a white farmer struck James and a fight ensued. At Isola whites pushed and shoved blacks who were trying to go in to vote. At another polling place several blacks were "slapped around."[15] Another report indicated that a number of whites were riding around with guns in their trucks, which frightened many blacks away from the polls.[16]

Because of these and other irregularities James and others filed suit in a Federal district court to set aside the election.[17] They alleged that "poll watchers for certain black candidates, at several election precincts, were either assaulted, physically abused, or threatened with physical abuse."[18]

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15. Kermit James, Belzoni, Miss., interview, Sept. 4, 1974. For a more detailed description of violent incidents at the polls, see Shameful Blight, pp. 89-91.

16. Staff interviews, Humphreys County, Miss., Sept. 1974.

17. James v. Humphreys County Board of Election Commissioners, Civil No. GC-72-70-K (N.D. Miss. Oct. 4, 1974).

18. James v. Humphreys County, slip opinion, p. 4.

Although the court declined to order a new election it found three instances of physical abuse--two at Isola, one at Putnam--which were directed at three black attorneys who were poll watching for black candidates. According to the court's description, one attorney was pushed from behind by two election managers as he was leaving the poll. The attorney noted that the election officials uttered racial slurs as they ejected him from the polling place. The election officials claimed that the attorney's presence inside the polling place was improper, since the black candidates who were running as independents already had two challengers on duty.[19]

On entering the Isola polling place the second attorney was seized by an election bailiff and shoved out of the building. Again racial slurs were uttered. He appealed to the poll manager and was permitted to reenter the building as a poll watcher.[20]

The third attorney was physically attacked as he watched the vote count at Putnam. He was knocked to the floor and sustained injuries to his teeth and head. His assailant, the court said, was a drunken white man with no election responsibilities.[21]

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19. Ibid, p. 16.

20. Ibid.

21. Ibid.

The court noted the "occasional verbal altercations and isolated acts of physical abuse involving poll watchers," but concluded that "from the credible evidence the election was unattended by harassment, intimidation or coercion directed at the black citizens of Humphreys County who sought to vote in the election."[22]

The violence in the general election of 1971, against the background of black economic dependence, has left a legacy of fear, according to blacks in Humphreys County. Kermit James feels that the incidents in that election kept a lot of blacks away from the polls in the 1972 election.[23] Others expressed the view, moreover, that blacks will still be afraid to vote in the next election, in 1975, because of what happened in 1971.[24]

Fear deters black political participation in Oktibbeha County as well. A woman active in a 1971 voter registration drive in Starkville "encountered substantial fear and reluctance" among blacks, many of whom refused to register. "I was told by several blacks that if we continued to participate in the registration drive that white folks would kill us."[25]

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22. Ibid.

23. James Interview.

24. Staff interviews, Humphreys Co., Miss., Sept. 1974.

25. Affidavit of Maggie Yvonne Henry, Stewart v. Waller.

A black physician who ran for local office in Starkville in 1973 reported that both he and his wife had received anonymous threatening and obscene telephone calls.

> These callers have stated, for example, that if I did not withdraw from the election I would be run out of town. I have received numerous telephone calls in which the callers used obscene language and have stated such things as "You know better than to be running for office in Starkville." 26

In Jackson County the violence of the recent past continues to inhibit black political participation. A young black girl was shot and critically wounded at a Moss Point voter registration rally about 10 years ago.

> This had a great impact on members of the black community and generated concern that other similar acts of violence might also occur. This incident also created a great deal of fear within the black community which, to some extent, still exists. Because of this fear some blacks are still reluctant to participate in voter registration rallies, workshops, etc. 27

More recently in Moss Point an anonymous caller threatened an unsuccessful black candidate after a newspaper reported his intent to seek a recount of the 1973 primary vote. "He knew where my little girl went to school and ... who picked her up and what time she got out of school and ... I had best not cause any trouble." 28

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26. Affidavit of Dr. Douglas L. Conner, Stewart v. Waller.

27. Affidavit of Ennis Millender, Stewart v. Waller.

28. Affidavit of Billy Frank Broomfield, Stewart v. Waller.

Blacks in a number of counties who are active in voter registration or political activities told a Commission interviewer that the dependent economic position of blacks hinders their political activity. Some blacks are afraid to register and vote, fearing that their employers will check the registration books,[29] or they fear that they will be fired or evicted if they vote.[30] Some workers cannot take time off to vote; others can vote on their lunch hour but lack transportation to the polls.[31] Some blacks receive instructions from their employers or landlords about the proper candidates to support when they go to the polls.[32] Many blacks receiving welfare or social security payments fear losing this income if they vote.[33]

LOUISIANA

As is the case in Mississippi, the economically dependent and insecure position of blacks in much of Louisiana acts as a brake on the political activity of blacks in that State. While force and violence are mainly things of the past as means to prevent black participation,

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29. David Jordan, Greenwood Voters League, Greenwood, Miss., interview, Aug. 8, 1974.

30. James Interview.

31. Staff interviews, Rolling Fork, Miss., Sept. 1974.

32. Clarence Hall, Mississippi Delta Council for Farmworkers, Greenville, Miss., interview, Sept. 5, 1974.

33. Staff interviews, Warren Co., Miss., Sept. 1974.

occasional incidents still reinforce the fears that are the result of decades of suppression.

One such incident occurred in Madison Parish early in 1974. A fight involving the registrar of Madison Parish, Myrtis Bishop, and a black woman attempting to register occurred on February 19, 1974. Arnicey Tyson, accompanied by her husband Ramon and their 3-year-old son, went to the courthouse in Tallulah to register. According to an account of the incident sent to the Department of Justice by Mr. Tyson, Mrs. Bishop, after exchanging angry remarks with Mrs. Tyson over the lack of information concerning previous registration, refused to register her. Mrs. Tyson questioned this refusal, and the registrar slapped her in the face. Mrs. Tyson then slapped Mrs. Bishop several times, at which point Mr. Tyson intervened to separate the two women. Mr. Tyson was then attacked by three men including a deputy sheriff and in the ensuing struggle thrown to the floor, beaten and had his clothes torn. The Tysons were then taken to jail and subsequently released on bond.[34]

The following day the Tysons went before a justice of the peace to have warrants issued against the four persons who had assaulted them. According to Mr. Tyson, the justice of the peace refused to issue warrants

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34. Ramon E. Tyson, letter to Michael Shaheen, Voting Rights Section, U.S. Department of Justice, Feb. 20, 1974 (copy in Commission on Civil Rights files). Sworn statements and complaints about this incident have been made by Ramon E. Tyson and Arnicey Tyson to State and Federal officials. See also statement of Myrtis Bishop in appendix 7 regarding this incident.

against two of the persons involved because they were "peace officers."[35]

Criminal charges were subsequently filed against the Tysons.[36] The defendants, on the ground that the criminal prosecution violates their civil rights, have removed the case to the Federal district court.[37] The case has not yet been brought to trial.[38]

The Madison Voters League, as a result of the Tyson incident, petitioned the board of registrars on June 11, 1974, asking for the dismissal of Myrtis Bishop.[39] As of December 18, 1974, no response from the board had been received.[40]

A Commission interviewer was told that the Tyson incident has brought back many of the old fears to the black community.

> It is not easy nowadays to find incidents of intimidation as we used to find in years past, but the beating of Mr. Tyson and his wife in the court-

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35. Ramon E. Tyson, letter to William J. Guste, Jr., attorney general, State of Louisiana, Baton Rouge, La., Feb. 20, 1974 (copy in Commission on Civil Rights files).

36. State v. Ramon Elwood Tyson, Jr., State v. Arnicey Tyson (Sixth Judicial District Court, La., filed March 18, 1974).

37. Petition for Removal to the U.S. District Court, (W.D. La., filed June 26, 1974).

38. Walter C. Dumas, attorney for the Tysons, Baton Rouge, La., telephone interview, Nov. 15, 1974.

39. Zelma Wyche, chief of police, Tallulah, La., interview, Sept. 3, 1974.

40. Moses Williams, vice president, Madison Voters League, Tallulah, La., telephone interview, Dec. 18, 1974.

> house proved to many of the older folks that things haven't changed that much, and they have plenty to fear in going to the courthouse. 41

Other events have reinforced the fear of participation in the political process that many blacks in Madison Parish have. According to Zelma Wyche, during the last election the head of a city department in Tallulah told all his black employees that they should vote for the white candidates in the municipal elections if they wanted to keep their jobs.[42] Black domestics also were under severe pressure from their employers. They were unable to say openly for whom they intended to vote or show that they supported a black candidate, for example, with campaign buttons or bumper stickers. On the other hand, their employers advised and urged them to vote for white candidates.[43]

Economic pressure against blacks does not cease when they have been elected to public office. In Tallulah the newly elected mayor, Adell Williams, and two of the three black aldermen work for the school system as teacher and principals, respectively. The third alderman may be less dependent economically on local whites because he is manager of the town's largest department store. Since the new administration has

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41. Bruce Baines, Madison Voters League, Tallulah, La., interview, Sept. 3, 1974.

42. Wyche Interview.

43. Ibid.

taken office, the superintendent of schools has appeared at almost all council meetings and has served on several committees bringing petitions before the city council. His presence alone puts pressure on the three blacks who work for him.[44] Ramon Tyson made this comment on the situation:

> When the man controls your paycheck he controls you. We can see the pressure on them already. And the most likely to be intimidated are people like the principals who to a large extent have made it and are not willing to risk losing something that has taken them so long to get.[45]

The economic intimidation of blacks is reportedly still in evidence in many other rural areas of Louisiana. In a polling place in East Feliciana Parish a Commission staff member heard a white poll manager comment to an elderly black man: "Why, Mr. Brooks, Mr. Lesley let you come here?" The remark was made in what seemed to be a joking manner.[46] However, according to a black educator familiar with the area, Brooks has worked on the Lesley plantation for a long time and rarely does anything without Lesley's approval. The white woman's attitude toward Brooks seemed to be one of patronizing benevolence,[47] but how it appeared to the elderly black farmworker may have been another matter.

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44. Baines Interview.

45. Ramon E. Tyson, Tallulah, La., interview, Sept. 3, 1974.

46. Election day observations by Commission on Civil Rights staff, East Feliciana Parish, La., Aug. 17, 1974.

47. Dr. Malcolm Byrnes, professor of political science, Southern University, Baton Rouge, La., interview, Aug. 17, 1974

In East Carroll and Tensas Parishes a Commission interviewer also heard that economic pressure has been applied by whites to curtail or control the black vote. During a recent registration drive among blacks in East Carroll Parish, a black principal very active in the drive encountered at the registrar's office a white school board member and the superintendent of schools, neither of whom was there to register.[48] He felt their presence was not coincidental.

The school board member, Lloyd Clement, is an employee of the firm that supplies the city's gas and, according to the principal, "has a way of getting to certain blacks, especially if some of them may have trouble paying their bills." Clement, he said, claims to be extremely nice to blacks and says that he very seldom cuts off their gas even when he should. Nevertheless, the principal alleged, people have had their gas cut off without warning after certain elections, whereas prior to the election it had been left on for quite some time without full payment of the bill. There is no doubt in his mind that "blacks going to register would feel tremendous pressure in front of Lloyd Clement."[49]

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48. Theodore Lane, president, East Carroll Citizens for Progress, Lake Providence, La., interview, Sept. 4, 1974. As required by law the Commission has offered Mr. J. T. Herrington, Superintendent, East Carroll Parish Schools, the opportunity to reply to these statements. His reply is included in appendix 7.

49. Ibid. As required by law the Commission has offered Mr. Clement the opportunity to reply to these statements. His reply is included in appendix 7.

In Waterproof, in Tensas Parish, according to police juror Woodrow Wiley, in many instances employers have tried to talk their employees, mostly domestics and farmworkers, out of voting. They tell their employees, "There is no use wasting time voting," or "No need to go vote, the elected officials are going to do what they please anyway, so it doesn't matter who gets elected." This type of pressure on employees, according to Wiley, is probably the biggest reason for low voter turnout.[50]

Wiley also said that other more direct types of economic and social pressure are used on black voters. Whites frequently have been known to tell blacks that their food stamps are going to be taken away if they vote for black candidates. Although these whites may actually have no power to do anything about food stamps, the effect is still one of intimidating blacks, who fear that they may really lose their stamps. According to Wiley, many people in Waterproof are on some sort of welfare program, so any threat to restrict welfare benefits can be a very powerful factor in limiting the black vote.[51]

The Rev. P.N. Germany, a black minister and city alderman, told a Commission interviewer that he heard from several blacks in Waterproof that the town's only doctor, a white, had recently been telling black patients.

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50. Woodrow Wiley, Waterproof, La., interview, Sept. 5, 1974.

51. Ibid.

that if they kept voting for and electing blacks, he would leave. Germany believes that the possibility of the doctor's departure could keep many blacks from the polls.[52]

Black candidates in Tensas Parish were also subjected to various kinds of pressure during the 1974 elections, according to Wiley. An elementary school principal who was a candidate for city alderman in Newellton reportedly had a confrontation with his supervisor, the superintendent of schools. According to Wiley, the principal was told by the superintendent that he could work with him very well as a principal, but not as a principal and councilman. The principal stayed in the race but lost the election. A council member in Waterproof told a Commission interviewer that she has been refused promotion since 1970 despite excellent academic qualifications and 12 years of seniority. She attributed this lack of promotion to reaction to her political activity.[53]

ALABAMA

In Talladega County incidents of violence as well as threats of economic retaliation against economically dependent blacks marred the electoral process in 1974. As a result, there were 54 Federal observers present in the county for the November general election, the most sent

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52. The Rev. P.N. Germany, Waterproof, La., interview, Sept. 5, 1974.

53. Staff interviews, Tensas Parish, La., Sept. 1974. As required by law the Commission has offered the Superintendent of Tensas Parish Schools the opportunity to reply to these statements.

to any county for an election in 1974.[54]

During the June 1974 Democratic primary runoff the incumbent sheriff, who is considered antiblack by many persons in the black community, is said to have deputized black police officers who then struck, shoved, and handcuffed blacks at the polls who were known to favor the sheriff's opponent. It was also reported that the sheriff had used city police and county deputies in his campaign, having them perform such tasks as putting up posters and handing out leaflets. This further intimidated black voters. Moreover, some blacks who receive welfare and food stamps believed that they would no longer be eligible for assistance if they voted for the sheriff's opponent.[55]

Elsewhere in rural Alabama the economically dominant position of whites gives them a role in politics that their numbers alone would not provide. In some instances economic pressure was actually applied to discourage black political activity.

A Commission interviewer was told of threats to discharge employees if they voted the wrong way. For example, the white principal of a Wilcox County high school called the black teachers, cooks, janitors,

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54. Gerald W. Jones, Chief, Voting Section, Civil Rights Division, U.S. Department of Justice, letter to David H. Hunter, U.S. Commission on Civil Rights, Dec. 6, 1974, attachment 2.

55. Staff interviews, Talladega Co., Ala., Sept. 1974. As required by law the Commission has offered the sheriff, Mr. H.E. Mitchell, the opportunity to reply to these statements. His reply is included in appendix 7.

and bus drivers on his staff and told them: "You vote for these folks [white candidates] or you lose your job."[56]

The white owner of a lumber mill who was running for mayor of a town in Monroe County threatened his black employees with dismissal if they did not vote for him.[57]

During the 1972 election in one county the superintendent of schools reportedly told blacks who worked for the school system that he would not hire them again in the next school year if they did not vote for him.[58] They included many of the custodial and kitchen workers. The assistant superintendent further informed them that he had people watching them and their jobs were in jeopardy if they did not vote the expected way.[59]

Agricultural workers are in an especially vulnerable position. They often depend on one person for employment, housing, and credit. Sometimes the white farm owners use their position directly. For example, a black attorney who headed a recent voter registration drive

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56. Albert Gordon, 1974 candidate for State senate, Camden, Ala., interview, Sept. 5, 1974.

57. The Rev. K.L. Buford, Alabama Field Director, NAACP, and Rufus C. Huffman, NAACP Education Field Director, Tuskegee Institute, Ala., interview, Sept. 4, 1974.

58. Buford Interview.

59. Staff interviews, Sept. 1974.

in Dallas County told a Commission staff member that the owner of one large farm told his workers they would have to get off his land if they registered. Moreover, the owner informed them that, if they even went to a meeting on registration called by the attorney, they would have to leave the farm immediately. One black farmer who registered anyway was promptly evicted. Later he was arrested and charged with stealing a hog. The grand jury failed to indict him, but such incidents create enough fear among farmworkers to make it that much more difficult to get them out to register, much less to vote.[60]

More often such explicit pressure is not considered necessary. A farmer may be dominant enough that he can take his workers to register and rely on their voting the way he directs, as was reported in Lowndes County.[61] Since farmworkers frequently will need assistance, they have reason to fear that how they vote will be reported back to their employers.

Dependence on whites for credit is also a problem in Alabama. Sometimes the problem is presented directly. For example, in Wilcox County a black needed tires for his delivery truck, the use of which was necessary for his livelihood. According to one account, the white

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60. Henry Sanders, attorney, Selma, Ala., interview, Sept. 4, 1974.

61. Buford Interview.

owner of an auto supply store from whom he usually bought tires refused him credit because he had supported a black candidate in a previous election.[62]

In other situations the economic relationship does the damage without any direct pressure. In Wilcox County, for example, a number of polling places are in small, white-owned stores. Many blacks, primarily poor ones, are reluctant to go to such stores to vote. They need credit for the goods they buy and feel they will not get it if they vote, or unless they vote the way the whites want them to. "You see, they are going to go there and get groceries [on credit] until they get their checks or food stamps."[63]

GEORGIA

As is true elsewhere in the rural South blacks in an economically dependent position in rural Georgia are reluctant to vote or to vote the way they want. For example, one civic leader in Taliaferro County told a Commission interviewer that many black voters in the county are reluctant to vote their true feelings for fear of losing welfare or credit. Many of these voters need assistance in voting, which is given by the person in charge of welfare or by people connected with a finance

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62. The Rev. Thomas L. Threadgill and Charles McCarthy, community leaders and former candidates, Wilcox Co., Ala., interview, Sept. 5, 1974.

63. Gordon Interview.

company. By law voters could bring persons of their own choosing along to help, but they are afraid to do this.[64]

Blacks have interpreted some specific events in Georgia as direct pressure to prevent political activity. For 40 years J.B. King was a teacher and principal in the schools of Talbot County, Georgia. For the last 17 he was a high school principal. In June 1973 he ran unsuccessfully for county school superintendent in a special election held after the previous superintendent resigned.[65] On March 22, 1974, he was informed by his election opponent that his contract for the following year would not be renewed.[66] King believes that he was fired because he ran for the office of superintendent. This conclusion, it was reported, is widely accepted in the black community.[67]

The Professional Practices Commission of the State of Georgia upheld the Talbot County school board, finding that the board had sufficient cause for terminating the contract.[68] The Professional

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64. Calvin Turner, civic leader, Taliaferro Co., Ga., interview, Sept. 7, 1974. See Turner v. Fouche, 396 U.S. 346 (1970).

65. J.B. King, Jr., Woodland, Ga., and Tyrone Brooks, Southern Christian Leadership Conference (SCLC), Atlanta, Ga., interview, Sept. 3, 1974.

66. King v. Rowe, Case No. 73/74-028, Professional Practices Commission, State of Georgia (Sept. 23, 1974), Report of the Hearing Examiner, p. 1.

67. King and Brooks Interview.

68. King v. Rowe, Findings of Fact and Recommendations.

Practices Commission, however, criticized the board's timing. It stated that the board had knowledge of King's "purported deficiencies... at least as early as 1970."[69]

In June 1973 Julian Davis was fired from his job as principal of an elementary school in Sandersville, Georgia, in Washington County. In the same month Eloise Turner was fired from her job as teacher in the same school system. Both had actively campaigned for a black candidate the previous year and believe that they were fired because of their political activity.[70] The National Education Association has agreed to support a suit on their behalf.[71]

Against the background of the generally dependent economic position of blacks in rural Georgia, incidents such as the dismissals of King, Davis, and Turner--whether claims of discrimination are ultimately upheld or not--deter other blacks from more active participation in the political process.

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69. King v. Rowe, Special Presentment.

70. Julian Davis, community leader, Sandersville, Ga., interview, Sept. 4, 1974, and Richard Turner, husband of Eloise Turner, Sandersville, Ga., interview, Sept. 4, 1974.

71. Bernice Turner, attorney, Macon, Ga., telephone interview, Oct. 3, 1974.

NORTH CAROLINA

Older blacks in rural northeastern counties are still afraid to register or vote, a Commission interviewer was told.[72] What appears to be apathy is the result of "oppression," which "has them whipped down," according to a long-time black leader in Bertie County.[73]

Some younger blacks also believe they must be cautious about participating too actively in politics. A Commission staff member was told that blacks in Halifax County fear disapproval from their employers if they become involved in politics.[74]

Dock Brown was both a teacher and a coach in the Weldon, North Carolina, school system for 18 years. His basketball and baseball teams were quite successful during the 1973-74 school year, he reported, and he was named "coach of the year" in basketball. The high school's 1974 yearbook was dedicated to him and he was president-elect of the teacher's association in Weldon.[75]

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72. James Gilliam, community leader, Windsor, N.C., interview, July 10, 1974, and Earl Lewis, county commissioner, Hertford Co., N.C., interview, July 9, 1974.

73. Gilliam Interview.

74. Horace Johnson, Sr., candidate in 1974 for Halifax County commission, Hollister, N.C., interview, July 11, 1974.

75. Dock M. Brown, Halifax, N.C., interview, July 11, 1974.

Brown ran for but failed to win the Democratic nomination for Halifax County clerk in the May 1974 primary.[76] After the athletic season ended in the spring of 1974 the superintendent relieved Brown of all his coaching duties. Brown believes that this was in retaliation for his political activity. He said he had campaigned throughout the county on the issue of county employment for blacks. He thought the "white power structure" saw him as a threat.[77]

Myron Fisher, superintendent of the Weldon public schools, denied that Brown's removal was related to his political activity. He said that the school system encourages political involvement. For example, another black teacher, Robert Knight, was a candidate for State representative in 1974. Also, the chairman of the county election board, an appointed position, is a Weldon teacher. According to Fisher, Brown's removal was the result of various derelictions of duty as a coach and friction between Brown and another coach. Both coaches were dismissed.[78]

Nevertheless, Brown's removal is well known among blacks in the county, and Brown feels that it will deter other blacks from being politically active.[79]

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76. Roanoke Rapids (N.C.) Daily Herald, May 8, 1974, sec. 1, p. 1.

77. Brown Interview.

78. Myron L. Fisher, Jr., superintendent, Weldon Public Schools, Weldon, N.C., interview, July 12, 1974. Brown's job as teacher was not affected but he chose to teach for the Halifax County school system instead for the 1974-75 school year. Brown Interview.

79. Brown Interview.

SOUTH CAROLINA

Some employers in rural areas, it was reported to a Commission staff member, set working hours on election day to prevent blacks from voting. Others reportedly "herd" their workers to the polls, specifying who the right candidate is.[80] One black candidate for a State house seat in 1974 charged that economic pressure from her opponent contributed to her defeat.

Albert Kleckley, who is white, and Juanita White, who is black, were opponents for the Democratic nomination for State house seat 122 (composed of Jasper County and part of Beaufort County) in the July 30, 1974, primary runoff election. The Kleckley family's gas company provides most people in the district with butane for heating and cooking. About 75 percent of the district's voters, a Commission interviewer was told, have credit with the Kleckley Gas Co. Some people were reportedly told that if they did not vote for Kleckley they would not have gas for the winter. At the Sheldon polling place a black driver for the company was present all day in his company uniform identifying customers of the company.[81]

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80. John R. Harper II, attorney, Columbia, S.C., interview, July 31, 1974.

81. Juanita White, Hardeeville, S.C., interview, Sept. 6, 1974. As required by law the Commission has offered Mr. Kleckley the opportunity to reply to these statements. His reply is included in appendix 7.

The defeated candidate, Juanita White, charged:

> Mr. Albert Kleckley and several other persons took photographic pictures inside and outside of the Sheldon precinct polling building. Pictures were taken of cars, license tags, voters and other persons at the poll in general. This produced an atmosphere of fear, frustration, coercion and tyranny. 82

A Commission staff member also heard an allegation that Kleckley had threatened one black, telling him that he "had better not" enter a polling place again. The man allegedly refused to testify about this event for fear of physical harm to himself or to his business.[83]

VIRGINIA

According to the Rev. Curtis Harris, independent candidate for Congress in the Fourth Congressional District, overt intimidation to keep people from registering and voting is now no longer a common practice in Virginia. Instead, pressure is more subtle. "They let people know they just might lose their jobs if they register and vote. If they work at a factory or on a farm, they are never given time off to go and register."[84]

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82. Juanita White, letter to Don Fowler, chairman, South Carolina Democratic Party, Columbia, S.C., Aug. 2, 1974 (copy in Commission on Civil Rights files).

83. Staff interview, Frogmore, S.C., Sept. 1974. As required by law the Commission has offered Mr. Kleckley the opportunity to reply to these statements. His reply is included in appendix 7.

84. The Rev. Curtis Harris, Hopewell, Va., interview, July 9, 1974.

There is considerable fear about registering and voting among blacks in Petersburg, according to the Rev. Clyde Johnson, a city council member. He said that blacks have been threatened with economic reprisal if they registered or voted. Such tactics, Johnson believes, are particularly effective against people in domestic service and in low-paying factory jobs. For example, two manufacturers in the area hire many blacks in low-paying jobs. Supervisory help, he alleges, often tell such workers who the "right" candidate is.[85]

Florence Farley, a former Petersburg council member, thinks there are now more blacks than whites registered in her ward. In her opinion black turnout is lower than white because many blacks, particularly the older ones, believe they have to own property or pay a poll tax in order to vote, or that they will be penalized for voting by losing their social security.[86] It is very difficult to convince them otherwise, she said.

A Commission interviewer was told in Southampton County also that economic fear keeps blacks away from the polls or influences their vote. According to a former commissioner in the county, many domestics and farmworkers fear they will lose their jobs if they register and vote. Their employers do not tell them this outright but suggest which candi-

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85. The Rev. Clyde Johnson, council member, Petersburg, Va., interview, July 8, 1974.

86. Florence Farley, former council member, Petersburg, Va., interview, July 9, 1974.

date would be preferable. A black farmer in the same county told a Commission interviewer that he had been told by a white farmer that if any blacks working on his farm "ever get to the point of registering and voting he is going to let them go."[87]

The black chairman of the board of supervisors in Surry County told a Commission interviewer that he obtains all necessary bank loans elsewhere. He does this because he believes that if he were to fall behind in his payments, the white-controlled bank would foreclose more quickly on him than on someone else. This is, he believes, because he is an elected official in an area where whites previously held power.[88]

MONTEREY COUNTY, CALIFORNIA

The subordinate economic position of Mexican Americans in Monterey County, California, deters them from greater political participation. Part of the problem is widespread fear, the cause of which cannot be grounded in any recent incident. A Commission staff member was told that people who have been scared away from registering or voting in the past are reluctant to try now. Often this fear takes the form of

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87. Staff interviews, Southampton County, July 1974.

88. M. Sherlock Holmes, Surry, Va., interview, July 9, 1974.

Chicanos' being unwilling to ask their employers for time off to vote. Some Mexican Americans are afraid they will lose their jobs. Some also feel coerced to vote in accordance with the wishes of landlords and creditors. In addition, a common fear among them is that their votes can be traced.[89]

According to a number of people active in politics in Monterey County, some whites take advantage of their economic dominance to make political participation more difficult for Chicanos. For example, at one farm it was reported that the workers were given more work than normal to do on election day in the hope that this would prevent them from casting their ballots. At another farm two tractor drivers declined to register when solicited by a registration worker because, they said, their boss would not give them time off to vote anyway. It was also alleged that Mexican Americans who work in voter registration drives sometimes lose their jobs and are blackballed from alternative employment.[90]

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89. John Saavedra, mayor, Soledad, Cal., interview, Nov. 6, 1974; B.J. Jimenez, chief of police, Soledad, Cal., interview, Nov. 5, 1974; and other staff interviews, Monterey Co., Cal., Nov. 1974.

90. Ibid.

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For minority group members in many areas the decision to register, to vote, or to become involved in politics requires careful weighing of what are believed to be substantial costs and speculative benefits. The deliberations are unlikely to take into account abstract rights found in amendments to the United States Constitution or in the United States Code. Instead, the potential participants' view of the openness of the political process will be formed by their own experiences and those of their friends and relatives. In many instances the collective wisdom of minority group members in a community is that participating in politics is risky, sometimes even dangerous. While incidents of violence against minorities attempting to participate have declined, they have not altogether disappeared, and memories of them are still vivid. The possibility of economic retaliation against people who are economically dependent on political opponents is seen as very real. The end product is fear: fear that results in nonparticipation or that leads the minority citizens to vote the way considered safe. They do not wish to take the chance that economic reprisals or violence against them and their families will result.

8. FAIR REPRESENTATION IN STATE LEGISLATURES AND CONGRESS

INTRODUCTION

If a person is not permitted to register, or if registered, not allowed to vote, that person is obviously denied full participation in the political process. The same result occurs when a candidate whom a voter might support is kept from running. But these blatant examples are not the only barriers obstructing equal opportunity for political influence. This chapter and the next deal with the question of representation, that is, the rules and procedures by which voting strength is translated into political success. The central problem is that of dilution of the vote--arrangements by which the vote of a minority elector is made to count less than the vote of a white. There are two kinds of decisions which affect the fairness of representation. These concern the formation of boundaries for voting units and the selection of voting rules.

Boundary Formation

Consider a town of 1,000 people, 600 of whom are white and 400 of whom are black; the town has a 10-member city council. Assume also that everybody is of voting age and registered to vote. Further assume that whites will almost never vote for blacks and blacks will almost always vote for a black running against a white, which is a reasonable assumption for many of the places to be discussed in this chapter.

The city council might be chosen in a number of ways. The city could be divided into 10 wards, or single-member districts, with each ward selecting one member of the council. Each ward might have in it 60 whites and 40 blacks, in which case none of the 10 members elected is likely to be black. Or there could be four wards 100 percent black and six, 100 percent white, in which case there would be four black council members. Or there could be percentages somewhere in between. All wards must have approximately the same number of people residing in them in order to satisfy the one person, one vote rule,[1] but the number of different ways in which the lines can be drawn is practically infinite. Line drawing that unfairly reduces the number of districts controlled by minority voters is called racial gerrymandering.[2]

While this example is of the selection of city council members, the same principles apply to the selection of members of county councils and school boards, State legislatures, and the United States House of Representatives.

Instead of dividing the town into 10 wards, the town governing body or the State legislature might decide that all council members should be chosen by the entire electorate, or elected at large. As a result the white majority could control the selection of all the members. Intermediate arrangements are also possible. The town might be divided

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1. See Reynolds v. Sims, 377 U.S. 533 (1964), and its progeny.

2. See Frank R. Parker, "County Redistricting in Mississippi: Case Studies in Racial Gerrymandering," Mississippi Law Journal, vol. 44 (1973), pp. 402-03.

into two multi-member districts, with each electing five members. Or two members might be elected at large and the other eight from single-member districts.

County councils and school boards can also be elected at large or with the use of multi-member districts as well as from single-member districts. State legislators in many of the States under consideration have been elected from multi-member districts.

Voting Rules

A second problem considered in this chapter and the next is the selection of voting rules. Suppose there are three candidates for a position--a white Democrat, a white Republican, and a black third party or independent candidate. The black receives the most votes, winning 40 percent of the total, and the two whites share the remainder. If the candidate receiving the most votes is the winner, then the black has won. But if a majority rather than a plurality is required, then the black must face a runoff election with one of the two white candidates.[3] If voting is split along racial lines, the white will win.

Consider again the town of 600 whites and 400 blacks with an at-large election to choose four council members. Each voter is able to cast four votes. Suppose there are eight white candidates, with the votes of the whites split among them approximately equally, and one black candidate, with all the blacks voting for him and no one else. The

3. For other consequences of plurality voting see Douglas W. Rae, The Political Consequences of Electoral Laws, rev. ed. (New Haven: Yale Univ. Press, 1971), pp. 25-28.

result is that each white candidate receives about 300 votes and the black candidate receives 400 votes. The black has probably won a seat. This technique is called single-shot voting. Single-shot voting enables a minority group to win some at-large seats if it concentrates its vote behind a limited number of candidates and if the vote of the majority is divided among a number of candidates.

There are a number of voting rules which have the effect of frustrating single-shot voting. The simplest is the anti-single-shot, or full-slate, requirement. This requires a voter to vote for as many candidates as there are positions available in order for the ballot to be counted. With this rule each of the black voters in the example would have had to vote for three white candidates in addition to the black candidate. This would probably give the white candidates enough additional votes to prevent the black from being elected.

Second, instead of having one race for four positions, there could be four races, each for only one position. Thus for post no. 1 there might be one black candidate and one white, with the white winning. The situation would be the same for each post, or seat--a black candidate would always face a white in a head-to-head contest and would not be able to win. There would be no opportunity for single-shot voting. A black still might win if there were more than one white candidate for a post, but this possibility would be eliminated if there were also a majority requirement.

Third, each council member might be required to live in a separate district but with voting still at large. This--just like numbered posts--separates one contest into a number of individual contests.

Fourth, the terms of council members might be staggered. If each member has a 4-year term and one member is elected each year, then the opportunity for single-shot voting will never arise.

Fifth, the number of council members might be reduced. If the council only has three members rather than four, a higher proportion of the votes will be needed to acquire one seat.

Other changes in voting rules are similar. If the terms of white incumbents are extended, the opportunity for a black to be elected is delayed. To give a more extreme possibility, considered in the final section of chapter 6, if an office is changed from elective to appointive or is abolished altogether, a black cannot be elected to it.

It should be noted that in some circumstances, nonpartisan elections can be less advantageous to blacks than partisan elections. With partisan elections, it is possible that a voter will consider the party of a candidate more important than the race of the candidate. Thus, a white Democrat might vote for a black Democrat over a white Republican. If party labels were removed, however, the voter would be more likely to use race as a criterion for choice.

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In general, if voting district boundaries or election rules discriminate against minorities, the courts will forbid their use or the

Attorney General will object to their use under section 5 of the Voting Rights Act.[4] The courts, however, have not yet developed clear legal rules indicating which situations are remediable and which are not.[5] Thus in the examples that follow in this chapter and the next different courts have applied different standards, and minority litigants have often been dissatisfied with a court's analysis of a particular situation.

One voting rule that is court-endorsed despite its potential for discrimination is the residence requirement.[6] Under this system each council member must live in a separate district, but voting is at large. The Fifth Circuit appears to favor this requirement because it makes more likely the election of a minority candidate where there is a predominantly minority district than would straight at-large election. The disadvantage of the residence requirement is that the minority candidate chosen is the choice of the entire--white dominated--electorate and not of the voters of the predominantly minority district. Moreover, the candidate elected could be a white resident of a predominantly black

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4. See discussion of section 5, pp. 25-31 above.

5. See White v. Regester, 412 U.S. 755 (1973), further proceedings sub nom. Graves v. Barnes, 378 F. Supp. 640 (W.D. Tex.), prob. jur. noted sub nom. White v. Regester, 412 U.S. ___, 94 S.Ct. 2601 (1974) (No. 73-1462); Beer v. United States, 374 F. Supp. 363 (D.D.C.), prob. jur. noted 95 S.Ct. 37 (1974), (No. 73-1869); Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973), petition for cert. filed sub nom. East Carroll Parish School Board v. Marshall, 43 U.S.L.W. 3055 (U.S. Dec. 3, 1973) (No. 73-861).

6. Zimmer v. McKeithen, note 5 above; Turner v. McKeithen, 490 F.2d 191, 194 (5th Cir. 1973). The use of staggered terms has also been upheld. Cherry v. County of New Hanover, 489 F.2d 273 (4th Cir. 1973).

district. The Attorney General, on the other hand, has frequently objected to residence requirements.

An analysis of the impact of any change in boundaries or in voting rules must consider that the total population of white and minority groups is not a completely accurate indication of the group's actual or possible political strength. The average age among minority groups tends to be younger than the average age of whites. Thus, the minority percentage of the voting age population of a district will be less than the minority percentage of the total population. In addition, for reasons discussed in chapters 4 and 7, the percentage of minorities who are registered is generally lower than the percentage of whites who are registered. Therefore, if the minority percentage of the total population of a district is between 50 and 60 percent one should not conclude without further inquiry that minorities will have a controlling voice in the election.

Each of the nine States which will be discussed in this chapter has redistricted its legislature since the 1970 census. For each State, either a court has found all or part of the redistricting plan discriminatory, or the Department of Justice has objected to it under section 5 of the Voting Rights Act. Also, in two States--Georgia and New York--congressional district lines were found objectionable by the Attorney General. These court holdings and section 5 objections have covered the use of multi-member districts, the way that boundaries between districts are drawn, and the voting rules that are used.

The districting process is now complete in all but two of the nine States, Mississippi and South Carolina. All of the States, however, will face the problems of redistricting again following the 1980 census.[7]

MISSISSIPPI

In the spring of 1971, the Mississippi legislature adopted a new districting plan for both houses, using population data from the 1970 census.[8] The plan, as revised by a Federal district court,[9] respected county lines, used multi-member districts, and imposed numbered post and residence requirements.[10] The result of the use of the plan in 1971 was to keep the number of blacks in the Mississippi legislature at one.[11]

Prior to the 1971 election the plan was attacked in court as discriminatory against blacks.[12] The district court decided that the

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7. See generally on fair representation and dilution of the vote Armand Derfner, "Racial Discrimination and the Right to Vote," Vanderbilt Law Review, vol. 26 (1973), pp. 552-55 and 572-81, and Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972) pp. 93-169 (hereafter cited as Shameful Blight).

8. Miss. Code §§ 5-1-1, 5-1-3 (1972).

9. Connor v. Johnson, 330 F. Supp. 506 (S.D. Miss. 1971). The court had earlier redistricted the legislature. Connor v. Johnson, 265 F. Supp. 492(S.D. Miss.), affirmed, 386 U.S. 483 (1967).

10. Connor v. Johnson, 330 F. Supp. 506, 507-20.

11. U.S. Commission on Civil Rights, Political Participation, (1968), p. 218 (hereafter cited as Political Participation); Joint Center for Political Studies, National Roster of Black Elected Officials (Washington, D.C., 1973), p. 95 (hereafter cited as 1973 Roster).

12. Conner v. Johnson, 330 F. Supp. 506. See Appellant's Jurisdictional Statement, pp. 4-13, Conner v. Williams, 404 U.S. 549 (1972).

three largest counties in the State should be divided into single-member districts, but the court allowed this division to await the 1975 election.[13] The Supreme Court of the United States upheld the use of the 1971 plan in the election for that year and gave the lower court a chance to reconsider the entire plan before it ruled on the charges that the plan was racially discriminatory and failed to meet the requirements of the one person, one vote rule.[14]

In April 1973 the legislature adopted a new plan.[15] This plan was similar to the one used in 1971 in that again county lines were respected, multi-member districts used, and numbered post and residence requirements imposed. Though the district court had required single-member districts to be used in the State's three largest counties in 1975, the plan does not divide any of these counties.

The 1973 plan has been submitted to the Federal district court in Mississippi, but that court has not decided whether the plan is acceptable.[16] The 1973 plan has not been submitted to the Attorney General

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13. Ibid., pp. 518-19, reversed as to Hinds County, 402 U.S. 690, 692-93; original decision adhered to because of "insurmountable difficulties," 330 F. Supp. 506, 521, 523; further stay denied, 403 US. 928 (1971).

14. Connor v. Williams, 404 U.S. 549 (1972). For a more detailed discussion of the 1971 court-ordered plan and the proceedings surrounding its use, see Shameful Blight, pp. 151-54.

15. Miss. Code §§ 5-1-1, 5-1-3 (Supp. 1974).

16. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Miss., interview, Nov. 18, 1974.

under section 5 of the Voting Rights Act.[17] While the 1971 plan was exempted from section 5 review because it was a plan prepared by the Federal court, the 1973 plan is entirely a legislative effort. The new plan, therefore, cannot be legally implemented until section 5 clearance has been obtained.[18]

The use of single-member districts through the subdivision of counties would have created a much larger number of majority black districts than did the legislature's plan, which does not subdivide counties. Single-member districts would especially facilitate the creation of districts in which the black percentage is high enough to enable the black electorate to have a chance to determine who is elected. Also, the smaller size and population of single-member districts would place a more manageable burden on black candidates.

For example, Hinds County, which is 39 percent black, elects 12 representatives countywide. In the past no blacks had been elected under this arrangement. With single-member districts blacks would have a good chance of winning from two to four seats. In the senate plan Hinds County is a five-member district. Again, single-member districts would give blacks a better chance to be influential.

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17. Deposition of J. Stanley Pottinger, Assistant Attorney General, Nov. 13, 1974, p. 33; Connor v. Waller, Civil No. 3830 (S.D. Miss.) (Connor v. Waller is the continuation of Connor v. Johnson and Connor v. Williams.)

18. On Dec. 20, 1974, the Department of Justice requested the State of Mississippi to submit the 1973 plan. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, letter to John A. Buggs, Staff Director, U.S. Commission on Civil Rights, Dec. 23, 1974.

The house plan submerges three majority black counties with populations greater than the ideal district size into majority white, multi-member districts.[19] Each of these counties could stand alone as one (or more) single-member districts. Four majority black counties with populations over half the ideal size are placed in multi-member districts with white majorities, although the use of single-member districts would result in some majority black districts.[20] Fifteen other majority black counties are in majority black, multi-member districts.[21] Here also single-member districts would offer a more realistic possibility for black success at the polls by providing smaller districts in which the black percentage is higher.

SOUTH CAROLINA

The November 1974 general election resulted in an increase from 4 to 13 in the number of black members of the South Carolina State house. While this increase is significant, it came only after substantial litigation in the Federal courts and action by the Department of Justice under section 5 of the Voting Rights Act in the years since the State legislature's

19. Marshall, Panola, and Madison.

20. Noxubee, Jefferson Davis, Kemper, and Claiborne.

21. Coahoma, Quitman, Tunica, Sunflower, Bolivar, Issaquena, Washington, Holmes, Humphreys, Leflore, Carroll, Copiah, Jefferson, Wilkinson, and Amite.

adoption in 1971 of new plans for both the State house and the State senate.[22]

In the house plan each county was a separate district, with one or more representatives elected at large.[23] Full-slate and majority vote requirements were imposed.[24] On April 7, 1972, the Attorney General declined on procedural grounds to object to the house plan.[25] The features of the plan that might have been considered objectionable--the multi-member districts, and full-slate and majority requirements--did not, in his view, constitute a change from past practice.[26]

The plan also survived an attack in court which challenged it on the ground that it discriminated against blacks. The court was not troubled by the use of multi-member districts but struck down the full-slate requirement, though not on racial grounds.[27] Because the court expressed a preference for numbered posts rather than a full-slate requirement to remedy the same "obvious difficulty,"[28] the legislature,

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22. Senate: Act 932, [1971 Reconvened Sess.] Stat. at Large of S.C. 2071-2078. House: Act 380, [1971] Stat. at Large of S.C. 509.

23. See Stevenson v. West, Civil No. 72-45 (D.S.C. April 7, 1972), slip opinion, p. 3.

24. S.C. Code Ann. § 23-357 (1962); David L. Norman, Assistant Attorney General, letter to Daniel L. McLeod, attorney general, State of South Carolina, April 7, 1972.

25. Norman letter.

26. Ibid.

27. Stevenson v. West, slip opinion, pp. 7, 10-12.

28. Ibid.

in May of 1972, required the use of numbered posts in the house[29] and also in all other multi-member districts in the State, whether State or local.[30] The numbered post requirement for the house was enjoined by the Federal court on June 14, on the ground that it had not yet received section 5 clearance.[31] This clearance did not come; the Attorney General objected on June 30.[32]

This did not end the judicial or Justice Department review of the house plan, for the original court decision which had upheld all aspects of the plan except the full-slate requirement was appealed to the Supreme Court of the United States. The Supreme Court rejected the house plan for its failure to satisfy one person, one vote requirements.[33]

The Supreme Court's action required the legislature to adopt a new plan, which it did in October 1973.[34] The Attorney General objected to the new plan saying that the plan adopted the features which had been

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29. Act 1205, [1972] Stat. at Large of S.C. 2384-2390.

30. Act 1204, [1972] Stat. at Large of S.C. 2383.

31. Johnson v. West, Civil No. 72-680 (D.S.C. June 14, 1972).

32. Objection letter, June 30, 1972.

33. Stevenson v. West, 413 U.S. 902 (1973).

34. Act 836, [1973 Extra Session] Stat. at Large of S.C. 1874.

found objectionable in earlier plans--multi-member districts that submerged "significant concentrations" of black voters combined with numbered posts and majority requirements.[35]

Finally, on April 26, 1974, the legislature passed a single-member district plan for the house,[36] which was not objected to by the Attorney General on June 21, 1974. Under the new plan, the November 1974 general election increased the number of blacks in the house from 4 to 13.[37]

The legislature in 1971 provided alternative plans for the senate, plans A and B.[38] These plans used multi-member districts, a majority vote requirement, residence requirements, and numbered posts.[39] The plans were promptly challenged in court on the ground that they discriminated against blacks.[40]

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35. Objection letter, Feb. 14, 1974.

36. H-2275, adopted April 26, 1974, as received by the U.S. Department of Justice for section 5 preclearance, May 2, 1974.

37. Joint Center for Political Studies, National Roster of Black Elected Officials (Washington, D.C., 1974), p. 199 (hereafter cited as 1974 Roster). Washington Post, Nov. 7, 1974, p. 6A. Armand Derfner, attorney, Charleston, S.C., letter to Debbie Snow, United States Commission on Civil Rights, Jan. 8, 1975.

38. See Harper v. Kleindienst, 362 F. Supp. 742 (D.D.C. 1973).

39. Objection letter, March 6, 1972.

40. See Twiggs v. West, Civil Nos. 71-1106, 1123 and 1211 (D.S.C. April 7, 1972) and Stevenson v. West.

Before the court could pass on the plans, however, the Attorney General objected to the combined use of multi-member districts, numbered posts, and a majority requirement.[41]

A month later the court found the senate plans unconstitutional because they did not satisfy one person, one vote requirements. It also struck down the use of residence requirements in the multi-member districts of the senate plan because their use was inconsistent in identical situations. On the other hand, the court did not find the use of multi-member districts, numbered posts, or a majority requirement discriminatory.[42]

On May 5, 1972, the legislature adopted new alternative plans for the senate.[43] The plans retained the features previously found objectionable by the Attorney General--the combination of multi-member districts, numbered posts, and a majority vote requirement.[44] On May 23, 1972, the court approved the plans, without opinion.[45] Subsequently, the Attorney General accepted the plans out of deference to the court, not because he had found the new plans to be nondiscriminatory.[46]

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41. Objection letter, March 6, 1972.

42. Twiggs v. West, note 40.

43. Act 1205, note 29 above.

44. Plaintiffs' Brief, p. 29, Harper v. Kleindienst.

45. Twiggs v. West, Order of May 23, 1972, cited in Harper v. Kleindienst, 362 F. Supp. 742, 744.

46. Norman, letter to McLeod, June 30, 1972.

This section 5 nondetermination was challenged in court on August 10, 1972, by attorneys representing black voters in South Carolina.[47] On May 16, 1973, Judge June L. Green of the United States District Court for the District of Columbia found that the Attorney General had acted improperly and ordered him to make a "reasoned decision" concerning the senate plans.[48] In response to this order the Attorney General admitted that the senate plan was discriminatory but again refused, for his original reason, to object under section 5.[49] On July 19, 1973, the court again ordered the Attorney General to consider the senate plans without regard to the South Carolina district court decision upholding them.[50] The next day the Attorney General notified the State of his objection.[51] However, since the next senate election is not until 1976 and since the Attorney General has appealed the district court's ruling,[52] the legislature has taken no action to replace or modify the senate plans.[53] The South Carolina Senate has no black members.[54]

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47. Harper v. Kleindienst.

48. Ibid. p. 746.

49. Ibid.

50. Ibid.

51. Objection letter, July 20, 1973.

52. Appeal docketed, No. 73-1766, D.C. Cir., July 13, 1973. As of Dec. 20, 1974 the court of appeals had not ruled on the case.

53. Office of the Clerk of the South Carolina Senate, Columbia, S.C., telephone interview, Dec. 30, 1974.

54. 1974 Roster, p. 199.

NEW YORK

Three New York counties--the New York City boroughs of Manhattan (New York County), Brooklyn (Kings County), and the Bronx (Bronx County)--were covered by the Voting Rights Act after its extension in 1970.[55] In anticipation of new reapportionment legislation, the State sued for and the Justice Department consented to exemption of the three counties from the act's special coverage.[56] The legislature adopted plans which were used for the 1972 election.[57]

Late in 1973, however, the Justice Department moved to reopen the New York case,[58] and on January 10, 1974, the court rescinded the exemption.[59] New York was then required under section 5 to submit its

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55. 36 Fed. Reg. 5809 (March 27, 1971).

56. New York v. United States, Civil No. 2419-71 (D.D.C., Order of April 13, 1972). The NAACP sought unsuccessfully to intervene in this case. The lower court's denial of the NAACP's motion was upheld on appeal. NAACP v. New York, 413 U.S. 345 (1973).

57. Ch. 11 [1st Extraordinary Session 1971] Laws of New York 49-135, and Ch. 76, 77, 78 [1972] Laws of New York 221-257.

58. On Oct. 23, 1973, the Justice Department moved to reopen on the ground that the Sept. 26, 1973, order in Torres v. Sachs, 381 F. Supp. 309 (S.D.N.Y. 1974), constituted a finding that New York had employed a test or device (conducting elections only in English) with a discriminatory purpose or effect and therefore should not be exempted from the act.

59. New York v. United States, Civil No. 2419-71 (D.D.C., Order of Jan. 10, 1974). On April 30, 1974, the court denied New York's motion to be exempted again. Both district court orders were affirmed, 95 S.Ct. 166 (1974) (Nos. 73-1371 and 73-1740.)

districting plans to the Attorney General. On April 1, 1974, the Attorney General objected to certain State legislative and congressional district lines in New York and Kings Counties. The new plans adopted by the legislature[60] received section 5 clearance from the Attorney General on July 1, 1974,[61] and were used in the 1974 election.

According to the 1970 census, 35.5 percent of Brooklyn's population is minority (about 25.5 percent black and 10 percent Puerto Rican.)[62] The minority population is concentrated in central Brooklyn, with the black population heavily concentrated in the Bedford-Stuyvesant and Brownsville areas and the Puerto Rican population generally located on the fringes of the black areas roughly along a line paralleling the "hump" formed by the western, northern, and eastern boundaries of Kings County. Brooklyn also has well-defined white ethnic communities.

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60. Ch. 588, 589, 590, 591 [1974 Extraordinary Session] Laws of New York 811-33.

61. U.S. Department of Justice, Civil Rights Division, In the Matter of Chapters 588, 589, 590, and 591 of the Laws of 1974 Amending New York State Law in Relation to Certain Congressional, Assembly, and Senate Districts in Kings and New York Counties, New York, Memorandum of Decision, July 1, 1974 (hereafter cited as Memorandum of Decision).

62. The parties differ on exact percentage figures. For the sake of consistency, population statistics for the boroughs are taken from the State's figures in Memorandum in Support of Chapters 11, 76, 77, and 78 the New York Laws of 1972 (March 19, 1974) and Comment on NAACP's Memo in Opposition to Chapters 11, 76, 77, and 78 of the 1972 Laws of New York (n.d.) (hereafter cited as New York Memorandum).

Under the 1972 reapportionment, Brooklyn lost 0.2 senators, 1.9 assemblymen, and part of a congressional district.[63] The 1972 plan gave Brooklyn 8 senatorial districts and 21 assembly districts.[64] One black senator and 5 black assemblymen were elected under the plan, and one of five congressional districts elected a black representative.[65]

The NAACP charged,[66] and the Attorney General agreed, that all the districting in Brooklyn followed a pattern of creating overwhelmingly minority districts in the heart of the ghetto and then dispersing the balance of the minority population among a number of other districts.[67] The only minority senator came from the heavily minority 18th district. (See map no. 1.)

Among the smaller assembly districts the pattern was the same, though the number of minority seats was greater. Three assembly districts

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63. Figures on changes in the number of seats apportioned to the boroughs are taken from Interim Report of the Joint Legislative Committee on Reapportionment to Accompany Uni-bill (S. 1, A. 1) (Dec. 14, 1971 (hereafter cited as Joint Committee Report 1972). Population equalization among districts requires that some districts be shared by two or more counties. The State of New York calculates to three decimal places the number of representatives to which a county is entitled.

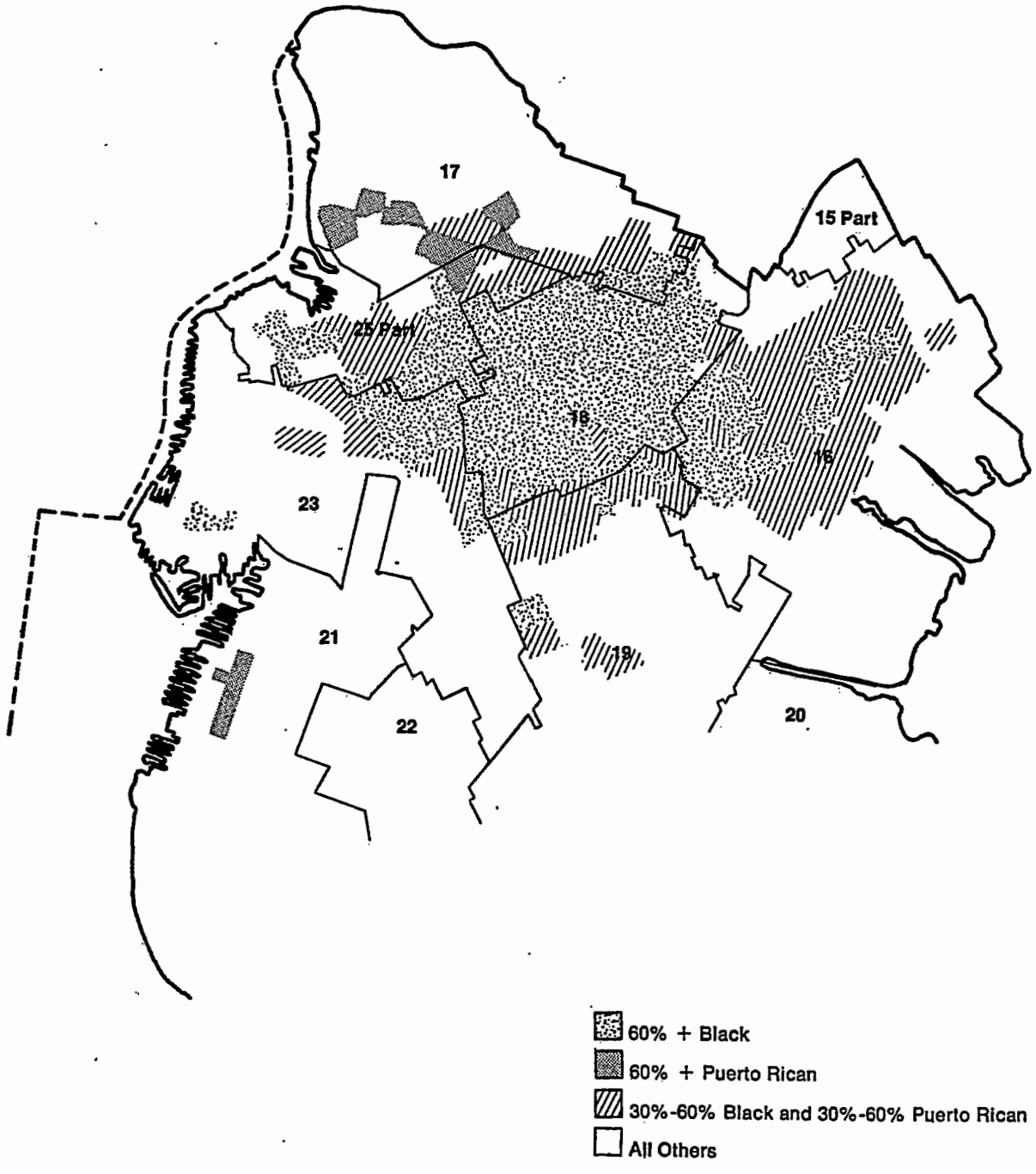
64. Ibid. Brooklyn also shares one assembly and two senate districts with other counties.

65. New York Memorandum, p. 9.

66. The NAACP's contentions are contained in Memorandum in Opposition to Approval of Chapters 11, 76, 77, and 78 of the New York Laws of 1972 and Eric Schnapper, attorney, NAACP Legal Defense Fund, New York, N.Y., letter to J. Stanley Pottinger, Assistant Attorney General for Civil Rights, March 21, 1974 (hereafter jointly cited as NAACP Memorandum).

67. Ibid. pp. 23-24, and New York Memorandum (Comment). Objection letter, April 1, 1974, p. 2.

BROOKLYN, KINGS COUNTY



Map No. 1. The 1972 plan for Brooklyn senate districts concentrates much of the minority population in a few districts and divides the remainder among majority white districts.

encompassed the heart of the ghetto, and all had black assemblymen (as did two other districts). Two districts with a majority black and Puerto Rican population but majority white electorates elected white assemblymen. Other districts included some of the minority area in overwhelmingly white districts.

After the Attorney General objected to these lines, the State developed lines that redistributed population among assembly districts to create five districts with minority population over 75 percent and two additional districts with minority population over 65 percent.[68] With respect to the senate districts, north-south lines with appropriate adjustments on the southern boundaries permitted three minority-dominated districts (all with a black majority). Another senate district, shared by Brooklyn and Manhattan, is 44 percent minority with Puerto Ricans the predominant minority group. Italians of Green Point and Hasidic Jews of Williamsburg (both in North Brooklyn) vigorously but unsuccessfully protested the new lines.[69] With the use of the new plan another black was elected to the senate from Brooklyn.[70]

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68. Unless otherwise noted figures on the racial composition of the new districts are taken from the Interim Report of the Joint Legislative Committee on Reapportionment to Accompany Uni-bill (S.1, A.1) and (S.2, A.2), May 27, 1974 (hereafter cited as Joint Committee Report 1974).

69. The Justice Department received petitions with more than 7,000 signatures opposing the lines (Memorandum of Decision, p. 2) and a suit charging racial gerrymandering was filed. After the Justice Department did not object to the plan, the court dismissed the complaint. United Jewish Organizations of Williamsburgh v. Wilson, 377 F. Supp. 1164 (E.D.N.Y. 1974). As of Dec. 20, 1974, this case was on appeal.

70. New York Times, Nov. 7, 1974, p. 40.

The minority population of Brooklyn had been fragmented among a number of congressional districts until the first minority district, the 12th, was created in the court-ordered reapportionment of 1968.[71] The 1970 and 1972 redistrictings further concentrated the minority population in the 12th district. Under the 1972 plan, it included all but one of Brooklyn's 45 census tracts 90 percent or more black in the 1970 census. Its population was 89.4 percent minority (75.9 percent black and 13.5 percent Puerto Rican).[72] The adjoining 14th district had a 46 percent minority population (22 percent black and 24 percent Puerto Rican).[73] (See map no. 2.)

After the Attorney General objected to these lines, New York drew a plan that created minority congressional districts in Brooklyn. Essentially, the plan combined the territory of the previous 12th and 14th districts and divided it in half by a line running north-south.[74] The resulting District 12 was 72.2 percent minority (53 percent black and 19.2 percent Puerto Rican) and the new District 14 was 63.3 percent minority (45.1 percent black and 18.2 percent Puerto Rican). (See map no. 3.)

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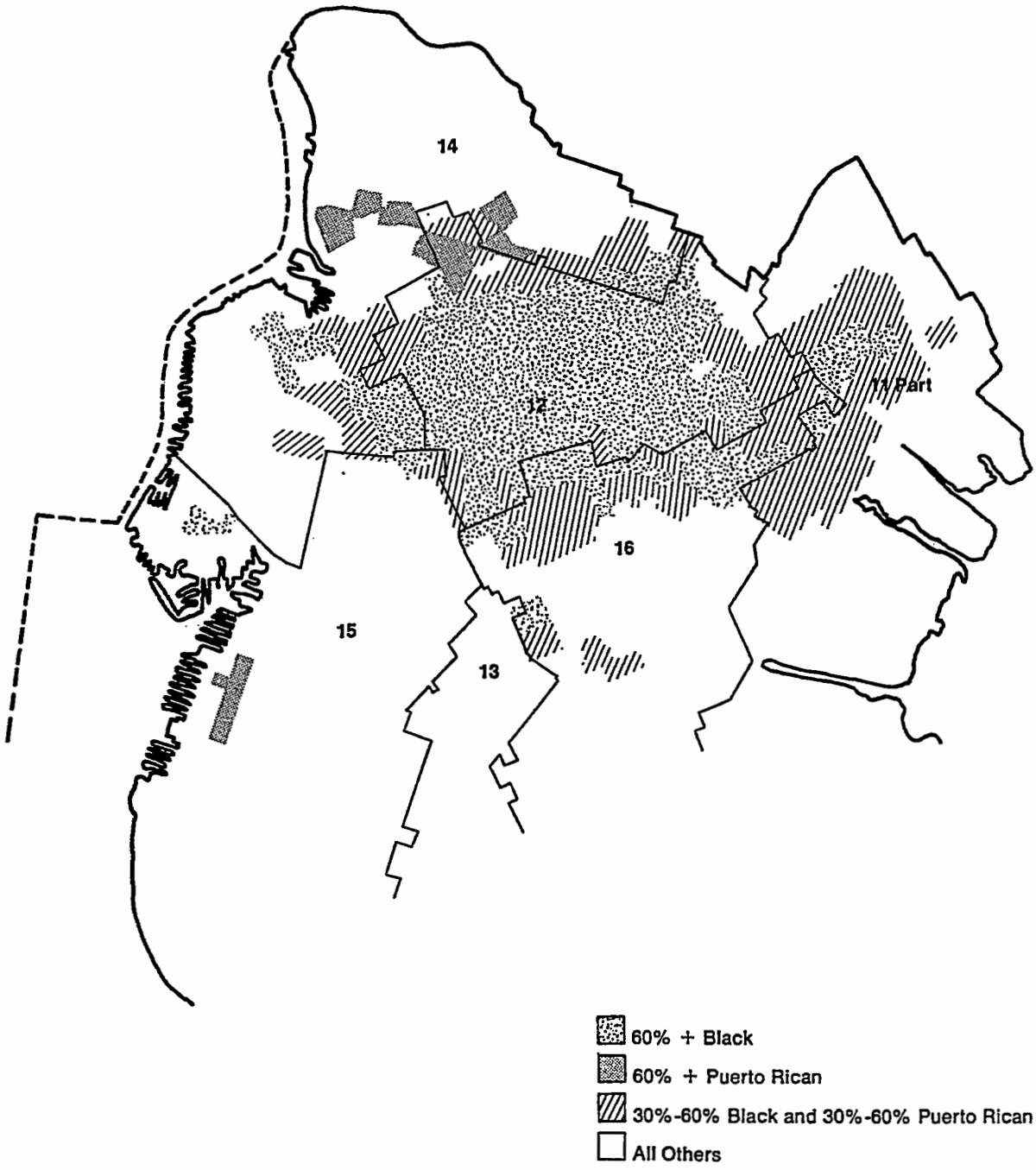
71. Wells v. Rockefeller, 281 F. Supp. 821 (S.D.N.Y. 1968).

72. Racial composition figures from Memorandum of Decision, p. 14.

73. Ibid.

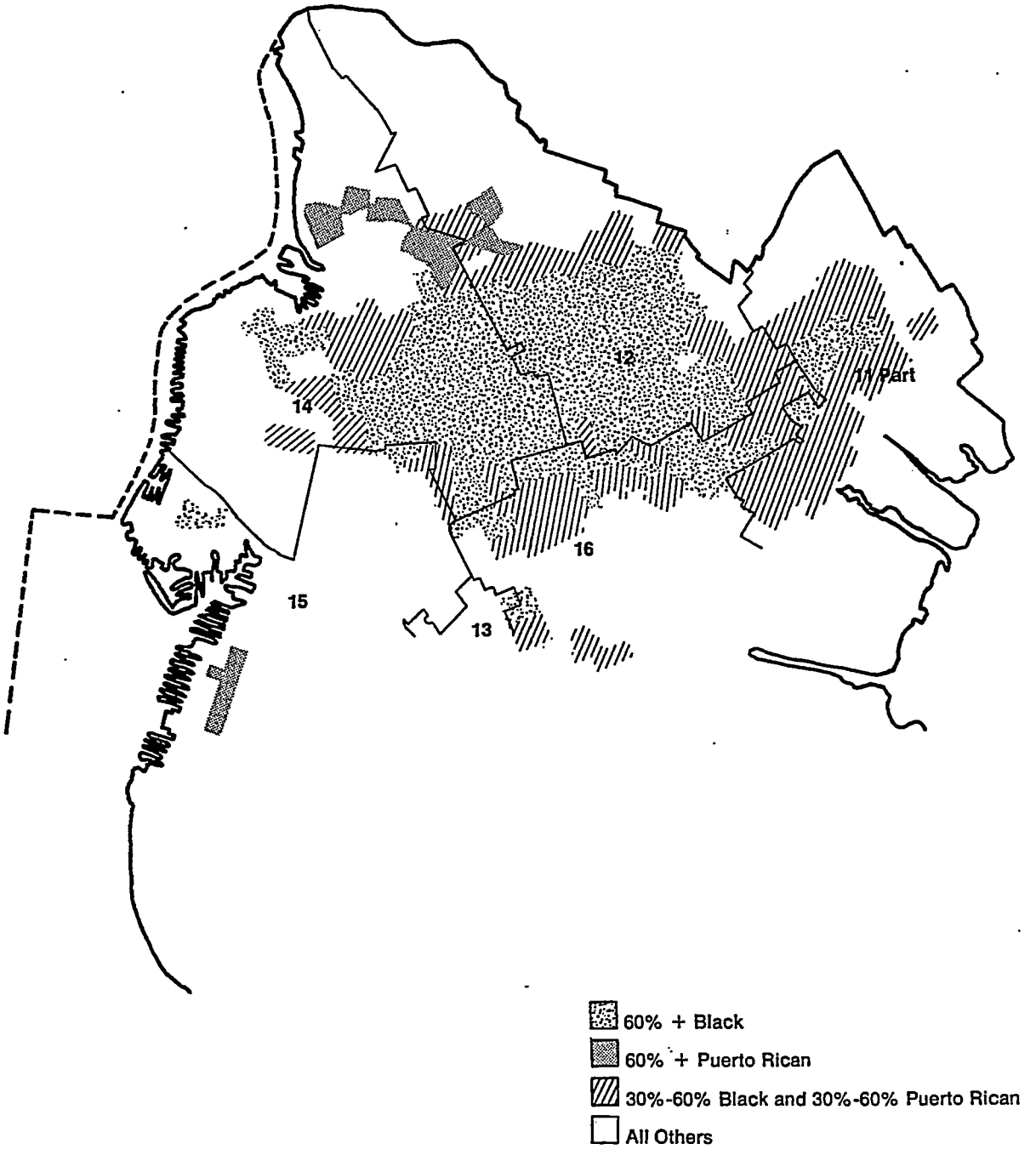
74. Joint Committee Report 1974.

BROOKLYN, KINGS COUNTY



Map No. 2. The 1972 plan for congressional districts in Brooklyn concentrated minorities in District 12.

BROOKLYN, KINGS COUNTY



Map No. 3. Under the 1974 plan minorities form a majority of the population in both Districts 12 and 14.

The black incumbent in the 12th district was renominated and re-elected handily. In the 14th, a white who had challenged the incumbent in 1972 defeated three opponents--a white, a black, and a Puerto Rican--in the primary and was subsequently elected.[75]

After the 1970 census, Manhattan lost half a senate seat and two assembly seats, leaving 4 senate districts and 12 assembly districts wholly within the borough.[76] The 1970 minority population was 39.0 percent of the total.[77] Blacks are concentrated in Harlem and Puerto Ricans in East Harlem. There is also a smaller area of Puerto Rican concentration on the lower East Side. The borough president in Manhattan is black, and Harlem has had a black representative in Congress for years. Under the 1972 districting plan, Manhattan had three black assemblymen and one black senator.[78] Although most Democrats had voted against the 1972 plan, the three black incumbent assemblymen from Manhattan supported it.[79]

The NAACP argued that redrawing of the lines could produce a fourth minority assembly district in Manhattan because the 1972 lines

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75. New York Times, Sept. 12, 1974, p. 33 and Nov. 7, 1974, p. 40.

76. See note 63 above. Manhattan also shares one assembly and three senate districts with other boroughs.

77. See note 62 above.

78. New York Memorandum, pp. 6-8.

79. Ibid., p. 7.

fragmented or "siphoned off" substantial numbers of minority voters (particularly Puerto Ricans from East Harlem).[80] The Justice Department agreed that the lines appeared to have unnecessary dilutive effect on minority voting strength and found the plan's shift of minority neighborhoods among senate districts to have a similar effect.[81]

Though the State had argued that attempting to draw four minority districts would so disperse the minority votes that election of minority candidates would be endangered,[82] the plan submitted after the objection did create four minority assembly districts. Essentially the difference between the two plans is that the new lines are drawn across the island rather than lengthwise.[83] By drawing the lines in this way, it was possible to create a potentially Puerto Rican district in the 72nd assembly district, where both blacks and Puerto Ricans have slightly more than 40 percent of the population. Previously that district extended far west into Harlem and was a black district.

In the September 10, 1974, primary a Puerto Rican was nominated in the 72nd district; he was subsequently elected. Two black incumbents

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80. NAACP Memorandum, p. 25.

81. Objection letter, April 1, 1974, pp. 2-3.

82. New York Memorandum, pp. 7-8.

83. Joint Committee Report 1974.

were reelected, a third was defeated in the primary by a white, but apparently racial considerations were not involved.[84]

The Attorney General objected to the plan for the senate districts for Manhattan because the concentration of minorities in the 28th district was insufficient to ensure minority representation. The report of the Joint Legislative Committee on Reapportionment protested this approach,[85] but the State drew lines which created a safer district. The old 28th district was 58.5 percent nonwhite and had a black incumbent. The new plan increased the nonwhite population to 64.1 percent.[86]

GEORGIA

In 1972 the Department of Justice objected to the redistricting plans for the Georgia congressional delegation, the State senate and the State house of representatives.[87]

In 1970 the city of Atlanta was 51.6 percent black; its population was also about 38,000 over the ideal size for a Georgia congressional district. The city was divided by the redistricting plan among three different districts. Most of the city was placed in the fifth district,

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84. New York Times, Sept. 12, 1974, p. 33 and Nov. 7, 1974, p. 40.

85. Joint Committee Report 1974.

86. Data on racial composition of new districts taken from Memorandum of Decision, p. 20.

87. Objection letters, Feb. 11 and March 3, 1972.

which was 38.3 percent black.[88] The Department noted in its letter of objection that the plan "cut likely black congressional candidates, including Reverend Andrew Young (who ran a solid race against an incumbent white in 1970) and Maynard Jackson (popular Vice-Mayor of Atlanta) out of the Fifth District by a few blocks...."[89]

A revision of the plan by the State[90] increased the black percentage in the fifth district to 43.8.[91] Although blacks argued in court that this percentage was still too low, the revised plan was accepted by the Attorney General and by the court.[92] It created a district which provided "a more realistic opportunity for victory" for a black candidate than had the earlier plan or the plan in effect in 1970 when a black candidate was defeated.[93] In November 1972 the Rev. Andrew Young became the first black Congressman since Reconstruction from a Southern State covered by the Voting Rights Act.[94]

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88. Bacote v. Carter, 343 F. Supp. 330, 331 (N.D. Ga. 1972).

89. Objection letter, Feb. 11, 1972.

90. Act 871 Ga. L. 1972, 235 (House bill no. 1862 amending Code § 34-1801).

91. Bacote v. Carter, p. 332.

92. Nonobjection letter, April 11, 1972; Bacote v. Carter. See Stuart E. Eizenstat and William M. Barutio, Andrew Young: The Path of History (Atlanta: Voter Education Project, Inc., 1973), p. 11.

93. Eizenstat and Barutio, p. 11.

94. Ibid., p. 1.

With respect to the senate plan the Department thought that the boundaries of two districts--one in Fulton County and one in Richmond County--might dilute the black vote.[95] A revision of the senate plan that remedied this situation was not objected to by the Department.[96] Neither seat is now held by a black. There are now, after the November 1974 general election, two blacks in the 56-member Georgia State Senate, the same number as there were in 1968.[97]

The house plan was turned down by the Department because of its extensive use of multi-member districts combined with numbered post and majority vote requirements and because of discriminatory changes in potential black majority, single-member districts.[98] The plan created 49 multi-member and 56 single-member districts.[99] After minor revision by the legislature the plan was again turned down by the Department.[100]

The Georgia legislature then "resolved that it would take no further steps to enact a plan," and the Department went to court to enjoin the State "from conducting elections for its House of Repre-

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95. Objection letter, March 3, 1972.

96. Nonobjection letter, April 11, 1972.

97. Political Participation, p. 216; Washington Post, Nov. 7, 1974, p. 6A.

98. Objection letter, March 3, 1972.

99. Ibid.

100. Objection letter, March 24, 1972.

sentatives under the 1972 legislative reapportionment law."[101] The Supreme Court of the United States agreed to stay the order of the district court[102] and allowed the 1972 election to proceed under the plan objected to by the Attorney General. But the Court stated that any future elections for the State house of representatives must be held under a plan which has received section 5 clearance.[103]

In 1974 the legislature adopted a plan that relies substantially less on the use of multi-member districts.[104] The configuration of this plan was the result of negotiations between the State and the Department that increased the number of districts black voters might control.[105] For example, district 83 in Burke and Jefferson Counties was altered from 43.60 percent black to 60.38 percent black.[106]

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101. Georgia v. United States, 411 U.S. 526, 527 and 530 (1973).

102. The district court order is found in United States v. Georgia, 351 F. Supp. 444, 446-47 (N.D. Ga. 1972).

103. Georgia v. United States, 411 U.S. 526, 541.

104. Act 769, as received by the U.S. Department of Justice for section 5 preclearance, Feb. 26, 1974. The 1974 plan calls for 180 members to be elected from 154 districts.

105. Former staff member, Voting Section, Department of Justice, telephone interview, Nov. 23, 1974.

106. Ibid. and section 5 file.

This plan was not objected to by the Department.[107] Its use in the 1974 elections facilitated an increase in the number of blacks in the State house from 14 to 20.[108]

LOUISIANA

Before 1971 only one black served in the Louisiana legislature, a house member from New Orleans.[109] A new legislative districting plan was adopted in 1971, but it would not have facilitated the election of additional blacks.[110] The Attorney General objected to it and a Federal judge would have rejected it on the grounds of discrimination if the Department had not.[111]

The dilutive effect of the plan came from a combination of gerrymandered district lines, frequent use of multi-member districts,[112]

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107. Nonobjection letter, April 29, 1974.

108. Stanley Alexander, research director, Voter Education Project, Inc., Atlanta, Ga., telephone interviews, Nov. 22 and 25, 1974.

109. Stanley A. Halpin, Jr. and Richard Engstrom, "Racial Gerrymandering and Southern State Legislative Redistricting: Attorney General Determinations Under the Voting Rights Act," Journal of Public Law, vol. 22 (1973) p. 37 (hereafter cited as Halpin and Engstrom). Stanley A. Halpin, Jr. was counsel for Dorothy Taylor et al. in the case cited in note 111 below.

110. Objection letter, Aug. 20, 1971.

111. Bussie v. Governor of Louisiana, 333 F. Supp. 452, 454 (E.D. La. 1971).

112. Objection letter, Aug. 20, 1971.

and use of numbered posts in certain multi-member districts.[113] The plan placed as many blacks as possible into--and, indeed, over-populated--the district of the State's only black legislator to prevent the formation of another majority black district.[114] It split up three majority black rural parishes that together could have formed a house district that was majority black.[115] It used multi-member districts to dilute the political effectiveness of concentrations of black population,[116] and it also submerged black voters by creating noncontiguous districts.[117]

The Federal court did not revise the State's plan but promulgated its own, single-member district plan.[118] The use of the Steimel plan (named for the district court's special master)--modified in one major respect by the United States Court of Appeals for the Fifth Circuit--led to an increase from one to eight in the number of black legislators elected in the February 1972 election.[119] (See map no. 4.)

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113. Stanley A. Halpin, Jr., attorney, New Orleans, La., letter to David L. Norman, Acting Assistant Attorney General, July 28, 1971, cited in Halpin and Engstrom, p. 54.

114. Objection letter, April 20, 1971. House district 43.

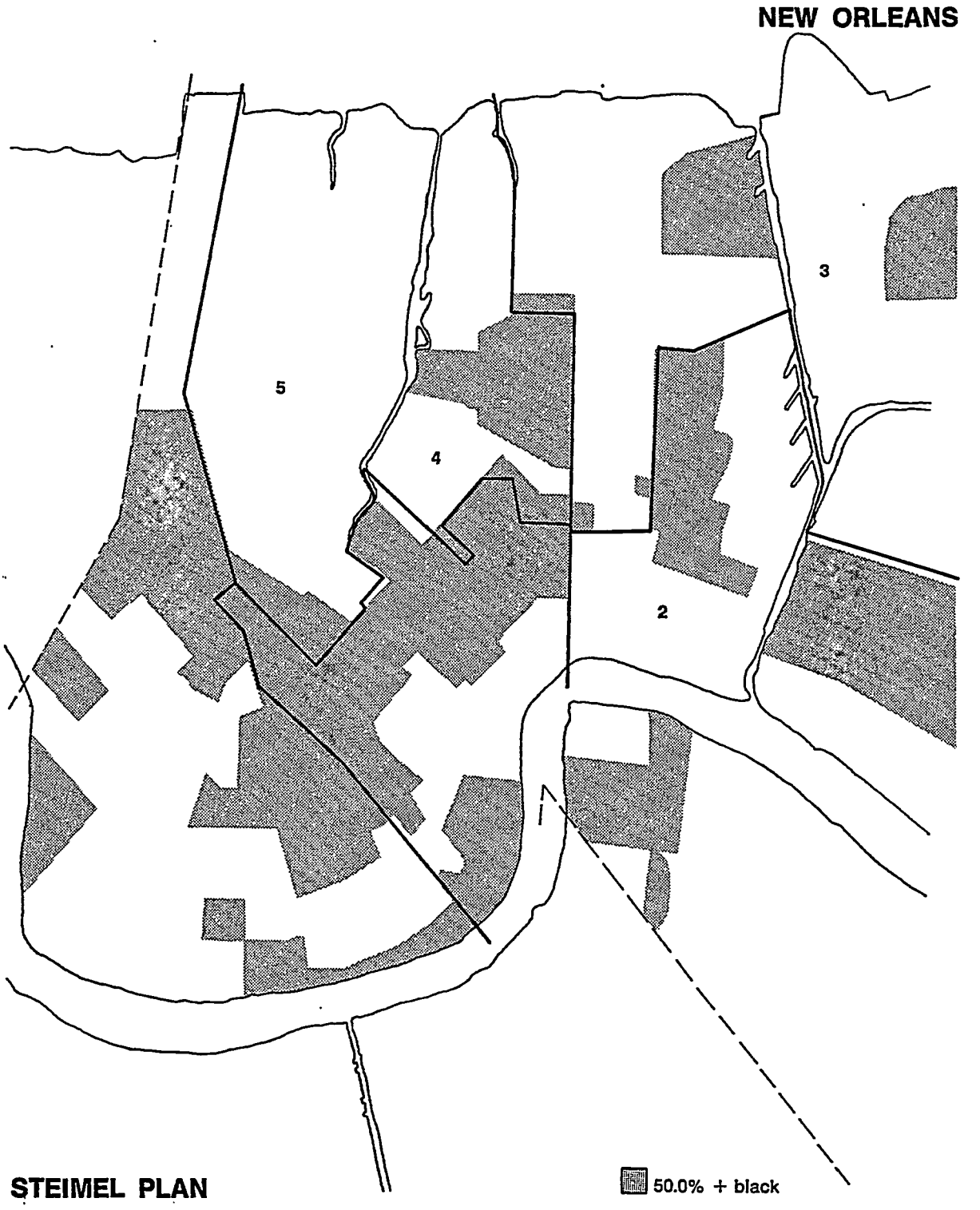
115. Ibid. Madison, East Carroll, and Tensas.

116. Ibid. New Orleans, district 48 in Iberia Parish, and De Soto Parish.

117. Ibid. House district 48 and De Soto Parish.

118. Bussie v. Governor of Louisiana, p. 455.

119. Voter Education Project, Inc., Atlanta, Ga., "Black Elected Officials in the South," Feb. 3, 1972.



Map No. 4. The Steimel Plan departs from the traditional lakefront to river alignment, creating substantial black majorities in Districts 2 and 4.

Map No. 5. The Senator's Plan for lakefront to river senate districts in New Orleans follows traditional ward lines and cuts across black neighborhoods, dividing the black population among the four districts.

The court of appeals rejected the configuration of four New Orleans senate districts in the Steimel plan and substituted for it a plan developed by New Orleans senators. These boundaries followed more faithfully the city's traditional ward boundaries, and would preserve the seats of the incumbent senators.[120] In rejecting the senators' plan (see map no. 5) the district court had stated that it "would...operate to diversify the Negro [sic] voting population throughout the four districts and thus significantly dilute their vote. Their plan practically eliminates the possibility of a negro being elected from any of the four districts, while the court approved plan at least gives them a fair chance in two out of the four districts."[121] (See table 10.)

Table 10. BLACK PERCENTAGES CREATED BY ALTERNATIVE PLANS FOR SENATE DISTRICTS IN NEW ORLEANS

District	Steimel plan	Senators' plan
2	64.0%	42.6%
3	16.0	43.7
4	70.2	54.4
5	21.7	42.0

Source: Bussie v. Governor of Louisiana, 333 F. Supp. 452, 457 (E.D. La. 1971).

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120. Bussie v. McKeithen, 457 F.2d 796 (5th Cir. 1971) and Taylor v. McKeithen, 499 F.2d 893 (5th Cir. 1974).

121. Bussie v. Governor of Louisiana, 333 F. Supp. 452, 457.

Because the court of appeals did not explain its action in rejecting the Steimel plan, the Supreme Court of the United States did not review the case but returned it to the court of appeals for a discussion of the legal issues involved.[122] Over two years later, in August 1974, the court produced an opinion justifying its earlier action.[123] "Considering the shrinking white population, the increasing black population, and the accelerating black registration in New Orleans," the court explained, "the Senators' plan gave black voters in the four districts better access to participation in the election of State legislators than the Steimel plan."[124]

ALABAMA

In January 1972, a Federal court ordered into effect a districting plan for the Alabama legislature which used single-member districts exclusively.[125] Under the old plan multi-member districts were extensively used, and largely because of this the State senate had no black members and the State house only two.[126] The court, however, did not require new elections to be held in 1972 but allowed the incumbent legislators to remain in office until replaced through the regular

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122. Taylor v. McKeithen, 407 U.S. 191 (1972).

123. Taylor v. McKeithen, 499 F.2d 893 (5th Cir. 1974).

124. Ibid. p. 896.

125. Sims v. Amos, 336 F. Supp. 924, 935-36 (M.D. Ala.), affirmed, 409 U.S. 942 (1972).

126. See Sims v. Amos, p. 931 and Shameful Blight, pp. 112-13. An additional black was elected to the house in a 1972 special election. New York Times, Dec. 1, 1974, sec. 1, p. 33.

election scheduled for November 1974.[127] The court subsequently told the legislature that if it could enact an acceptable plan the legislature's plan would be substituted for the court's.[128]

On May 16, 1973, a new plan adopted by the legislature was submitted to the court.[129] The court rejected the new plan 2 1/2 months later for two principal reasons. First, the requirements of the one person, one vote rule were not satisfied.[130] Second, the court was not convinced that the plan was not racially discriminatory.[131]

The court explained that it was the duty of the State to show that the plan was not discriminatory. This is required by section 5 of the Voting Rights Act, but even without section 5 "the history of racial gerrymandering in Alabama would...create a presumption that defendant's plan is discriminatory and impose upon the State the burden of proving that its present plan, unlike past plans, does not dilute minority votes."[132]

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127. Sims v. Amos, pp. 940-41.

128. Order of Feb. 26, 1973, quoted in Sims v. Amos, 365 F. Supp. 215, 217 (M.D. Ala. 1973), affirmed sub nom. Wallace v. Sims, 415 U.S. 902 (1974).

129. Act No. 3, House Bill 2, 1973 Special Session of the Alabama Legislature, cited in Sims v. Amos, 365 F. Supp. 215, 217.

130. Sims v. Amos, pp. 221-23.

131. Ibid., pp. 219-20.

132. Ibid., p. 220, n. 2.

In 1970 only two blacks had been elected to the State legislature, with none from Alabama's three largest cities.[133] In 1974, under the new single-member plan, 15 blacks won legislative seats. Birmingham, the State's largest city, which is 42 percent black, now has two black senators and six black representatives. Mobile, which is 36 percent black, now has one black representative, and Montgomery, 34 percent black, has two.[134]

VIRGINIA

In 1971 the Attorney General objected to the use of multi-member districts in the Virginia house in Hampton, Newport News, Norfolk, Portsmouth, and Richmond.[135] With respect to the senate plan, which used single-member districts, the Attorney General objected to two districts in the Norfolk area that divided a concentration of black population.[136]

These objections led to districting unsatisfactory to blacks. The assembly objection was withdrawn[137] after a decision by the Supreme Court of the United States that the Attorney General interpreted as

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133. 1973 Roster, p. 1.

134. Office of Speaker of the Alabama House of Representatives, telephone interview, Nov. 22, 1974; David Aiken, Joint Center for Political Studies, Washington, D.C., telephone interview, Nov. 25, 1974.

135. Objection letter, May 7, 1971.

136. Ibid.

137. John N. Mitchell, Attorney General, telegram to Hon. Linwood Holton, Governor of Virginia, June 10, 1971, quoted in section 5 summary.

removing the legal justification for the objection.[138] Court review of the plan[139] did not lead to more favorable districting for blacks. Although the legislature remedied the boundary which the Attorney General had found objectionable,[140] in court review of the senate plan the legislative remedy was nullified. The court combined the two districts in controversy with another district to form a majority white, three-member district. This was necessary, according to the court, because of the distortion caused by counting "home ported" sailors in one of the districts.[141]

Partly as a result of these districting plans there are only two blacks in the State legislature, one in each house.[142]

ARIZONA

In 1970 the Federal court in Arizona allowed the State of Arizona to hold its election for members of the State legislature using a plan

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138. Whitcomb v. Chavis, 403 U.S. 124 (1971).

139. Howell v. Mahan, 330 F. Supp. 1138 (E.D. Va. 1971). Probable jurisdiction was noted by the Supreme Court in the appeal of the black plaintiff-intervenors against the use of multi-member districts. Thornton v. Prichard, 405 U.S. 1063 (1972). On appellant's motion this appeal was dismissed. 409 U.S. 802 (1972).

140. Ch. 246 [1971] Acts of Va. Assembly 499-506. The Attorney General did not object to this revision, nonobjection letter, Aug. 13, 1971.

141. Howell v. Mahan, p. 1146-47, affirmed with respect to senate districts, 410 U.S. 315, 331 (1973).

142. 1974 Roster, p. 223.

which it found to be constitutionally deficient.[143] (See map no. 6.) It expected the legislature, however, to prepare a new plan for use in 1972 when 1970 census data became available.[144] The Supreme Court of the United States upheld this arrangement.[145]

The 1970 plan--besides failing to meet one person, one vote standards--discriminated against minorities in two ways. First, the plan used a discriminatory method of determining population.[146] Because no population data were available for local voting precincts--the building block of the plan--it was assumed that each precinct had the same percentage of a county's population as it did of the county's registered voters.[147] In a concurring opinion Justice Douglas observed that blacks, Mexican Americans, and Native Americans are less likely to be registered than whites. Furthermore, the Arizona literacy test weighed more heavily on these groups. As a result, "one district in the Phoenix ghetto had approximately 70,000 residents while an affluent all-white district in another area of Phoenix had only 27,000 residents."[148] Thus, there were fewer districts that had a predominantly minority population than the requirement of equal population size dictated.

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143. Klahr v. Williams, 313 F. Supp. 148 (D. Ariz. 1970).

144. Klahr v. Williams, p. 154.

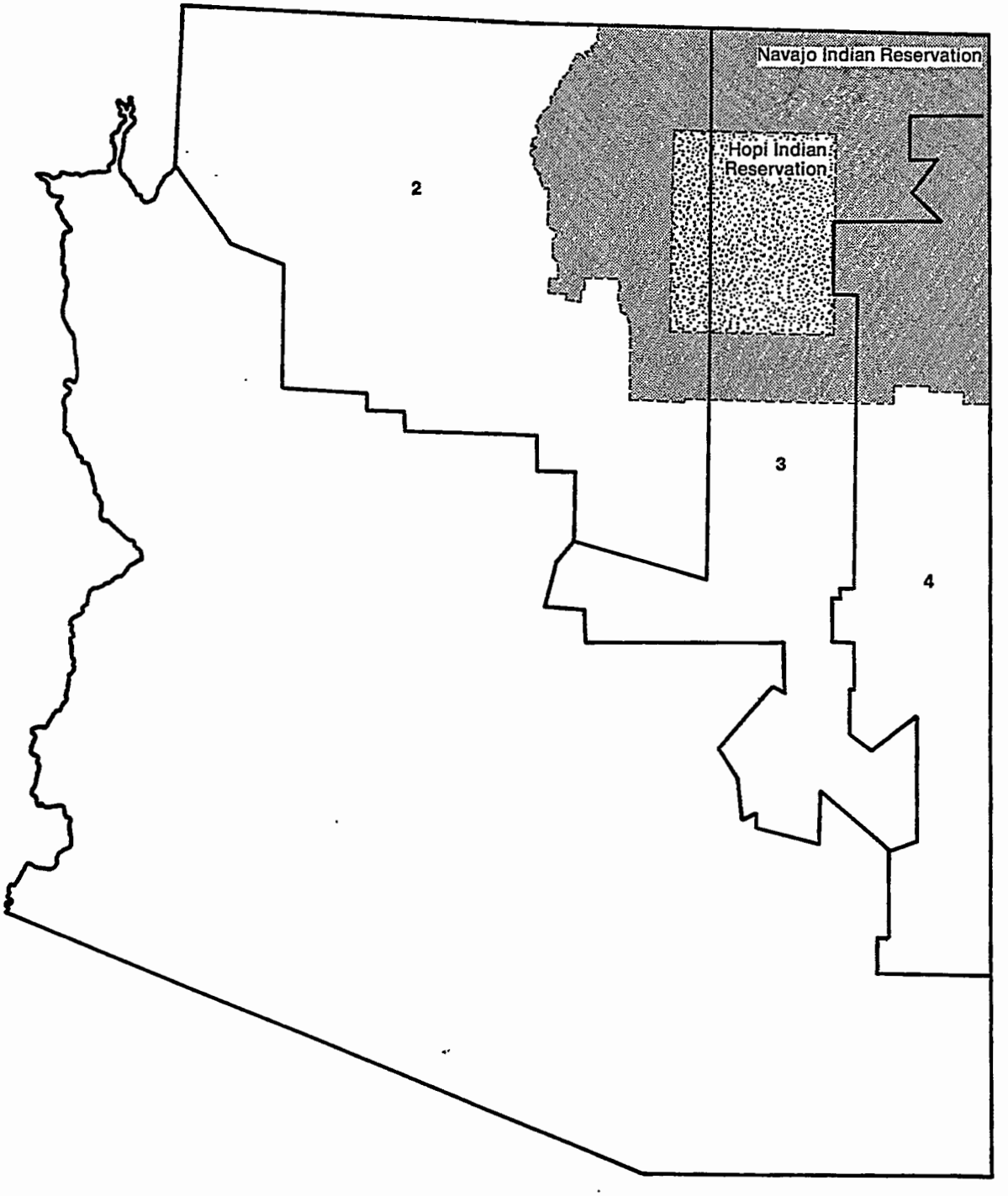
145. Ely v. Klahr, 403 U. S. 108 (1971).

146. Ibid., pp. 118-19.

147. Ibid.

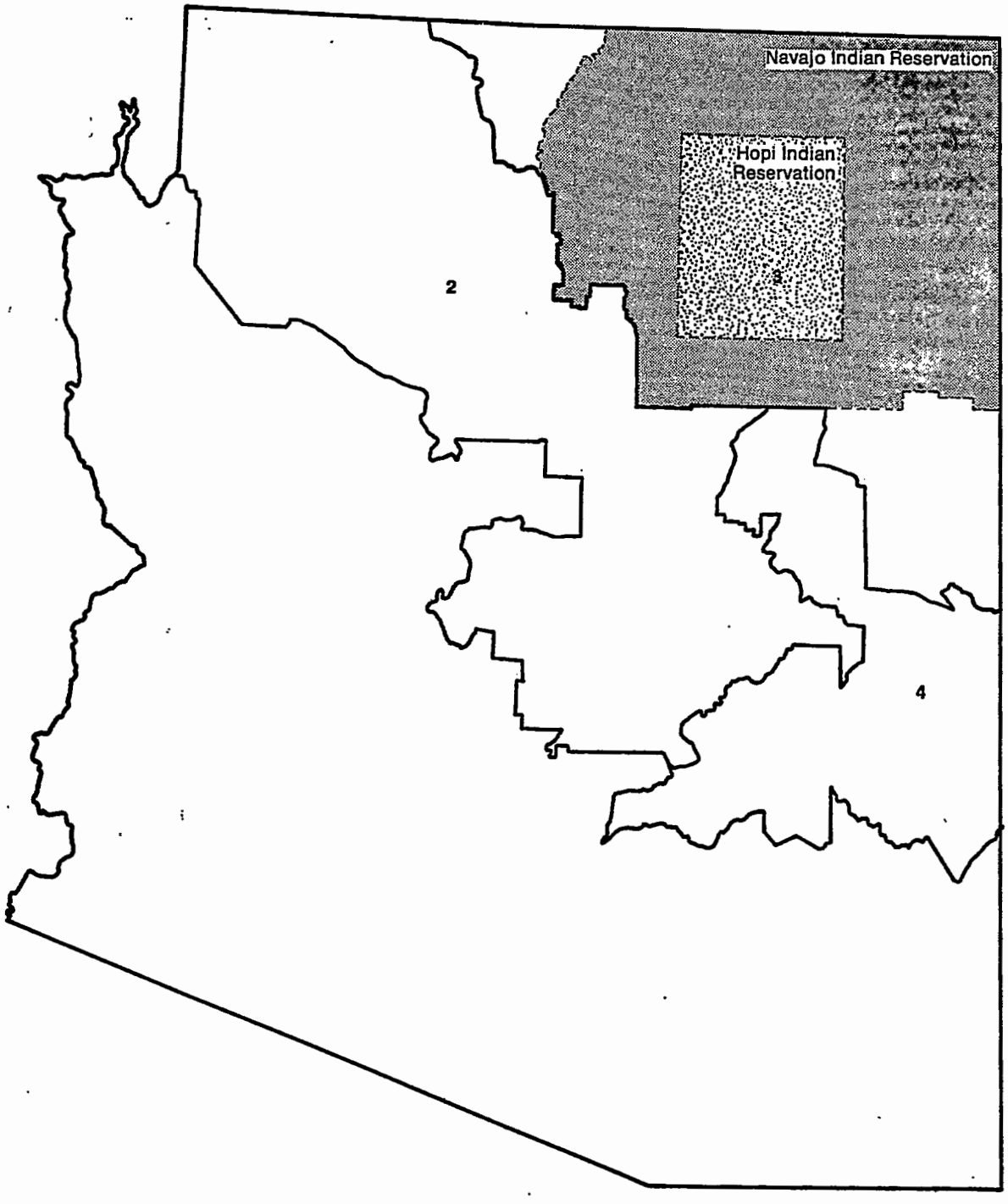
148. Ibid.

ARIZONA



Map No. 6. Both the 1970 plan for Arizona legislative districts and the 1971 plan (shown above) divide the Navajo Reservation among three different districts.

ARIZONA



Map No. 7. The plan ordered by the court in 1972 for Arizona legislative districts places the Navajo Reservation within one district.

Second, the computer used in fashioning the plan was instructed to preserve the seats of incumbent legislators and to make districts politically homogeneous.[149] When these factors are combined, Justice Douglas observed, "an incumbent had not only the natural benefits of incumbency, but also the benefits (where possible) of a one-party district, his own fiefdom."[150] The effect of this is shown in the treatment of the Navajo Reservation in Northeastern Arizona.

> While it had sufficient numbers of Indians to justify a separate district which could undoubtedly elect Indian representatives in the State legislature, the Indians were done in. At the time of this suit there were no Indians elected to either the State House or Senate. But just to the south of the area two State senators lived 10 miles apart. Hence, the incumbency rule was invoked to split the Indian area so as to accommodate the two white senators.[151]

In the plan adopted by the legislature in 1971 using 1970 census data the Navajos were "done in" again.[152] The 1971 plan created 30 single-member senate districts, each of which served as a two-member house district.[153] As originally introduced in the legislature the plan placed the reservation entirely within a single legislative district.

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149. Ibid.

150. Ibid.

151. Ibid.

152. Klahr v. Williams, 339 F. Supp. 922, 927 (D. Ariz. 1972). No appeal was taken to the Supreme Court.

153. Ibid., p. 924.

"Thereafter, and at the insistence of an incumbent House member who resides in the district as proposed, the bill was so amended that the reservation was divided among three legislative districts."[154]

The court found that the division of the reservation "was made in order to destroy the possibility that the Navajos, if kept within a single legislative district, might be successful in electing one or more of their own choice to the legislature."[155] The court adopted a revision of the plan which restored the reservation to a single district.[156] (See map no. 7.)

In 1972, the State senator and one of the two State representatives elected from this district were Navajos.[157] In 1974, Navajos were elected to all three offices.[158]

NORTH CAROLINA

North Carolina uses a combination of single- and multi-member districts in its senate and house.[159] In many of the multi-member

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154. Ibid., p. 927.

155. Ibid.

156. Ibid., p. 928.

157. Benjamin Hanley, Member of the Arizona House of Representatives for District 3, Window Rock, Ariz., interview, July 19, 1974.

158. Robert Miller, attorney, Dinebeiina Nahiilna Be Agaditahe (DNA), Tuba City, Ariz., telephone interview, Nov. 13, 1974.

159. House plan: Ch. 483 [1971] Session Laws of N.C. 412-414.
Senate plan: Ch. 1177 [1971] Session Laws of N.C. 1743-1744.

districts it has used either numbered posts or an anti-single-shot law.[160] In 1971 the Attorney General objected to the use of numbered posts in North Carolina counties covered by the Voting Rights Act.[161] In 1972, a Federal court struck down the use of numbered posts in the remaining counties and struck down the anti-single-shot law throughout the State.[162] Although these practices had been challenged as racially discriminatory, the court was able to dispose of them without dealing with the issue of race.[163]

* * * *

The final section of chapter 6, "Minimizing the Impact of Minority Success," described various methods used by politically dominant whites to frustrate minority aspirations when success at the polls appeared imminent or had been achieved. The barriers described in this chapter and in the final chapter are similar in their effect. The difference is that the barriers described here are generally not the result of an ad hoc attempt to deal with a particular situation. Here the concern is with the general rules of the political process. The U.S. Department of Justice, and increasingly the courts, look not only at the purpose of these rules but also their effect. For example, the use of numbered

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160. Dunston v. Scott, 336 F. Supp. 206, 208-10 (E.D.N.C. 1972).

161. Objection letters of July 30 and Sept. 27, 1971.

162. Dunston v. Scott, pp. 211-13.

163. Ibid. For further discussion see Shameful Blight, pp. 128-29.

posts can disadvantage minorities whether this implements a discriminatory purpose or not. The effect is no less discriminatory even if numbered posts are used solely to make a complex ballot easier for the voter.

The trend in the States that have been considered has been away from the use of multi-member legislative districts--with the accompanying use of numbered posts and related voting rules--to the use of single-member districts. This trend has not been the result of voluntary action by the States but has been imposed upon the States by the Federal courts and by the Attorney General. The result has been a substantial increase in the number of black legislators in these States. There were in 1968, in the Alabama, Georgia, and Louisiana legislatures and the South Carolina house, a total of only 12 blacks. Following the 1974 general elections there were 59 blacks in these same bodies.

On the other hand, all attempts to require the State of Mississippi to use single-member districts for the election of its legislators have been unsuccessful. As a result the Mississippi legislature has only one black member. Likewise, senators in South Carolina are not yet required to be elected from single-member districts. There are no blacks in the South Carolina senate.

9. FAIR REPRESENTATION IN LOCAL GOVERNMENTS

The boundary formation and voting rule problems that were described in chapter 8 are as relevant for local governments as they are for State legislative and congressional districts. In many instances these changes in voting district boundaries or voting rules have been objected to by the Attorney General under section 5 of the Voting Rights Act or attacked as discriminatory in court. Use of at-large elections and multi-member districts and of voting rules that can have a discriminatory effect such as numbered posts or candidate residence requirements, majority vote requirements, anti-single-shot requirements, and staggered terms, in particular, have been the subject of many section 5 objections or court cases.[1]

Other boundary problems are described in this chapter that did not arise in chapter 8. Suppose that a town has a population of 1,000 and is 60 percent black and 40 percent white, and that the rest of the county in which the town is located has a population of 1,000 and is all white. The town might decide to annex some of the surrounding white area, giving the town a white majority. The town might consolidate with the county, giving the white voters a dominant

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1. See chapter 8, pp. 206 ff. for a detailed description of the various arrangements or procedures mentioned here.

position in the new jurisdiction. The white part of the town might secede, creating a new, white-dominated town. Or the town might constrict its boundaries, thereby reducing the number of black voters. Changes such as annexation or incorporation can have a discriminatory effect and have been scrutinized by the Department of Justice and the courts.

Section 5 objections have been numerous in Georgia, Louisiana, Mississippi, South Carolina, and Alabama. In these five States and in Arizona also, there have been important court cases on practices that dilute the vote of minorities at the local level. In Virginia section 5 objections have been made to annexations by two cities. Practices exist in some North Carolina counties that apparently have the effect of diluting the vote of minorities.

APACHE COUNTY, ARIZONA

Apache County, Arizona, is governed by three supervisors, each elected from a single-member district.[2] Although approximately three-quarters of the county population is Native American residing on the Navajo Reservation, the district the reservation is in, the third, elects only one of the three supervisors.[3] This districting plan was adopted by

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2. A.R.S. §§ 11-211 to 11-213 (1974).

3. Pretrial Order, p. 3, Goodluck v. Apache County, Civil No. 73-626-Pct-WEC, (D. Ariz., filed Oct. 15, 1973).

the county board of supervisors in April 1972 for use in the 1972 election, when a Navajo was elected from district 3.[4] (See map no. 8.) The plan was not submitted to the District Court for the District of Columbia or to the Attorney General before implementation as required by section 5 of the Voting Rights Act.[5] The county's population is distributed among the districts as follows:

Table 11. POPULATION OF SUPERVISORS' DISTRICTS IN APACHE COUNTY, ARIZONA

District 1	1,700
District 2	3,900
District 3	26,700
TOTAL	32,300

Source: Pretrial Order, p. 3, Goodluck v. Apache County, Civil No. 73-626-Pct-WEC, (D. Ariz., filed Oct. 15, 1973)

If all districts were approximately equal, as required by the 14th amendment,[6] each would have about 10,767 people. The explanation for this disparity, which could not be the result of ignorance of the constitutional standard and is probably the greatest for any districting plan adopted since the Supreme Court of the United States began

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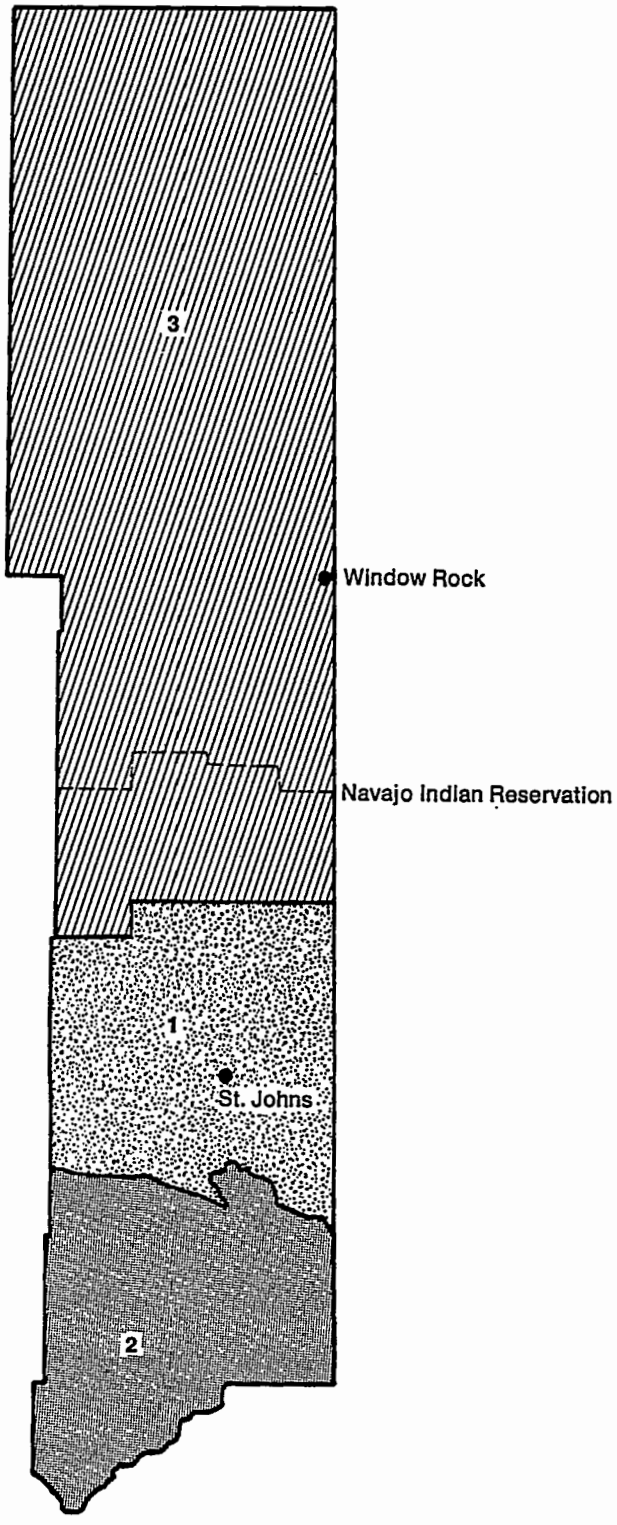
4. Ibid. See Shirley v. Superior Court in and for County of Apache, 109 Ariz. 510, 513 P.2d 939 (1973).

5. Section 5 Printout, as of May 8, 1974. The district boundaries have not changed since 1952. Brief for Plaintiffs Goodluck et al., p. 2, Goodluck v. Apache County.

6. See Reynolds v. Sims, 377 U.S. 533 (1964) and Abate v. Mundt, 403 U.S. 182 (1971).



Map No. 8. Apache County, Arizona, is divided into three supervisors' districts. District 3 contains all of the Navajo Reservation located within the county and 83 percent of the county's population. The broken line indicates the southern boundary of the reservation.

enforcing standards for district equalization in 1964, is that the county did not count Native Americans. Of the population of district 3, 23,600 are Native Americans.[7] The county's justification for not counting Native Americans in drawing the plan is that Native Americans residing on a reservation are not United States citizens, should not be allowed to vote, and should not be counted for the purpose of political apportionment. This, according to the county, is because Native Americans are immune from certain kinds of taxation and, to some extent, immune from judicial process.[8] The legality of the Apache County districting plan was, as of December 2, 1974, before a Federal district court.[9]

GEORGIA

Few blacks serve on county commissions or city councils in Georgia. One reason for this is the use of methods of election which dilute black voting strength. Although there have been more objections under section 5 to election methods in Georgia counties and cities than to those of the units of local government of any other State, practices remain which dilute the vote of blacks.

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7. Pretrial Order, p. 4, Goodluck v. Apache County.

8. Brief for Defendants, Goodluck v. Apache County.

9. Goodluck v. Apache County; United States v. Arizona, Civil No. 74-50 Pct WEC (D. Ariz., filed Jan. 23, 1974). The two cases have been consolidated. The defendants (the county and various county officials) have counterclaimed against the plaintiffs and other county, State, and Federal officials, asking that Navajos residing on the reservation no longer be allowed to vote or be counted for apportionment. See Pretrial Order, p. 2, Goodluck v. Apache County.

Counties

Of Georgia's 159 counties, 23 have a black majority. (See map no. 9.) As of January 1975 five blacks served as county commissioners in these counties.[10] Only in Hancock County, which is 74 percent black, were a majority of the commissioners black.[11]

In the nine black majority counties in which school boards are elected[12] there were only six black members.[13] Of these, four are in Hancock County.[14]

Twenty-two other Georgia counties are between 40 and 50 percent black.[15] In these counties there are no black commissioners.

There are a number of structural reasons for the lack of black commissioners and school board members. First is the small size of commissions and--but to a lesser extent--school boards in Georgia counties. Of the 23 black majority counties, 10 have five commissioners each; 10 have three commissioners; and 3 have only one commissioner apiece.[16] Clearly it will be harder for a black to be

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10. Stanley Alexander, research director, Voter Education Project, Atlanta, Ga., telephone interview, Dec. 5, 1974.

11. Ibid.

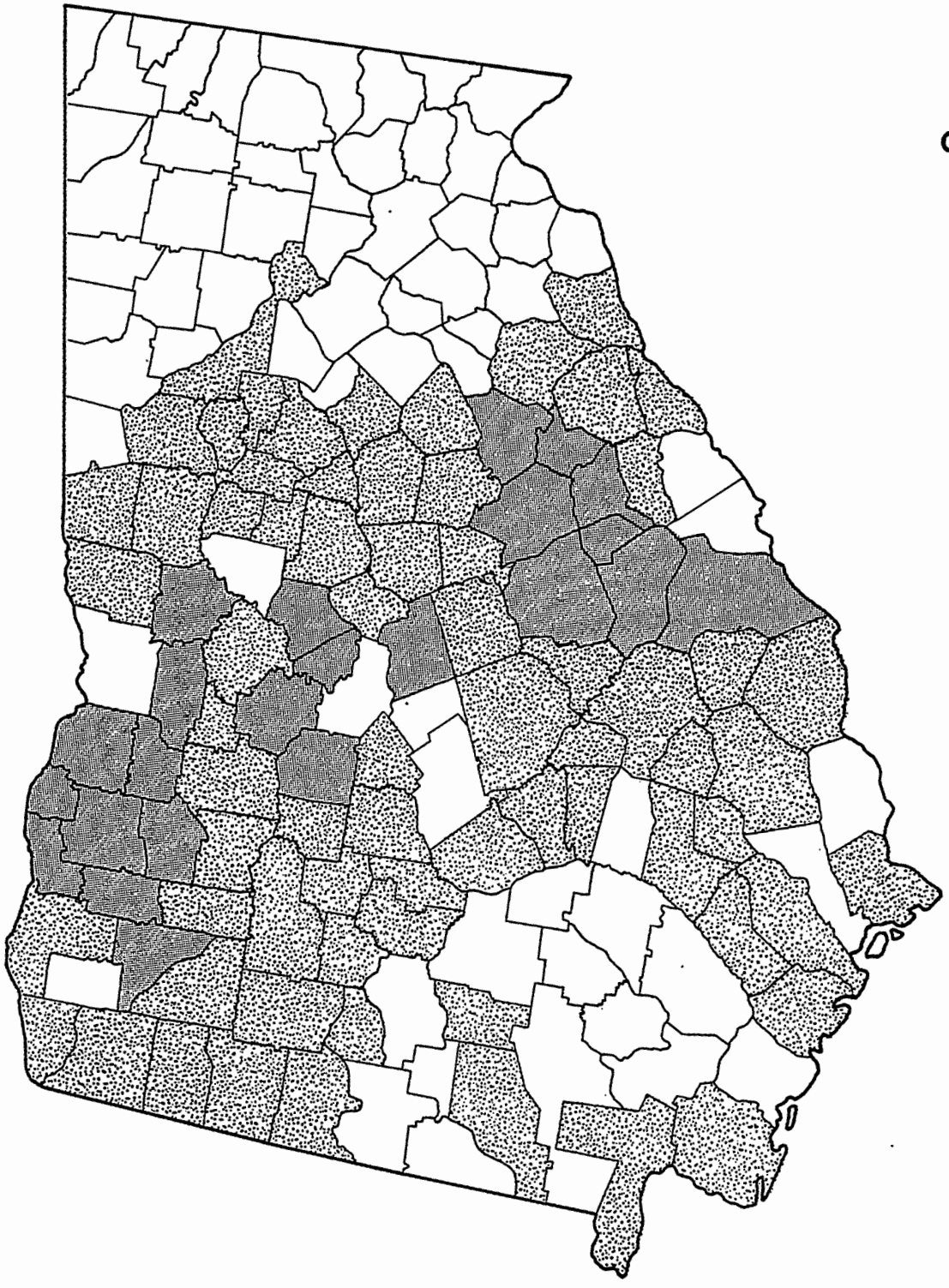
12. These counties are Baker, Calhoun, Dooly, Greene, Hancock, Macon, Marion, Stewart, and Terrell. Information provided by officials in the 23 counties.

13. Alexander Interview and Joint Center for Political Studies, National Roster of Black Elected Officials (Washington, D.C., 1974) pp. 57-58 (hereafter cited as 1974 Roster).

14. Ibid.

15. Alexander Interview and 1974 Roster, p. 52.

16. Information provided by officials in the 23 counties.



Map No. 9. Georgia racial composition.

elected to the governing body in Warren County, Georgia, which is 59 percent black and has a sole commissioner, than it will be in East Carroll Parish, Louisiana, which is also 59 percent black but which has nine police jurors.[17]

The extreme form of this problem lies in the Georgia counties where the school board is appointed: there no blacks can be elected. Appointment is made by the county grand jury.[18] It was frequently reported to Commission interviewers that the grand jury in counties with a high black percentage had very few black jurors and that few blacks were appointed to school boards. Those who were appointed are often, because of their advanced age or their economically dependent position, unable to represent adequately the interests of the black community.[19]

The second reason for the lack of black voting success is the use of at-large elections. In only 2 of the 20 majority black counties having more than one commissioner are commissioners elected from single-

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17. Theodore Lane, president, East Carroll Citizens for Progress, Lake Providence, La., interview, Sept. 4, 1974.

18. Ga. Const. Art. VIII § 2-6801 (1945). In Turner v. Fouche, 396 U.S. 346 (1970), the Supreme Court examined the system of grand jury selection and school board appointment in Taliaferro County. The Court found that the selection process has been used to discriminate against blacks and that the requirement that school board members own real property violated the equal protection clause of the 14th amendment.

19. Sarahjane Love, attorney, American Civil Liberties Union, Atlanta, Ga., interview, Aug. 12, 1974, and staff interviews, Monroe, Peach, Taliaferro, and Washington Counties, Ga., Aug.-Sept. 1974). Persons interviewed in Virginia, where school board members are also appointed, were concerned with similar problems. Staff interviews, Petersburg and Southampton and Surry Counties, Va., July 1974. See Va. Code Ann. §§ 22-57.1, 22-61, 22-79.1, 22-89 (1973).

member districts.[20] McIntosh County has five commissioners elected from five districts.[21] Although McIntosh has the lowest black percentage of any of Georgia's majority black counties, it has one black commissioner.[22] A second black reached the primary runoff in 1974 but was defeated.[23] In 1971 Twiggs County adopted at-large elections with residence requirements.[24] The Attorney General objected to this change under section 5 of the Voting Rights Act,[25] and private plaintiffs and the Department of Justice went to court to enforce the objection and require the use of single-member districts.[26] As a result of the court's favorable ruling, one of the five commissioners in the 60 percent black county is now black.[27] A second black candidate made the primary runoff in 1974.[28]

Only one of the nine elected school boards in the majority black counties is elected entirely from single-member districts.[29] One of the

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20. Information provided by officials in the 23 counties.

21. Judge of Ordinary, McIntosh Co., Ga., telephone interview, Aug. 15, 1974.

22. Alexander Interview.

23. Ibid.

24. Ga. 1971, p. 3564.

25. Objection letter, Aug. 7, 1972.

26. Bond v. White, 377 F. Supp. 514 (M.D. Ga. 1974).

27. Macon Telegraph, Aug. 15, 1974, p. 1A.

28. Macon Telegraph, Sept. 4, 1974, p. 6A.

29. Information provided by officials in the nine counties.

five members from that county--Stewart--is black.[30] Two other counties use a combination of at-large, multi-member, and single-member district election.[31] The others elect all board members at large.

The third reason for the lack of black success is the use of other structural devices along with at-large elections that prevent minority voting power from being used effectively. All 18 majority black counties that have more than one commissioner and that have at-large election of commissioners use either numbered posts or candidate residence requirements.[32] Both devices eliminate the effective use of single-shot voting by minorities and both lead, if there is a black candidate, to head-to-head contests between a black and a white.[33] In five of these counties the use of staggered terms[34] further highlights the candidacy of a black by limiting the number of positions available in any election year. Residence requirements or numbered posts and staggered terms are generally used for school board elections also.[35]

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30. 1974 Roster; Charles L. Rodgers, Richland, Ga., interview, Aug. 15, 1974.

31. Calhoun and Terrell Counties.

32. Information provided by officials in the 18 counties.

33. See pp. 206-08 above.

34. Dooly, Macon, Peach, Randolph, and Talbot. Information provided by the county officials. In Talbot County the three commissioners have 3-year terms, with the term of one expiring each year. Elections, however, are held bienially. The result was that in 1974 a commissioner was elected whose term does not begin for over a year from the time of the election. Joe S. Johnson, Judge of Ordinary, Talbot Co., Ga., interview, Aug. 13, 1974.

35. Information provided by officials in the 18 counties.

In addition, majority requirements for election can prevent blacks from being elected by a plurality in a contest with more than two candidates.[36]

The Attorney General has objected to the introduction by Georgia counties of at-large elections and anti-minority-representation devices in a number of instances.

Because its single-member districts were malapportioned, Sumter County, which is 46 percent black, adopted at-large elections for its school board starting with its June 5, 1973, election. This election was held despite the absence of section 5 clearance. The Department objected on July 13, 1973, to the use of at-large elections along with residence requirements and a majority requirement.

On May 30, 1974, the Attorney General objected to the at-large election with numbered posts and a majority vote requirement of the school board in 20 percent black Clarke County.[38] The switch to at-large elections was in response to the 1971 section 5 objection to a single-member district plan that reduced the board's membership from what it had been with appointment of board members and resulted in

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36. See Ga. Code Ann. § 34-1513 (1970).

37. Section 5 summary, July 13, 1973.

38. Section 5 summary, May 30, 1974.

underrepresentation for a majority black district.[39] Earlier in the same month the Attorney General objected to the use of numbered posts and a majority vote requirement for the three at-large seats of the Fulton County board of commissioners.[40] Four other commissioners under the new plan are elected from single-member districts in the 39 percent black county.[41] In 1971 the Attorney General had also objected to the at-large election of the Bibb County school board.[42]

A serious problem for black voters in Georgia is that changes made in the method of election of county commissions and school boards are frequently not submitted to the Attorney General or to the District Court for the District of Columbia as required by the Voting Rights Act. Between 1964 and 1973 four majority black counties--Calhoun, Dooly, Macon, and Peach--and one county that is over 40 percent black--Jenkins--made changes in the method of electing their commissioners which were not submitted.[43] In each case the new method has features

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39. Section 5 summary, Aug. 6, 1971, cited in Washington Research Project, The Shameful Blight: The Survival of Racial Discrimination in Voting in the South (Washington, D.C., 1972) pp. 108, 109 (hereafter cited as Shameful Blight).

40. Section 5 summary, May 22, 1974.

41. In Pitts v. Carter, 380 F. Supp. 8 (N.D. Ga. 1974), the Federal district court devised a plan for the 1974 election taking the May 22, 1974, objection into account.

42. Objection letter, Aug. 24, 1971.

43. Calhoun, Ga. L. 1967, p. 3068; Dooly, Ga. L. 1967, p. 2586; Macon, Ga. L. 1972, p. 2322; Peach, Ga. L. 1968, p. 2473; Jenkins, Ga. L. 1968, p. 2960. Submission information: Section 5 Printout, as of May 8, 1974.

that are often discriminatory. All combined the use of at-large elections with either residence requirements, numbered posts, staggered terms, or several of these.

During the same period four majority black counties--Greene, Marion, Stewart, and Terrell--and four 40 percent or more black counties--Jenkins, Mitchell, Pike, and Screven--changed from appointed school boards to elected boards.[44] Six of the counties--excluding Stewart and Screven--elect all their board members at large, with numbered posts, residence requirements, staggered terms, or a combination of these. In addition, Dooly County (50 percent black) added residence requirements to its at-large election system,[45] and Putnam County (49 percent black) added numbered posts to its.[46] None of these changes was submitted[47] to the U.S Department of Justice for section 5 preclearance.

Eighteen other Georgia counties that are less than 40 percent black have made changes between 1964 and 1973 in the method of selecting school board members, usually a change from appointment to election at large. None have attempted to obtain section 5 clearance

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44. Ga. Const. § 2-6801 (1945): Greene, Ga. L. 1964, p. 969 (ratified Nov. 3, 1964); Ga. L. 1973, p. 3853 (staggered terms introduced); Marion, Ga. L. 1965, p. 742; Stewart, Ga. L. 1969, p. 2264; Terrell, Ga. L. 1965, p. 746; Jenkins, Ga. L. 1968, p. 2965; Mitchell, Ga. L. 1970, p. 2239; Pike, Ga. L. 1967, p. 3152 (single-member districts), Ga. L. 1972, p. 3003 (change to at-large election); Screven, Ga. L. 1964, p. 400 (ratified Nov. 3, 1964).

45. Ga. L. 1967, p. 2922.

46. Ga. L. 1972, p. 2678.

47. Section 5 Printout, as of May 8, 1974.

for the new method.[48]

Cities

Black voters in municipal elections in Georgia have often faced or been threatened with the same kind of changes in method of election. During the 3 years from October 1971 through September 1974 the Attorney General objected to changes in the method of election in 14 different Georgia cities.[49] (See map no. 10.) Five of these cities resubmitted the same or a similar change and received a renewed section

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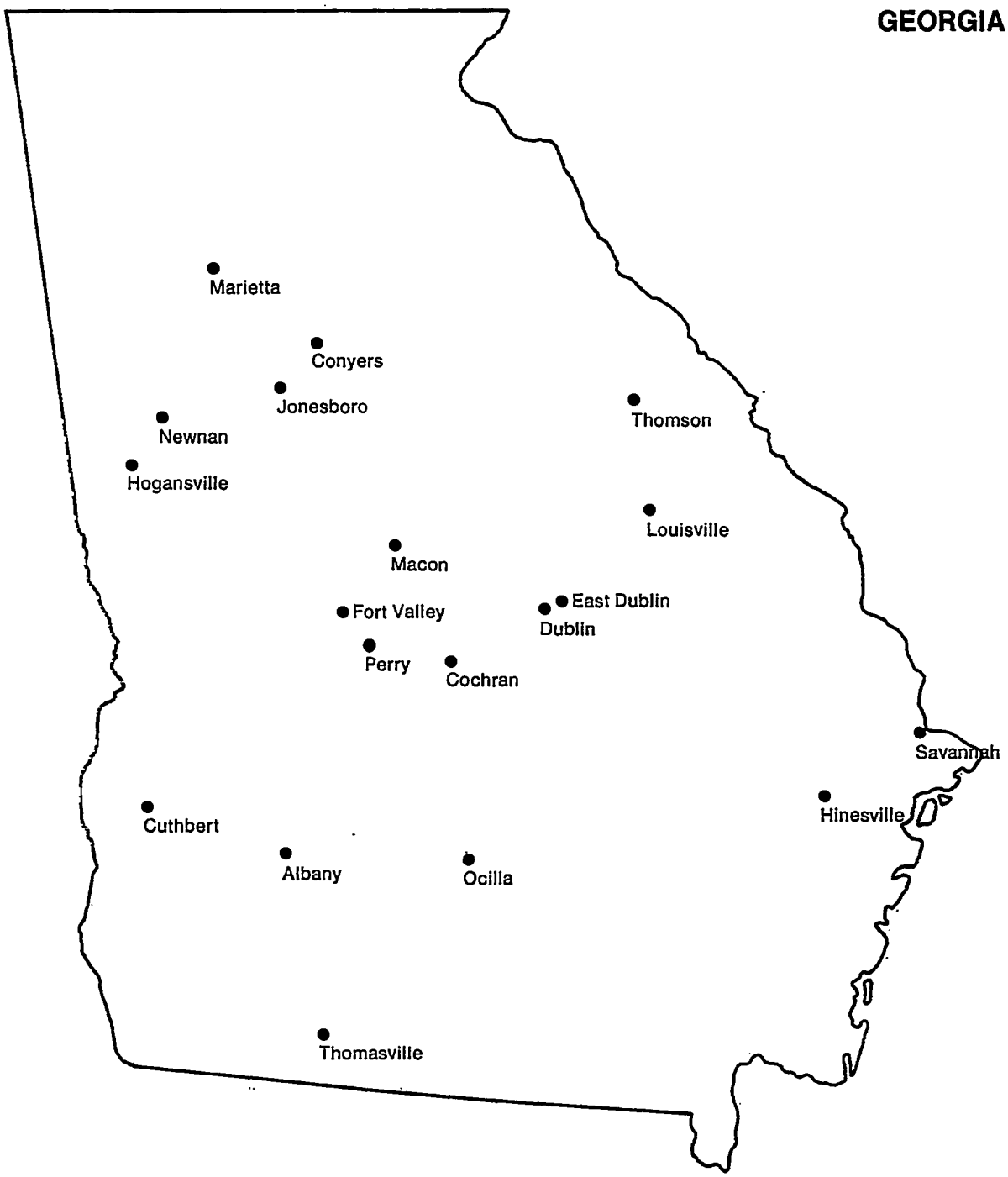
48. Chattooga, Ga. L. 1968, p. 1764; Clinch, Ga. L. 1970, p. 1111; Colquitt, Ga. L. 1964, p. 893 (ratified Nov. 3, 1964); Cowetta, Ga. L. 1968, p. 1452; Fayette, Ga. L. 1970, p. 979; Floyd, Ga. L. 1968, p. 1798; Forsyth, Ga. L. 1964, p. 975 (ratified Nov. 3, 1964); Hall, Ga. L. 1964, p. 845 (ratified Nov. 3, 1964); Ga. L. 1972, p. 1379; Henry, Ga. L. 1966, p. 919; Madison, Ga. L. 1964, p. 885 (ratified Nov. 3, 1964); Oglethorpe, Ga. L. 1966, p. 764; Paulding, Ga. L. 1964, p. 832 (ratified Nov. 3, 1964); Polk, Ga. L. 1966, p. 1092; Rockdale, Ga. L. 1964, Extra Sess., p. 369 (ratified Nov. 3, 1964); Ware, Ga. L. 1964, Extra Sess., p. 335 (ratified Nov. 3, 1964); White, Ga. L. 1963, p. 670 (ratified Nov. 3, 1964); Whitefield, Ga. L. 1964, p. 978 (ratified Nov. 3, 1964); Wilkes, Ga. L. 1972, p. 1518. Submission information: Section 5 Printout, as of May 8, 1974.

49. Cochran, Jan. 29, 1973; Conyers, Dec. 2, 1971; Cuthbert, April 9, 1973; East Dublin, March 4, 1974, June 19, 1974; Fort Valley, May 13, 1974; Hinesville, Oct. 1, 1971, Jan. 11, 1974; Hogansville, Aug. 2, 1973; Jonesboro, Feb. 4, 1974; Louisville, June 4, 1974; Newnan, Oct. 13, 1971, July 31, 1972; Ocilla, June 22, 1973; Perry, Aug. 14, 1973, Oct. 18, 1973; Thomasville, Aug. 24, 1972, Aug. 27, 1973; Thomson, Sept. 3, 1974. Information from section 5 summaries and Section 5 Printout, as of May 8, 1974. In addition the Attorney General objected on Oct. 30, 1974, to the use of numbered post and majority requirements in Wadley.



Map No. 10. Since October 1971 there have been section 5 objections to the method of election in 14 Georgia cities. In several.other cities the method of election has been attacked in court or criticized for being discriminatory.

5 objection.[50] The Justice Department went to court to enforce its objection against two of the cities.[51] Each of the 14 cities had previously elected their city councils at large. They added majority requirements, numbered posts, residence requirements, staggered terms, or a combination of these to the at-large system.[52]

The city of Thomson's first black candidate had come within 88 votes of winning a city council seat in 1970. Immediately after this the leaders of the 37 percent black city began planning the new election procedure, which was adopted within the year. The new procedure included staggered terms, a majority requirement, and numbered posts and changed the terms of councilmen from 2 to 4 years. The plan was not submitted to the Attorney General until July 5, 1974, at which time the Department found that these changes "appeared to be racially discriminatory in both purpose and effect."[53]

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50. East Dublin, Hinesville, Newnan, Perry, Thomasville.

51. Hinesville: United States v. Cohan, Civil No. 2882 (S.D. Ga., Oct. 29, 1971). (request for three-judge court denied); reversed and remanded, 470 F.2d 503 (5th Cir. 1972); 358 F. Supp. 1217 (S.D. Ga. 1973) (objection upheld, new election required). Jonesboro: United States v. Garner, 349 F. Supp. 1054 (N.D. Ga. 1972) (new election required).

52. See sources cited, note 49 above.

53. Section 5 summary, Sept. 3, 1974.

Like the 14 cities whose changes in the method of electing their city councils were objected to by the Attorney General, Dublin in 1968 adopted numbered posts and a majority requirement for election for its at-large elected council.[54] Dublin, however, did not submit this change to the Attorney General.[55] A week before the municipal election held on Monday, November 4, 1974, a suit was filed against the city to enjoin the use of the electoral system adopted in 1968.[56] The district court denied temporary relief because it saw no excuse for the plaintiffs' delay in filing the suit, but the court retained the case for further proceedings after the election.[57]

At-large elections have also led to the underrepresentation of blacks in several of Georgia's largest cities. Macon is 37 percent black and elects 15 city council members.[58] The 15 must reside in separate districts but are elected at large.[59] None is black.[60]

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54. Sheffield v. Cochran, Civil No. CV374-14 (S.D. Ga., Order of Nov. 4, 1974), slip opinion, p. 1.

55. Section 5 Printout, as of May 8, 1974, and Weekly Lists to Oct. 18, 1974.

56. Sheffield v. Cochran, slip opinion, p. 3.

57. Ibid., pp. 3-6.

58. Complaint, p. 4, Walton v. Thompson, Civil No. 74-77 (M.D. Ga., filed May 10, 1974).

59. Ibid.

60. 1974 Roster, pp. 53-56. No black has ever been on the Macon city council. Complaint, p. 4, Walton v. Thompson.

Macon elects to the State house from single-member districts three representatives by itself and shares in the selection of four others.[61] Since blacks have been elected to two of these seven seats,[62] one might expect blacks to be elected to some of the 15 positions on the city council. A suit has been filed challenging the Macon voting system.[63] In their complaint plaintiffs allege that "[r]ace is a constant and dominant factor in elections in Macon...that whites do not vote for black candidates and that where black candidates oppose white candidates, the whites consistently vote for the white candidates, irregardless [sic] of the relative qualifications" of the candidates.[64]

Albany, which is 39 percent black, has a seven-member, at-large elected city council, with council members required to reside in separate districts.[65] No blacks are on the council.[66]

Augusta elects 16 city council members.[67] Since 1948 their election has been at large, with two council members required to reside

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61. See chapter 8, p. 233, n.104.

62. Stanley Alexander, telephone interview, Nov. 22, 1974.

63. Walton v. Thompson.

64. Complaint, p. 5, Walton v. Thompson.

65. Alexander Interview.

66. Ibid. A suit challenging the method of election in Albany has been filed. David Walbert, attorney, Georgia Legal Services, Atlanta, Ga., telephone interview, Dec. 20, 1974.

67. Rachel Brewer, deputy city clerk, Augusta, Ga., telephone interview, Dec. 4, 1974.

in each of eight wards.[68] Although 50 percent of the city's population is black, only 4 of the 16 council members are black.[69] Savannah, which is 45 percent black, has one black on its seven-member city council, which is elected at large.[70]

Although Marietta elects its seven-member city council from single-member districts, a suit was brought by blacks in 1973 attacking the districting plan as discriminatory against blacks. They alleged that the February 1964 plan for the 14 percent black city divided a concentration of blacks previously in one ward among three wards, thus preventing the election of a black member to the council.[71] The attorney for plaintiffs expects a favorable settlement of the case.[72]

MISSISSIPPI

Each of Mississippi's 82 counties has five supervisors, traditionally one from each of five beats or districts.[73] Although the

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68. Ibid.

69. Ibid.

70. Clerk of city council, Savannah, Ga., telephone interview, Nov. 22, 1974.

71. Complaint, p. 4, Grogan v. Hunter, Civil No. 19587 (N.D. Ga., filed Dec. 20, 1973).

72. Elizabeth R. Rindskopf, attorney, Atlanta, Ga., telephone interview, Dec. 6, 1974.

73. Miss. Code § 19-3-1 (1972).

State as a whole is 37 percent black, and has 25 majority black counties (see map no. 11), there were in January 1975 only 10 black supervisors from a total of nine counties.[74]

Many of the reasons for this lack of progress have been discussed in preceding chapters. Perhaps the most important reason, however, is the actions taken by the State of Mississippi and by many of its counties. These actions have had the effect--and often have been taken with the purpose--of diluting the voting strength of blacks.

Counties--At-large Election

In 1966 the legislature passed legislation allowing supervisors to be elected at large, with residence in the traditional beats still required.[75] Although passed to comply to the one person, one vote requirement there was evidence that the legislation was motivated by the desire to prevent black political success.[76] In any event, at-large elections threatened the political effectiveness of the newly enfranchised black voters. Because of this, civil rights lawyers filed

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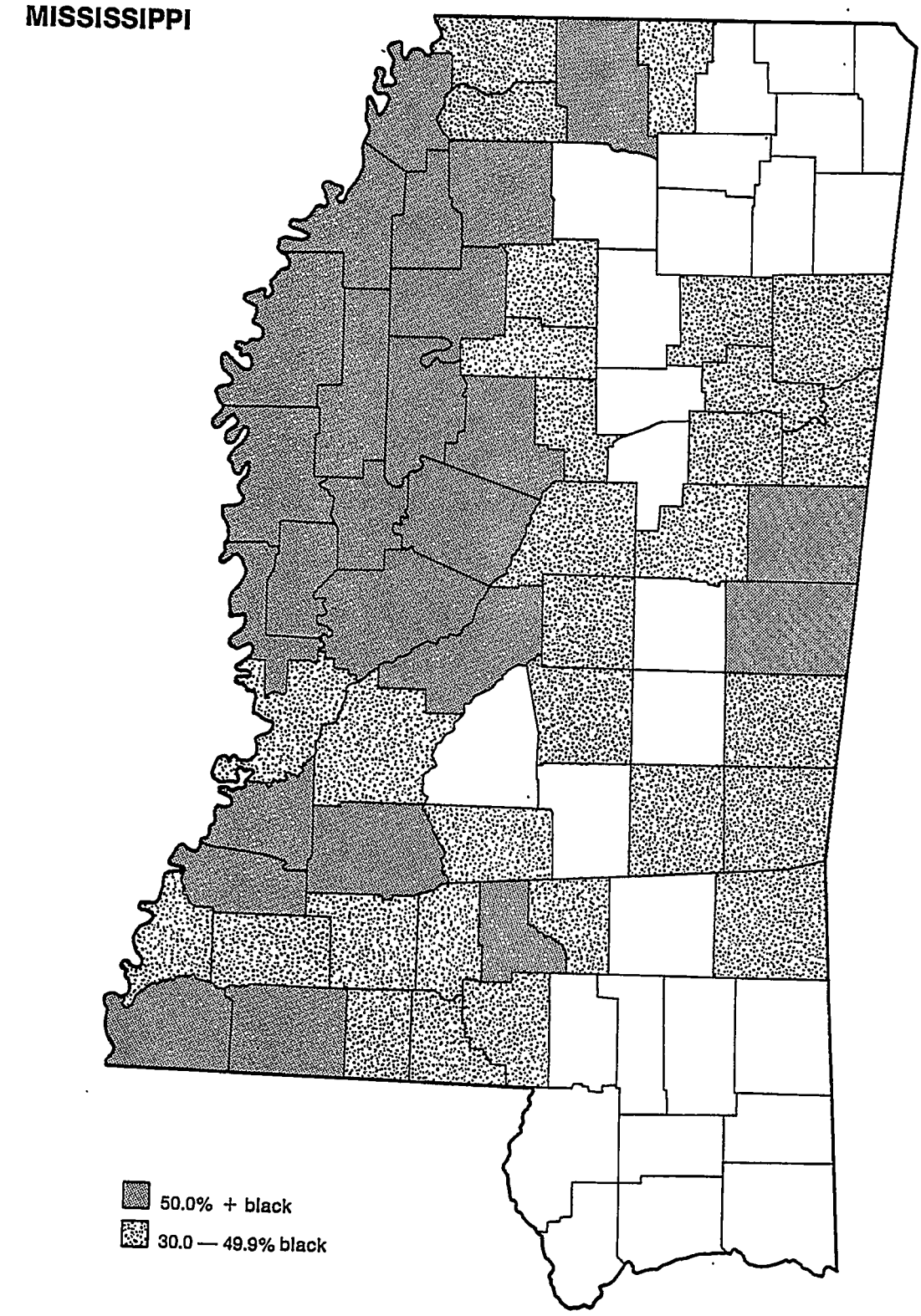
74. Adams, Bolivar, Claiborne, Coahoma, Issaquena, Jefferson (2), Marshall, Noxubee, and Wilkinson. 1974 Roster, p. 117, updated with results of special elections in 1974 in Adams and Marshall Counties.

75. House Bill 223, Miss. Laws, 1966, ch. 290, amending Miss. Code § 2870 (Recomp. 1956), approved, May 27, 1966, codified as Miss. Code § 19-3-7 (1972).

76. See U.S. Commission on Civil Rights, Political Participation (1968), pp. 21-23 (hereafter cited as Political Participation), and Frank R. Parker, "County Redistricting in Mississippi: Case Studies in Racial Gerrymandering," Mississippi Law Journal, vol. 44 (1973) pp. 393-401 (hereafter cited as Parker Article).



Map No. 11. Mississippi racial composition.

suit in July 1967 to enjoin use of this enabling legislation until it had received section 5 clearance.[77] The Supreme Court of the United States eventually held that legislation of this type was covered by section 5,[78] and the Attorney General objected to it because of its discriminatory potential.[79]

Nevertheless, 13 counties switched from beat to at-large elections. Through the efforts of the Department of Justice and of civil rights lawyers in Mississippi, all of these counties were eventually required to return to election by beat, although some

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77. Marsaw v. Patterson, Civil No. 1201W (S.D. Miss., filed July 14, 1967) and Fairley v. Patterson, 282 F. Supp. 164 (S.D. Miss. 1967). The two cases were consolidated and relief was denied by the district court. The Supreme Court reversed sub nom. Allen v. State Board of Elections, 393 U.S. 544 (1969).

78. Allen v. State Board of Elections.

79. Objection letter, May 21, 1969.

were allowed to hold elections at large in 1971.[80]

While 1971 was the last year of at-large election of county supervisors, on November 1, 1974, the Department of Justice filed suit to prevent Kemper County, which is 56 percent black, from conducting a school board election at large. The election was scheduled to be held at large with some board members required to reside in separate districts pursuant to 1968 Mississippi legislation which had not received section 5 clearance.[81]

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80. Adams, enjoined, April 23, 1969, Marsaw v. Patterson, note 77 above; Attala, section 5 objection, June 30, 1971; Carroll, submission under section 5, May 10, 1971, advised by the Department of Justice that at-large elections were unauthorized, June 7, 1971; Coahoma, allowed, Williams v. Hughes, Civil No. 7076-S (N.D. Miss. Supp. Judgment of March 1971), enjoined in Henry v. Coahoma County Bd. of Supervisors, Civil No. D.C. 71-50-S (N.D. Miss. July 7, 1971); Forrest, enjoined, April 23, 1969, Fairley v. Patterson, note 77 above (see Fairley v. Patterson, 493 F.2d 598 (5th Cir. 1974)); Grenada, objection, June 30, 1971; Hancock, court ordered for 1971 only (according to Section 5 Printout, as of May 8, 1974), no objection, July 29, 1971; Issaquena, approved, Hall v. Issaquena County Bd. of Supervisors, Civil No. 1357 (S.D. Miss. June 30, 1971), modified to allow use in 1971 only, 453 F.2d 404 (5th Cir. 1971); Itawamba, advised by the Department of Justice that at-large elections were unauthorized, April 16, 1970, enjoined, Sheffield v. Robinson, Civil No. EC6745-S (N.D. Miss. June 25, 1970), affirmed, Sheffield v. Itawamba Co. Bd. of Supervisors, 439 F.2d 35 (5th Cir. 1971); Leflore, allowed for 1971 only, Moore v. Leflore County Bd. of Election Commissioners, 351 F. Supp. 848 (N.D. Miss. 1971); Lowndes, allowed for 1971 only, Keller v. Gilliam, Civil Nos. E.C. 7185-S, 7195-S (N.D. Miss. April 7, 1971), modified to require new election after approval of new plan, 454 F.2d 55 (5th Cir. 1972); Tishomingo, section 5 submission, May 12, 1970, advised by Department of Justice that at-large elections were unauthorized, July 7, 1970; Washington, not allowed, Dyer v. Love, 307 F. Supp. 974 (N.D. Miss. 1969).

81. United States v. Kemper County, Civil No. E74-65C (S.D. Miss., filed Nov. 1, 1974). Summary judgment was granted to the Department of Justice on Nov. 20, 1974, with a new election scheduled for Dec. 17, 1974.

The Open Primary Law

There is no evidence that the Mississippi legislature passed the Open Primary law in 1970[82] as a direct result of the legal difficulties the use of at-large elections had encountered. But there is considerable evidence that the motivation behind that legislation--and its effect if implemented--was to reduce the political power of black voters.[83] Because only a plurality was required in the general election, a black independent candidate in theory could win with less than a majority vote if the white vote were divided between a Democrat and a Republican. The Open Primary law eliminated this possibility by throwing all candidates--Democrats, Republicans, and independents--together in an "open primary," followed by a runoff between the two getting the most votes if no one received a majority.

This electoral system has never been put into effect. Although the Attorney General failed to object under section 5,[84] a Federal court in 1970 ruled that the Attorney General had acted improperly and enjoined the law until it had been resubmitted and cleared under section 5.[85] The State of Mississippi took no further action until

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82. House Bills 362 and 363 (1970 Regular Session), codified as Miss. Code § 23-5-133 et seq. (1972).

83. See Shameful Blight, pp. 139-43 for more information concerning the open primary law controversy.

84. Jerris Leonard, Assistant Attorney General, letter to A. F. Summer, attorney general, State of Mississippi, Sept. 21, 1970.

85. Evers v. State Board of Election Commissioners, 327 F. Supp. 640 (S.D. Miss. 1971), appeal dismissed, 405 U.S. 1001 (1972).

1974, when it asked the court to withdraw its injunction. This request was turned down on February 7, 1974,[86] and the law was again submitted to the Attorney General on February 25, 1974.[87] Sixty days later he objected.[88] The letter mentions evidence that "one purpose of the legislation is to deny independent black candidates the opportunity to run for and be elected to office in the general election with a plurality of the votes cast."[89] But the letter continues, "irrespective...of the purpose of the acts, the effect of their implementation likely will be to minimize the opportunity of black voters to elect a candidate of their choice for a substantial number of district and county-wide offices."[90] The letter noted that 195 blacks ran as independents in the 1971 general elections.[91]

Counties--Single-Member Plans

Because of population changes revealed by the 1970 census and because of the need to replace the abortive at-large election systems, many counties prepared new single-member district plans for the election of supervisors in the early 1970's. The Attorney General

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86. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights under Law, Jackson, Miss., letter to David H. Hunter, U.S. Commission On Civil Rights, Nov. 8, 1974, p. 3.

87. Objection letter, April 26, 1974, p. 1.

88. Ibid., p. 4.

89. Ibid., p. 2.

90. Ibid., p. 3.

91. Ibid.

objected under section 5 to the plans for nine of the counties.[92] Suits have been filed against two of these counties--Warren and Hinds--to enforce section 5 objections.[93] The Federal courts rejected the plan of another county--Leflore.[94] The plans for two other counties--Adams and Oktibbeha--were attacked in court as discriminatory by civil rights lawyers but were upheld.[95] Eight counties are using

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92. Attala, Sept. 3, 1974; Copiah, March 5, 1970; Grenada, Aug. 9, 1973, not withdrawn, April 2, 1974; Hinds, July 14, 1971 (see Parker Article, p. 406); Leake, Jan. 8, 1971, section 5 submission required by court; Scott v. Burkes, Civil No. 4782 (S.D. Miss., filed Nov. 13, 1970) (see Parker Article, p. 405); Marion, May 25, 1971; Tate, Dec. 3, 1971, Nov. 28, 1972; Warren, April 4, 1971, Aug. 23, 1971 (see Parker Article, pp. 404-05); Yazoo, July 19, 1971 (see Parker Article, p. 404).

93. Warren County: United States v. Warren County, Civil No. 73W-48(n) (S.D. Miss., filed Oct. 31, 1973) (suit to enjoin use of plan objected to). For a description of the plan see Parker Article, pp. 404-05, 420. Hinds County: after the August 1971 primaries were held using the plan which had been objected to the Department of Justice filed suit, United States v. Hinds County Bd. of Supervisors, Civil No. 4983 (S.D. Miss., filed Sept. 17, 1971). The November election was nevertheless held using the same districts. A private suit was filed against the plan on July 25, 1971. Kirksey v. Hinds County Bd. of Supervisors, Civil No. 4939-N (S.D. Miss.). The Kirksey court ordered the county to prepare a new plan, Dec. 26, 1972. The United States suit was dismissed as moot, March 6, 1974. As of Nov. 18, 1974, final decision is awaited in Kirksey. Frank R. Parker, attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Miss., interview, Nov. 18, 1974. See Parker Article, p. 406.

94. Moore v. Leflore County Bd. of Election Commissioners, 351 F. Supp. 848 (N.D. Miss. 1971), 361 F. Supp. 603 (1972); subsequent redistricting plan by special master approved. 361 F. Supp. 609 (1973), affirmed, No. 73-3090 (5th Cir. Oct. 10, 1974). This case is discussed in detail in the text that follows.

95. Adams County: Howard v. Adams County Bd. of Supervisors, 453 F.2d 455 (5th Cir.), cert. denied, 407 U.S. 925 (1972), modification of plan upheld, 480 F.2d 978 (1973), cert. denied 415 U.S. 975 (1974). Oktibbeha County: plan adopted, Page v. Oktibbeha County Bd. of Supervisors, Civil No. EC 6642 (N.D. Miss. June 7, 1967), suit brought under section 5 and 15th amendment dismissed, Connor v. Oktibbeha County Bd. of Supervisors, 334 F. Supp. 280 (N.D. Miss. 1971).

plans which were not submitted to the Attorney General under section 5 because they were court ordered.[96] Although county elections will be held again in 1975, four counties still do not have approved plans. No new plans have been submitted to the Attorney General following section 5 objections to the old plans from Attala and Yazoo Counties.[97] Warren and Hinds Counties are in litigation concerning their plans.[98]

Under the plan adopted by the Leflore County Board of Supervisors but rejected by a Federal district court, the Kellum plan, each district in the 58 percent black county has a black majority.[99] The court said, "The extent of each majority, however, is diluted in all

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96. Coahoma and Forrest. Parker letter to Hunter, Nov. 8, 1974, p. 2. (See suits cited note 80 above). Clay, Harrison, Lincoln, Pike, Wayne, and Winston. Appellant's Jurisdictional Statement, p. 12, n. 7, Connor v. Williams, 404 U.S. 549 (1972). In Connor v. Johnson, 402 U.S. 690 (1971), an earlier stage of the same case, the Court held that "a decree of the United States District Court is not within reach of section 5 of the Voting Rights Act." Ibid., p. 691. Court-ordered plans for 11 other counties have been submitted to the Attorney General and no objection has been made: Bolivar, De Soto, Hancock, Issaquena, Itawamba, Jackson, Lauderdale, Monroe, Rankin, Sunflower, and Washington. Section 5 Printout, as of May 8, 1974; Jurisdictional Statement in Connor case, above.

97. Review of section 5 files, as of Dec. 5, 1974. In addition, the Department declined in April 1974 to withdraw its 1973 objection to Grenada County's plan. The county submitted a new plan Nov. 9, 1974.

98. See note 93 above.

99. Moore v. Leflore County Bd. of Election Commissioners, No. 73-3090 (5th Cir. Oct. 10, 1974), slip opinion, p. 339. For prior judicial history see note 94 above.

but one of the districts when compared to pre-redistricting figures. Significantly, it also appears in terms of registered voters, blacks would have exceedingly slim majorities in some of these districts and minorities in others".[100]

With the Kellum plan whites would have a good chance of retaining all five seats (see map no. 12). Instead of the Kellum plan the court adopted the plan prepared by the court-appointed special master, the Holland plan, which provides larger black majorities in four beats by creating one 75 percent white district (see map no. 13).[101]

Table 12. HOLLAND PLAN FOR SUPERVISORS' DISTRICT, LEFLORE COUNTY, MISSISSIPPI

Beat	Total Population	Voting Age Population	Registered Voters
	Percent Black	Percent Black	Percent Black
1	25 %	19 %	12 %
2	61	55	51
3	67	62	58
4	64	59	50
5	75	70	66

Source: Moore v. Leflore County Board of Election Commissioners, No. 73-3090 (5th Cir. Oct. 10, 1974), slip opinion, pp. 342, 343.

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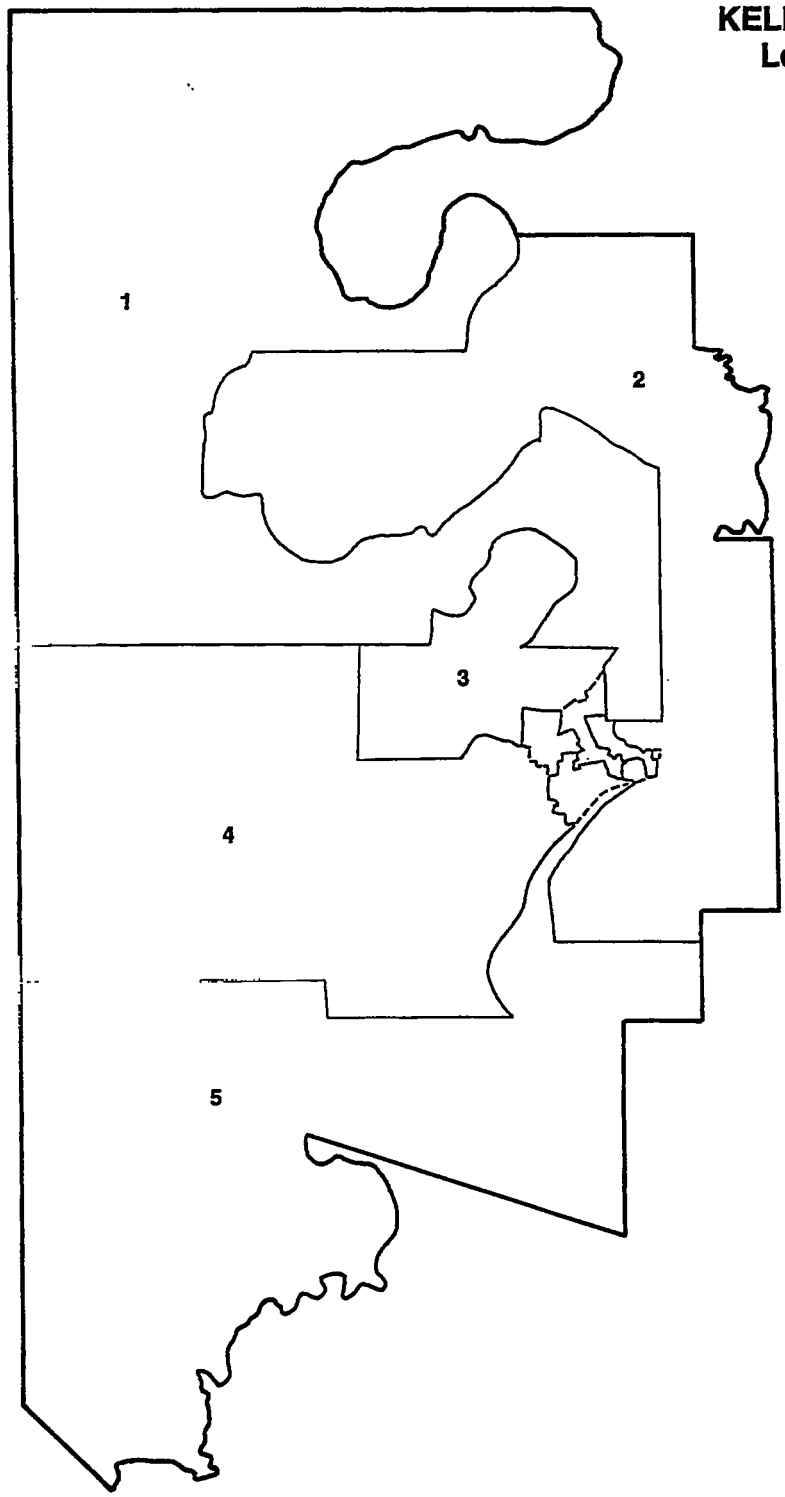
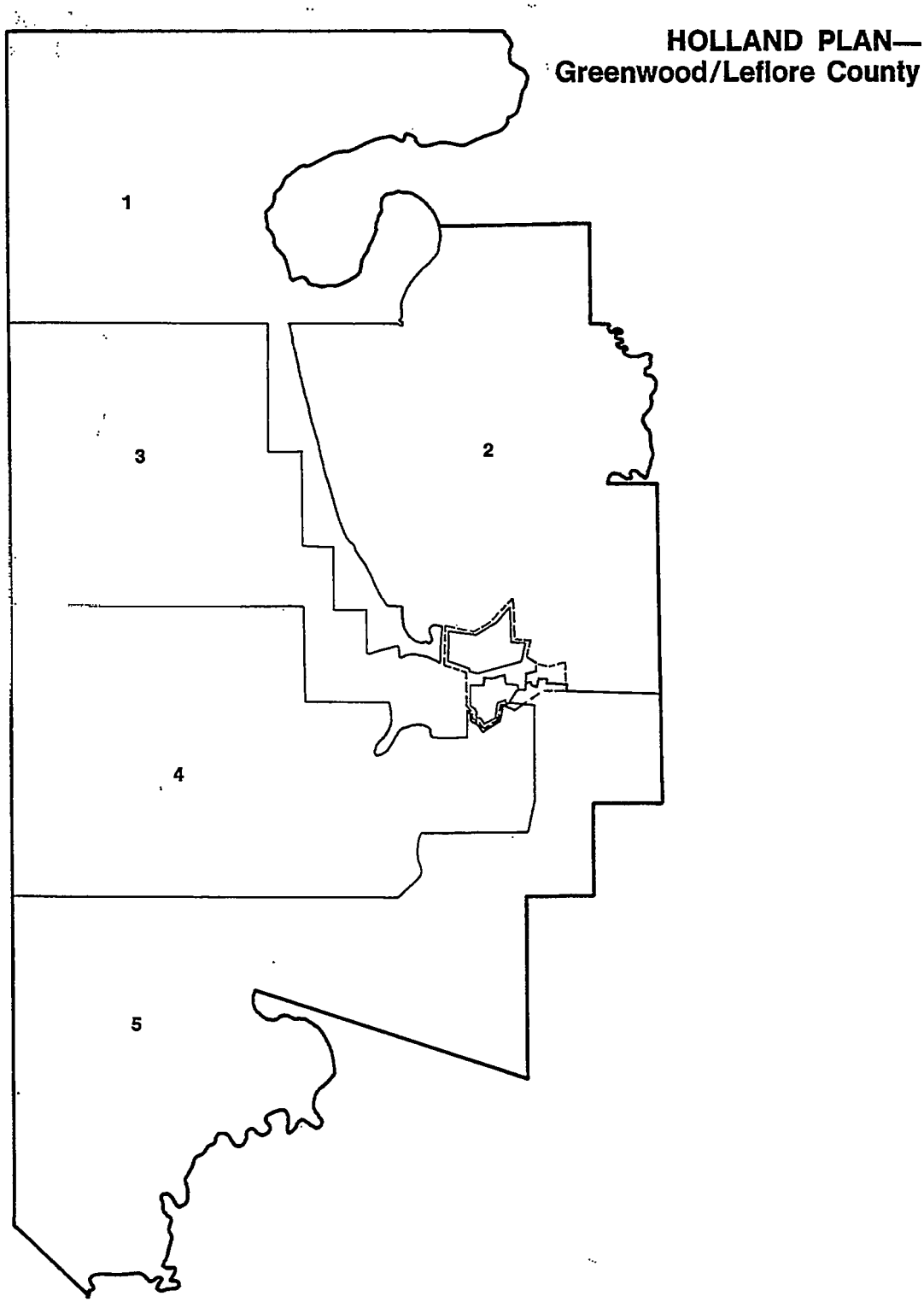
100. Moore v. Leflore County, slip opinion, pp. 339-40 (footnotes omitted).

101. Ibid., pp. 337, 342.



Map No. 12. The Kellum Plan for districts in Leflore County does not create any districts where black candidates would have a reasonable chance of success.



Map No. 13. Under the Holland Plan for the districting of Leflore County all beats reach into the city of Greenwood. The black concentration in the southern part of the city is divided among four beats.

Although the Holland plan was preferred by black plaintiffs to the Kellum plan, the plaintiffs would have preferred a plan that would not have fragmented the black concentration in the southeast section of Greenwood, the principal city in the county (see map no. 14).[102] The court considered it necessary to segment the black population of south Greenwood into four districts to satisfy the doctrine--created by the court--that the land area and road mileage of the different districts should be equalized.[103] This is important, according to the court, because "each district is allotted the same amount of public funds for road and bridge maintenance."[104]

This doctrine had previously been followed by the Fifth Circuit in approving a plan for Adams County, which is 48 percent black.[105] The plan provides only one majority black district (67.8 percent).[106] Under the previous districting there was a 75 percent black district that, according to the plaintiff's arguments, could have--consistently with one person, one vote rules--been divided into two new districts having black majorities.[107] Rather than doing this the supervisors fragmented the black district, creating only one district with

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102. Ibid., p. 343; Parker, letter to Hunter, Nov. 15, 1974, p. 1.

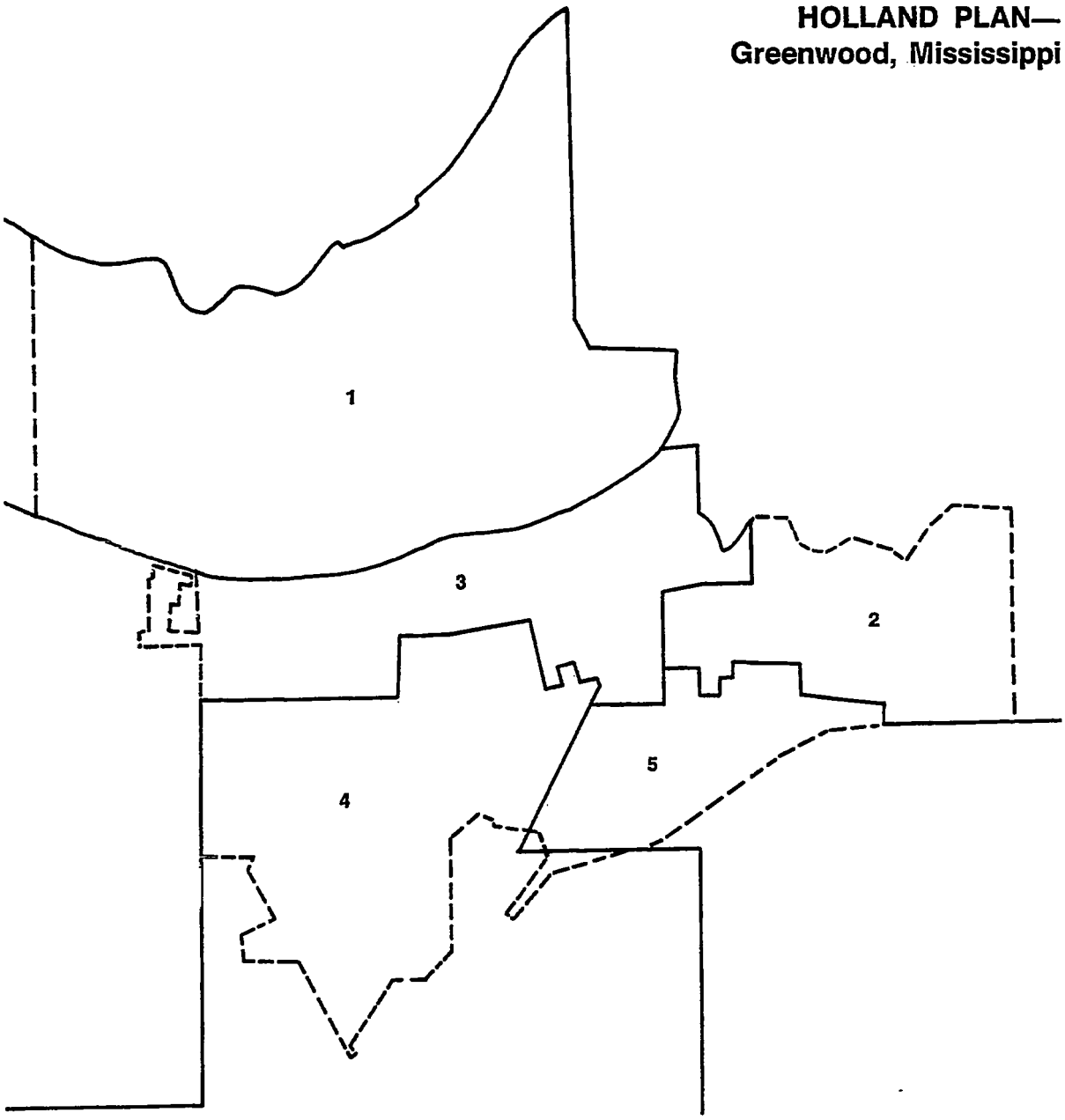
103. Moore v. Leflore County, slip opinion, pp. 343-44.

104. Ibid., p. 341.

105. Howard v. Adams County Bd. of Supervisors, 453 F.2d 455 (5th Cir. 1972). For subsequent judicial history see note 95 above.

106. Ibid., p. 458.

107. Ibid., p. 457.



Map No. 14. The Holland Plan leaves north Greenwood, which is practically 100 percent white, intact in District 1, while the southern part of Greenwood is fragmented among Districts 2, 3, 4, and 5.

a black majority (67 percent).[108] The justification for doing this, which was accepted by the courts, was the need to equalize county-maintained road mileage and area.[109] The result was that each new district contained both rural (predominantly white) and urban (predominantly black) territory.[110]

As the Leflore and Adams County cases show, the discrimination worked by the so-called "equi-beat" concept is subtle, but it can prevent blacks from obtaining the electoral strength that they might otherwise have. The doctrine could be an invitation to racial gerrymandering in the future.[111]

On September 3, 1974, the Attorney General objected to the redistricting plan for Attala County, which is 40 percent black, because the plan unjustifiably reduced from 64 to 52 the black percentage in the district with the highest black percentage and divided other majority black neighborhoods among three majority white districts.[112]

In August of 1973 the Attorney General objected to the Grenada County plan. The Department found that the lines for the 44 percent black county "were drawn in such a way as to fragment the principal area

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108. Ibid., p. 458.

109. Ibid., p. 456.

110. Parker Article, pp. 409-10.

111. See Parker Article, pp. 408-18.

112. Section 5 summary, Sept. 3, 1974.

of black political activity in the county, located in the City of Grenada."[113] Although the Department determined that "small alterations" in the plan could remedy this problem,[114] the county resubmitted the same plan rather than make the necessary adjustment. The Attorney General refused to withdraw his objection.[115]

Cities

Blacks have had as little success in electing representatives to city councils as they have to county boards of supervisors. Except for very small towns in which blacks are a large majority, almost no blacks have been elected to city councils in Mississippi.[116] The primary reason for this is legislation passed by the Mississippi legislature that was intended to prevent blacks from being elected to city councils and that has generally been effective in doing this.[117]

The legislation required the cities to elect their council members at large. The cities were given the option of requiring their council members to live in separate wards.[118] The prohibition of single-shot voting[119] and the requirement of a majority vote for

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113. Section 5 summary, Aug. 9, 1973.

114. Ibid.

115. Section 5 summary, April 2, 1974.

116. See appendix 2.

117. Miss. Code, Title 16, sec. 3374-36 (1962), codified as Miss. Code § 21-3-7 (1972).

118. Ibid.

119. Miss. Code § 21-11-15, 23-5-137 (1972).

election[120] further frustrated black political potential.

In 1962 the Mississippi legislature adopted a number of bills designed to prevent blacks from registering to vote and voting.[121] One of these was the law requiring at-large voting. Because of the renewed black interest in voting and because of continuing shift of the black population in Mississippi from farm to city, there was concern that wards in many cities would become predominantly black and that these blacks would be able to elect their own aldermen. Therefore the bill's sponsor argued that the change was needed in order "to maintain our southern way of life."[122] Contemporary newspaper accounts were unanimous about the bill's purpose. The February 23, 1962, Jackson Daily News headlined an Associated Press story about the pending legislation, "Bill Would Make It Harder For Negroes To Win Election." The Delta Democrat began its March 1, 1962, story: "The Senate today approved a bill designed to prevent the election of Negroes as city aldermen." The headline read "House Bill Bars Negroes from Aldermen Boards." Similar stories were carried by the Memphis Commercial Appeal and the Jackson Clarion-Ledger.[123]

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120. Miss. Code, Title 16, sec. 3374-36 (1962), codified as Miss. Code § 21-3-7 (1972).

121. See United States v. Mississippi, 380 U.S. 128, 143-44 (1965).

122. Statement of Sen. William J. Caraway, quoted in Plaintiffs' Brief, Stewart v. Waller, Civil No. EC 73-42-S (N.D. Miss., filed May 3, 1973), pp. 4-5.

123. Copies of these and other articles are included at pp. A-43 to A-54 of Stipulations of Fact Between Plaintiffs and Defendants, Stewart v. Waller. The parties agreed that the articles "were written by newspaper reporters who attended the 1962 term of the Mississippi legislature ...." Stipulation 23.

The effect of the law is as clear as its purpose. In the 1973 municipal elections, considering those of the affected cities whose populations are less than two-thirds black, only two-thirds of 1 percent of the aldermen elected were black in a State that is 37 percent black.[124] In ward 2 in Macon, 61.1 percent of the registered voters are black. In ward 2 in Moss Point, 54.2 percent of the registered voters are black. In ward 6 in Starkville, 72.3 percent are blacks; in ward 1 in West Point, 86.4 percent.[125] No blacks have been elected to the city councils of any of these cities.[126] In Moss Point, Starkville, and West Point in the 1973 primary and in West Point in the 1969 primary a black candidate received a majority in each of these wards but lost to a white opponent citywide.[127] In Macon's history the only known black aldermanic candidate ran in a 1972 special election. Since balloting was all conducted at one polling place using one ballot box, results for the majority black ward are not known. There were, however, more blacks than whites voting from that ward. The black candidate lost.[128]

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124. Ibid., Stipulation 26.

125. Ibid., Stipulation 30.

126. Ibid., Stipulation 36 (proposed by plaintiff but not agreed to by defendant). See Political Participation, pp. 218-19 and 1974 Roster, pp. 119-24.

127. Stipulation 31, Stewart v. Waller.

128. Ibid., Stipulation 32 (proposed by plaintiff but not agreed to by defendant).

In 1973 a statewide class suit was brought against the at-large voting system of most Mississippi cities.[129] Plaintiffs presented or offered to present evidence on--among other things--the history of racial discrimination in Mississippi, on the purpose and effect of the change to at-large elections, on the failure of whites to slate black candidates, on racial bloc voting, and on the lack of responsiveness of white council members to the needs of the black community.[130] The Department of Justice has intervened in the case on the side of the plaintiffs.[131] On October 24, 1974, a hearing was held on the motions of both sides for summary judgment. Affected by the suit are at least 29 cities and possibly as many as 200, most of which are quite small.[132]

The Attorney General has objected to several more recent changes introduced by Mississippi cities. An objection was entered in 1972 to the introduction of at-large elections with numbered posts and a majority requirement in Grenada.[133] Indianola's attempt to use numbered posts was also objected to,[134] as was the incorporation of Pearl.[135] The incorporation was later allowed after Pearl agreed

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129. Stewart v. Waller.

130. See Plaintiffs' Brief, Stewart v. Waller.

131. Complaint filed, Oct. 18, 1973; amended complaint filed, March 1, 1974.

132. Homer Moyer, attorney for plaintiffs, Washington, D.C., telephone interview, Dec. 5, 1974.

133. Objection letter, March 20, 1972.

134. Objection letter, April 20, 1973.

135. Objection letter, Nov. 21, 1973.

to modifications.[136]

NEW ORLEANS, LOUISIANA

The New Orleans City Council is composed of five members elected from districts and two members elected at large.[137] The electoral system includes majority vote and full-slate requirements.[138] In 1972, the Louisiana legislature attempted to add a numbered post requirement for the at-large seats, but the Attorney General objected to that change under section 5 of the Voting Rights Act.[139]

Although 45 percent of New Orleans' residents are black, few blacks have been elected to public office in New Orleans. The four recent successful black candidates for citywide offices (court of appeals and criminal district court judges, clerk of criminal district court, and parish school board) were either closely allied to white political leaders or unopposed.[140] Court-ordered reapportionment with single-member districts[141] directly resulted in the elec-

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136. Staff memorandum, Voting Section, Department of Justice, Sept. 12, 1974.

137. New Orleans, Charter, art. III, sec. 3-102 (1954).

138. L.S.A.-R.S. 18:358, 351.

139. Objection letter, April 20, 1973.

140. Beer v. United States, 374 F. Supp. 363, 374-75, 397-98 (D.D.C. 1974).

141. Bussie v. Governor of Louisiana, 333 F. Supp. 452 (E.D. La. 1971), affirmed with modifications sub nom. Bussie v. McKeithen, 457 F.2d 796 (5th Cir. 1971), vacated and remanded for opinion sub nom. Taylor v. McKeithen, 407 U.S. 191 (1972), appellate court judgment reinstated, 499 F.2d 893 (5th Cir. 1974).

tion of six black State legislators from New Orleans. No black has ever been elected to the city council, though blacks have in recent elections sought both at-large and district seats. In 1969, a black ran third, defeating five other first primary candidates to at-large seats, but lost the runoff with 48.2 percent of the vote.[142]

Following the 1970 census, the New Orleans city council passed a redistricting plan on March 2, 1972 (Plan I).[143] Many community organizations opposed the plan--particularly blacks[144] and residents of Algiers, the section of the city located on the "west bank" of the Mississippi River and cut off from the rest of the city by the river. Since Algiers is too small for its own district but has its own interests and needs, it is traditionally attached as a whole to one of the other districts.[145] Plan I divided it among three districts.

After Plan I was enacted and before and during its consideration by the Justice Department, the council deliberated on a number of proposals to increase the size of the council. Two were sent to referenda

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142. Election data from Orleans Parish Democratic Executive Committee, Mayoralty First and Second Democratic Primary Elections November 8, 1969 and December 13, 1969 (New Orleans, La., n.d.).

143. New Orleans, Ord. No. 4796 M.C.S. (March 2, 1972).

144. See Allison L. Chapital, Sr., president, New Orleans Branch NAACP, letter to Richard G. Kleindienst, Attorney General, June 20, 1972.

145. See New Orleans States-Item, March 4, 1972, Editorial "Reapportionment Joke," p. 6.

and both were rejected by the voters.[146]

Plan I was submitted to the Justice Department after the first referendum failed, and on January 15, 1973, the Attorney General objected to it because the district lines appeared to "dilute black voting strength by combining a smaller number of black voters with a larger number of white voters in each of the five districts."[147] Even before the Department's objection, the author of Plan I had developed a new plan that, with slight modifications, was passed by the council and submitted to the Justice Department (Plan II).[148] Plan II combined some features of Plan I and a plan developed by the NAACP, but was bitterly opposed by the NAACP and by the one member of the council whose existing district was majority black.[149]

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146. Newspaper accounts and subsequent interviews indicate general agreement that the purpose of expanding the council was to permit election of blacks without endangering the seats of incumbent whites. On Nov. 7, 1972, voters defeated a plan which would have created an 11-member council with 9 districts and 2 at-large seats. In the March 20, 1973, special election, voters rejected a plan which would have created a 9-member council with 7 districts and 2 at-large seats. No proposals which would have eliminated the at-large seats were submitted to the voters. Staff interviews, New Orleans, La., Sept. 1974.

147. Objection letter, Jan. 15, 1973.

148. New Orleans, Ord. No. 5154 M.C.S., May 3, 1973. Plan II was submitted to the Justice Department on May 10, 1973.

149. Dr. Joseph Logsdon and Dr. Raphael Cassimere, New Orleans, La., interview, Sept. 13, 1974. See New Orleans Branch NAACP, "Complaint Against the Reapportionment Ordinance 5475 (MCS 5154) of the New Orleans City Council Passed on April 26, 1973 [sic]," June 1973.

On July 9, 1973, the Attorney General objected to Plan II on the ground that it suffered from the same defects as Plan I.[150] In addition, the Department noted that the infirmity of both plans stemmed from the fact that the district lines were drawn lakefront to river, cutting across black neighborhoods. This inevitably tended to submerge blacks in majority white districts. (See map no. 15.)

The council decided to seek a declaratory judgment from the United States District Court for the District of Columbia that the plan was not objectionable on racial grounds.[151] At the same time, private citizens filed suit in the New Orleans Federal district court asking that a special master be appointed to redistrict the city in light of the second objection and the approaching election season.[152] In late August both courts ordered the elections scheduled for November and December 1973 postponed.[153]

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150. Objection letter, July 9, 1973.

151. Beer v. United States, 374 F. Supp. 363 (D.D.C. 1974), complaint filed July 25, 1973.

152. Jackson v. Council of City of New Orleans, Civil No. 73-1862 (E.D. La., filed July 12, 1973).

153. Jackson v. City Council, Order of Aug. 31, 1973; Beer v. United States, Order of Aug. 14, 1973. Earlier in the month the New Orleans court had decided to hold its proceedings in abeyance until the Washington court had ruled on the substance of the plan. Jackson v. City Council, Order of Aug. 14, 1973.

Map No. 15. District lines for Plan II for the New Orleans City Council run between lakefront and river and thus cut across the predominantly black neighborhoods, dividing the black population among the five districts.

On March 15, 1974, the district court in Washington dismissed the case, ruling that Plan II, particularly in conjunction with the at-large election of two of the council members, had the effect of diluting black voting strength.[154] "The plan tendered by the city will inexorably have the effect of abridging the right to vote in councilmanic elections on account of race or color....[I]n consequence, the plan will remain under the continuing restraint of Section 5."[155] The city council appealed the ruling to the Supreme Court of the United States.[156]

LOUISIANA--OTHER PARISHES

In the election of parish police juries (the equivalent of county councils) and school boards in Louisiana, the vote of blacks has frequently been diluted, or parishes have attempted to implement changes that would have had the effect of diluting the black vote. (See map no. 16 for racial composition of parishes.) These changes have included the use of at-large elections, multi-member districts, and majority and full-slate requirements. In 19 parishes

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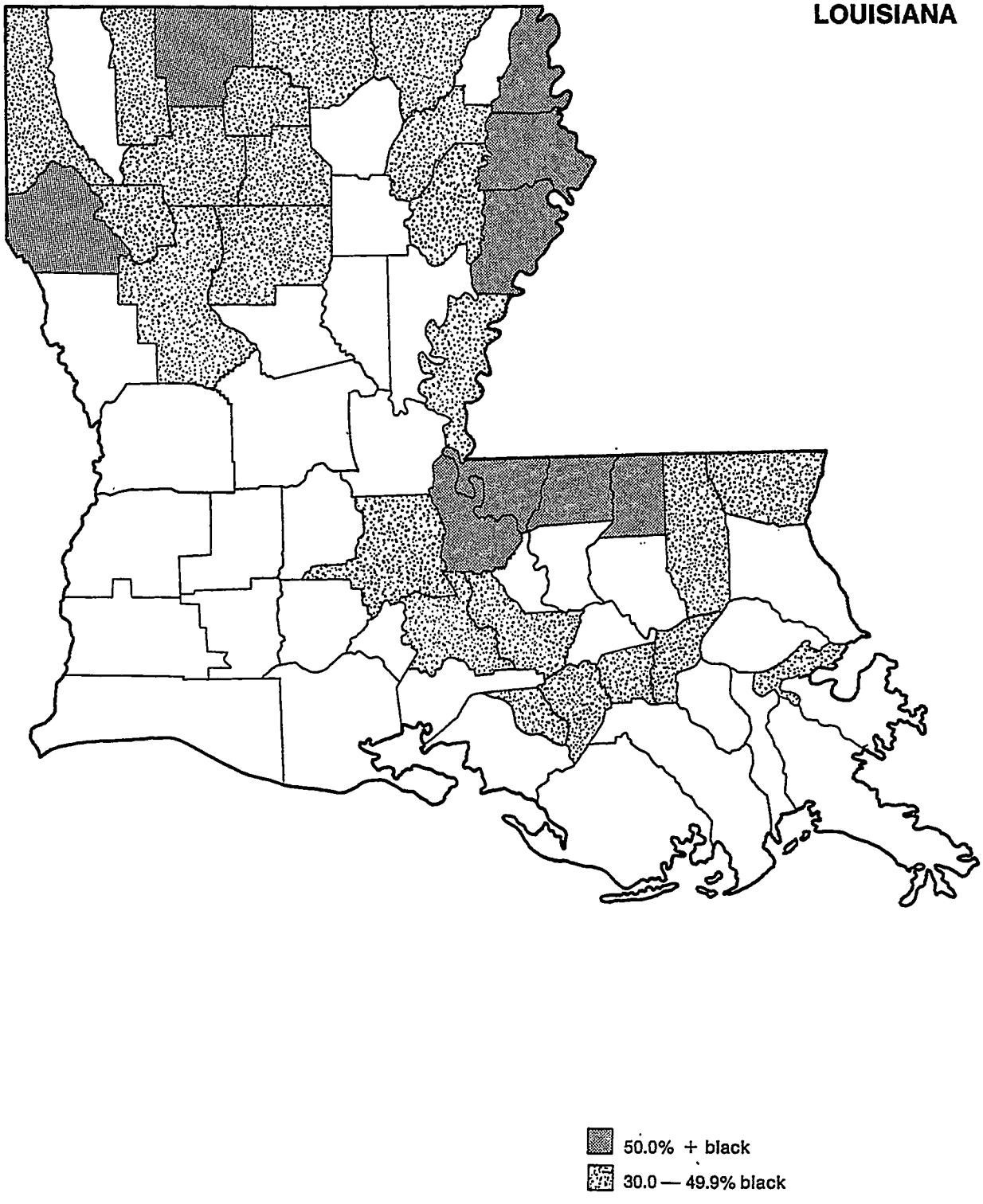
154. Beer v. United States, 374 F. Supp. 363, 385 (D.D.C. 1974). The New Orleans court declined to "reactivate" the litigation there, which would have reactivated the special master's proceedings. Jackson v. City Council, Opinion and Order of June 24, 1974, affirmed, __F.2d__ (5th Cir. 1974) (order of August 28, 1974).

155. Beer v. United States, p. 402.

156. Beer v. United States, prob. jur. noted, 43 U.S.L.W. 3186 (U.S. Oct. 15, 1974) (No. 73-1869).



Map No. 16. Louisiana racial composition.

there have been section 5 objections by the Attorney General either to the districting of the police jury or of the school board or of both.[157] Twelve of these parishes have been involved in litigation concerning section 5 or the racial implications of districting.[158] In an additional 14 parishes courts have required plans that would

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157. Ascension, Parish School Board (PSB hereafter), April 20, 1972; Assumption, PSB, July 8, 1971; Bossier, PSB, July 30, 1971; Caddo, PSB, Oct. 8, 1971; De Soto, Parish Police Jury (PPJ hereafter), Aug. 6, 1971; East Baton Rouge, PPJ, Aug. 6, 1971; East Feliciana, PPJ, Sept. 20, 1971; Dec. 28, 1971, PSB, Apr. 22, 1972; Evangeline, PPJ and PSB, June 25, 1974, July 26, 1974; Franklin, PPJ and PSB, July 8, 1971; Jefferson Davis, PSB, July 23, 1971; Lafayette, PSB, June 16, 1972; Natchitoches, PSB, Sept. 20, 1971; Pointe Coupee, PSB, June 7, 1972; St. Charles, PPJ, July 22, 1971, withdrawn, Sept. 23, 1971; St. Helena, PPJ, Oct. 8, 1971, PSB, Nov. 17, 1972 (objection to staggered terms only); St. James, PPJ, Nov. 2, 1971; St. Mary, PSB, Jan. 12, 1972; Union, PPJ and PSB, June 18, 1971; Webster, PPJ, Aug. 6, 1971, objection withdrawn, Sept. 14, 1971. Orleans Parish is encompassed by the City of New Orleans. See discussion above.

158. Bossier, Bossier Parish Voters League v. Bossier Parish School Board (PSB) and Police Jury (PPJ), Civil No. 17802 (W.D. La. June 13, 1972) (single-member plans ordered for both police jury and school board). Caddo, Hargrove v. Caddo PSB, Civil No. 17630 (W.D. La. June 6, 1972). DeSoto, Clark v. DeSoto PPJ, Civil No. 17266 (W.D. La. Jan. 28 and June 8, 1972). East Feliciana, London v. East Feliciana PPJ, 347 F. Supp. 132, (M.D. La. Aug. 8, 1972). Franklin, Ferrington v. Franklin PPJ, Civil No. 17429, Beach v. Franklin PSB, Civil No. 17469 (W.D. La., consent decree Feb. 1, 1972). Jefferson Davis, Briscoe v. Jefferson Davis PPJ, Civil No. 17392 (W.D. La. April 15, 1972). Lafayette, Black Alliance for Progress v. Lafayette PPJ, Civil No. 19163 (W.D. La. Nov. 7, 1974) (section 5 submission required). Pointe Coupee, United States v. Pointe Coupee PPJ, Civil No. 71-368 (E.D. La., filed Oct. 18, 1971). St. Helena, Baker v. St. Helena PPJ, Civil No. 71-336 (E.D. La. Jan. 11, 1972) (consent decree); Baker v. St. Helena PPJ, Civil No. 71-293 (E.D. La. Dec. 1, 1972). St. James, United States v. St. James PPJ, Civil No. 72-277-H (E.D. La. Feb. 2, 1972). St. Mary, United States v. St. Mary Parish, Civil Nos. 18048 and 18178 (W.D. La., filed Aug. 15, 1972). Union, Whatley v. Union PPJ, Civil No. 17019 (W.D. La., filed and decided July 29, 1971) (approves plan objected to under section 5).

be more favorable to black voting strength.[159] In five other parishes court decisions or section 5 decisions have accepted voting plans that apparently dilute the black vote.[160]

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159. Beauregard, Murrell v. McKeithen, Civil No. 13206 (W.D. La. April 11, 1972) (Parish Police Jury (PPJ) and Parish School Board (PSB)). Catahoula, Zeigler v. Catahoula PPJ, Civil No. 14289 (W.D. La. May 30, 1972) (U.S. intervenor) (no objection under section 5, May 22, 1972 (PSB)). Concordia, Wactor v. McKeithen, Civil No. 12663 (W.D. La. Jan. 18, 1968) (PPJ and PSB). East Carroll, Zimmer v. McKeithen, Civil No. 13927 (W.D. La. 1971), affirmed, 467 F.2d 1381 (5th Cir. 1972), vacated en banc, 485 F.2d 1297 (5th Cir. 1973); petition for cert. filed sub nom. East Carroll PSB v. Marshall, 42 U.S.L.W. 3374 (U.S. Dec. 3, 1973) (No. 73-861) (PPJ and PSB). Madison, Wyche v. Madison Parish, Civil No. 14053 (W.D. La. April 7, 1969) (PPJ and PSB). Morehouse, Collins v. Day, Civil No. 10397 (W.D. La. March 30, 1971); Brass v. Morehouse Parish, Civil No. 17177 (W.D. La. Nov. 18, 1971) (PPJ and PSB). Ouachita, Turner v. McKeithen, Civil No. 15411 (W.D. La. July 1, 1971), affirmed, 490 F.2d 191 (5th Cir. 1973) (PPJ and PSB). Rapides, LeBlanc v. Rapides PPJ, Civil No. 13715 (W.D. La. June 5, 1972); United States v. Rapides PSB, Civil No. 19209 (W.D. La. Oct. 25, 1973); appeal dismissed as moot, 5th Cir., Oct. 29, 1974; Bradas v. Rapides PPJ, 376 F. Supp. 690 (W.D. La. 1974) (PPJ and PSB). Red River, Huckaby v. Red River Parish, Civil No. 16120 (W.D. La. Aug. 30, 1971) (intervention by blacks) (PPJ and PSB). St. Martin, Angelle v. Eastin, Civil No. 14876 (W.D. La. Aug. 11, 1971) (PPJ); Johnson v. St. Martin PSB, Civil No. 16,965 (W.D. La. June 5, 1972) (PSB). Tensas, Bell v. Tensas PPJ, Civil No. 16670 (W.D. La. Aug. 3, 1971), appeal dismissed, No. 71-2782, (5th Cir. Jan. 3, 1972) (PPJ and PSB). Vernon, Hern v. Vernon PPJ, Civil No. 15635-LC (W.D. La. June 24, 1971) (U.S. amicus curiae) (PPJ and PSB). Washington, Bailey v. Washington PPJ, Civil No. 70-2861 (E.D. La. June 19, 1972) (no objection under section 5, June 7, 1972) (PPJ). Winn, Ferguson v. Winn PPJ, Civil No. 18748 (W.D. La. March 29, 1974) (U.S. intervenor, Dec. 28, 1973) (section 5 submission June 18, 1974) (PPJ).

160. Iberia, Bernard v. Iberia PPJ, Civil No. 15117 (W.D. La. Sept. 21, 1971) (multi-member districts allowed; no objection under section 5, Aug. 14, 1973) ((PPJ and PSB). Iberville, no objection, July 30, 1971 (2-member district diluting black vote) (PPJ); Panior v. Iberville PSB, 359 F. Supp. 425 (M.D. La. 1973) (new elections not ordered) (PSB) St. John the Baptist, Troxler v. St. John the Baptist PPJ, 331 F. Supp. 222 (E.D. La. 1971), appeal dismissed, 452 F.2d 1388 (5th Cir. 1972) (multi-member districts allowed) (PSJ). Tangipahoa, Dameron v. Tangipahoa PPJ, 336 F. Supp. 918 (E.D. La. 1971) (multi-member districts allowed) (PSB). West Baton Rouge, no objection, Nov. 19, 1971 (multi-member districts allowed) (PPJ).

Following the passage of the Voting Rights Act of 1965, black political strength in majority black East Carroll Parish grew to the extent that one black was elected to the school board in 1966 and two to the police jury in 1968.[161] The three blacks were elected from single-member districts.[162] As a result, the parish adopted at-large elections for both bodies.[163] The United States District Court for the Western District of Louisiana approved the new at-large system,[164] and section 5 review was not sought.[165] Following the 1970 census the court again approved--over the objection of black intervenors in the suit--the use of at-large elections.[166] Again no section 5 review was sought.[167]

In 1974, the United States Court of Appeal for the Fifth Circuit reversed the lower court's decision.[168] The Fifth Circuit decision

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161. Political Participation, p. 217.

162. Zimmer v. McKeithen, 485 F.2d 1297, 1301 (5th Cir. 1973).

163. Stanley A. Halpin, Jr., counsel for intervenor in Zimmer v. McKeithen, New Orleans, La., letter to Emilio Abeyta, U.S. Commission on Civil Rights, Oct. 2, 1974.

164. 485 F.2d 1297, 1301.

165. Ibid., p. 1302 n. 9.

166. Ibid., p. 1301.

167. Ibid., p. 1302 n. 9.

168. Zimmer v. McKeithen, Civil No. 13927 (W.D. La. 1971), affirmed, 467 F.2d 1381 (5th Cir. 1972), vacated en banc, 485 F.2d 1297 (5th Cir. 1973); petition for cert. filed sub nom. East Carroll Parish School Board v. Marshall, 42 U.S.L.W. 3374 (U.S. Dec. 3, 1973) (No. 73-861).

was based on a number of factors.[169] Foremost was the history of racial discrimination in the parish in voting and in other areas. The court noted that between 1922 and 1962 no black resident of the parish had been allowed to register. The appellate court disagreed with the trial court that the removal of barriers "vitiated the significance of the showing of past discrimination." It recognized that "the debilitating effects of these impediments do persist."[170] The court found that the black vote was diluted by the use of at-large elections with majority and anti-single-shot voting requirements.[171] The court was also influenced by the existence of a "firmly entrenched state policy against at-large elections for police juries and school boards."[172]

Court rulings and section 5 objections have enhanced the voting strength of blacks in a number of other Louisiana parishes and cities.

The Fifth Circuit followed the East Carroll Parish case in upholding a district court ruling that the use of multi-member districts diluted the black vote in 27 percent black Ouachita Parish. The appellate court affirmed the requirement that single-member districts be used.[173] It also upheld the single-member districts required for

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169. See 485 F.2d 1297, 1305.

170. Ibid., p. 1306.

171. Ibid., n. 25.

172. Ibid., p. 1307. That policy was ended by Acts Nos. 445 and 561 [1968] Acts of La. 1001-1002 and 1300-1303. The Attorney General objected to both acts. Objection letter, Sept. 10, 1969.

173. Turner v. McKeithen, 490 F.2d 191 (5th Cir. 1973).

the school board of the Ouachita Parish seat, Monroe, by a district court.[174] Although the board had been elected at large since its creation in 1900, the lower court found that this voting method diluted the vote of the minority residents of this 38 percent black city.[175]

On June 25, 1974, the Attorney General objected to the redistricting plans for the Evangeline Parish school board and police jury. Under the plan concentrations of black voters were submerged in majority white, multi-member districts, especially one six-member district. In addition, the Attorney General found objectionable "the utilization of a majority vote requirement, an anti-single shot requirement, staggered terms for school board members and a numbered post system in the 1974 school board elections."[176] A month later the Attorney General objected to a revision of the plan that carved a single-member, majority black district out of the six-member district but otherwise left the original plan untouched.[177]

A Federal court threw out an at-large election system with a majority requirement and an anti-single-shot voting requirement in

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174. Carroll v. Monroe City School Board, Civil No. 72-2505 (W.D. La.), affirmed without opinion, 483 F.2d 1403 (5th Cir. 1973).

175. Ibid. Suit has also been filed attacking the at-large election of the Monroe City Council. Ausberry v. City of Monroe, Civil No. 74-424 (W.D. La., filed April 29, 1974).

176. Objection letter, June 25, 1974.

177. Objection letter, July 26, 1974.

Ferriday, a small, majority black town in Concordia Parish. The court approved a single-member district plan and ordered elections to be held using the new plan before the incumbents' terms would otherwise have expired.[178] The same court accepted a plan prepared by black plaintiffs which created five single-member districts, with a sixth councilman elected at large,[179] in Opelousas, which is 51 percent black.

In 1973, the city of Bogalusa, which is 34 percent black, added candidate residence requirements to its at-large system of electing a five-member city council. The Attorney General decided that this change would dilute the potential for black voters to elect the candidate of their choice and objected under section 5.[180]

VIRGINIA--ANNEXATIONS

The most significant problems of fair representation for blacks at the local level in Virginia have been the result of annexations in two cities, Richmond and Petersburg. The annexations in both cities

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178. Wallace v. House, 377 F. Supp. 1192, 1200, 1201 (W.D. La. 1974), appeal docketed, No. 74-2654, 5th Cir., June 21, 1974. At-large election in the city of Lafayette is also under attack in Federal litigation. Black Alliance for Progress v. City of Lafayette, Civil No. 74-247 (W.D. La., filed March 11, 1974).

179. Perry v. City of Opelousas, 375 F. Supp. 1170 (W.D. La. 1974). The Department of Justice intervened in this suit.

180. Objection letter, Oct. 29, 1973.

resulted in section 5 objections and in litigation which reached the Supreme Court of the United States.

Richmond

Candidates endorsed by the Crusade for Voters, a black civic organization, were elected to three of nine seats in the city's at-large elected council in 1968 as a result of a slight black majority in population. Late in 1969, Richmond annexed approximately 23 square miles of adjacent Chesterfield County. (See map no. 17.) The population of the annexed territory was nearly 50,000, of whom 97 percent were white. The population of Richmond in 1970 after the annexation was 58 percent white.[181]

On May 29, 1974, the United States District Court for the District of Columbia, in a suit brought by the city of Richmond under section 5 of the Voting Rights Act, found that the annexation discriminated against blacks both in its purpose and in its effect.[182] The court found that as a result of the black success in the 1968 councilmanic election the white political leadership was concerned lest "the black voting bloc would be able to elect a majority to the City Council in the 1970 elections."[183] They were convinced "that annexation of part of Chesterfield County was necessary to keep the black population from

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181. Prior to annexation, the population of Richmond was 52 percent black. Statistics cited in City of Richmond Virginia v. United States, 376 F. Supp. 1344, 1349-51 (D.D.C. 1974).

182. Ibid., p. 1352.

183. Ibid., p. 1349.

RICHMOND

Richmond annexation.

Map No. 17. Richmond, Virginia annexed 23 square miles of adjacent Chesterfield County, which changed the population of the city from majority black to majority white.

gaining control of the city...."[184] The negotiations with Chesterfield County during 1969 were conducted by Richmond's white mayor, Phil J. Bagley. Council members endorsed by Richmond Forward, a white organization, were invited to attend conferences concerning the progress of the negotiations;[185] the Crusade-endorsed councilmen were excluded.

Mayor Bagley was quoted on one occasion as saying, "As long as I am the Mayor of the City of Richmond the niggers won't take over this town." On another occasion he is reported to have stated "that niggers are not qualified to run the city."[186]

The court noted that the concerns expressed during the negotiations confirm the theory that the motivation behind the annexation was to prevent blacks from taking over the city politically:

> Richmond's focus in the negotiations was upon the number of new white voters it could obtain by annexation; it expressed no interest in economic or geographic considerations such as tax revenues, vacant land, utilities, or schools. The mayor required assurances from Chesterfield County officials that at least 44,000 additional white citizens would be obtained by the city before he would agree upon settlement of the annexation suit. 187

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184. Ibid.

185. Ibid., p. 1350.

186. Ibid., p. 1350, n. 29. As required by law the Commission has offered Mr. Bagley the opportunity to reply to these statements. His reply is included in appendix 7.

187. Ibid., p. 1350.

Finally, acceptance of the agreement was conditioned "on the annexation going into effect in sufficient time to make citizens in the annexed area eligible to vote in the City Council election of 1970."[188]

In 1970 Richmond held its city council election without having submitted the annexation to the Attorney General for review under section 5. The election was thus held illegally. The result of the election was that candidates supported by the white organization continued to hold six of the nine seats.[189]

After the Supreme Court of the United States said explicitly in the Canton, Mississippi, case,[190] that annexations are covered by section 5, Richmond, on March 8, 1971, submitted the annexation for section 5 review.[191] Two months later the Attorney General objected to it. Nevertheless, in 1972 Richmond attempted to hold elections using the illegal procedure of 1970. These elections were enjoined by the Supreme Court of the United States only a week before they were to be held.[192]

The litigation concerning the annexation has been complex and

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188. Ibid.

189. Ibid., p. 1351.

190. Perkins v. Matthews, 400 U.S. 379 (1971).

191. Objection letter, May 7, 1971.

192. Holt v. City of Richmond, 406 U.S. 903 (1972).

continues.[193] The Supreme Court of the United States has noted probable jurisdiction of the city's appeal from the ruling of the District of Columbia court that the annexation is discriminatory.[194] The United States District Court for the Eastern District of Virginia has before it the question of whether the proper remedy for the illegal annexation is deannexation (which is urged by some blacks) or the use of single-member districts without deannexation (which is urged by the black Crusade for Voters, the Department of Justice, and the city of Richmond).[195]

Petersburg

Unlike the Richmond annexation, the 1971 Petersburg annexation did not present evidence of a purpose to discriminate against black voters.[196] However, the clear discriminatory effect of the annexation led to a section 5 objection by the Attorney General and to a ruling against

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193. There have been three related suits. Holt v. City of Richmond, 334 F. Supp. 228 (E.D. Va. 1971), reversed, 459 F.2d 1093 (4th Cir.), cert. denied, 408 U.S. 931 (1972) (15th amendment suit); Holt v. City of Richmond, Civil No. 695-71-R (E.D. Va., filed Dec. 9, 1971), stay of election granted, 406 U.S. 903 (1972) (further district court action is pending Supreme Court action in City of Richmond v. United States) (section 5 suit); City of Richmond, Virginia v. United States, 376 F. Supp. 1344 (D.D.C. 1974), prob. jur. noted, No. 74-201, (U.S. 43 U.S.L.W. 3343) (U.S. Dec. 16, 1974) (section 5 suit).

194. City of Richmond, Virginia v. United States.

195. Holt v. City of Richmond, Civil No. 695-71-R.

196. City of Petersburg, Virginia v. United States, 354 F. Supp. 1021 (D.D.C. 1972), affirmed, 410 U.S. 962 (1973).

the city by the United States District Court for the District of Columbia.[197] There are three elements which led to this conclusion. First, before the annexation the city was 55 percent black. Afterward, it was only 46 percent black.[198] Second, city council elections in Petersburg had been held at large with a majority vote required for election. The city declined to adopt single-member districts after the annexation, which would have minimized the dilution of the black vote caused by the increased white population.[199] Third, the court found evidence of racial bloc voting in Petersburg. An "informal white political structure" does not slate black candidates, and voting, in elections where both whites and blacks are involved, is along racial lines.[200] Thus the black minority would have little power in city council elections held at large.[201] The result of the court's determination was the election of city council members from single-member districts in June 1973. Black candidates won a majority of the seats.[202]

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197. Objection letter, Feb. 22, 1972. City of Petersburg, Virginia v. United States.

198. 354 F. Supp. 1021, 1024.

199. Ibid., p. 1027.

200. Ibid., pp. 1025-26.

201. Hermanze E. Fauntleroy, Jr., vice mayor, Petersburg, Va., interview, July 9, 1974.

202. 1974 Roster, pp. 224-26.

NORTHEASTERN NORTH CAROLINA

In the counties and towns of northeastern North Carolina--the part of the State with the greatest proportion of blacks--the use of at-large elections has severely limited the ability of blacks to be elected to county commissions, school boards, and town councils. (See map no. 18.) While a few blacks have been elected to these positions, the number is far below the proportion of blacks in the total population. In a few instances, possibly discriminatory changes in the method of election have been made without having been cleared under section 5 of the Voting Rights Act.

In Bertie, Gates, Halifax, Hertford, and Northampton Counties, county commissioners are elected at large. In all of those counties except Northampton they must reside in particular districts.[203] In both Hertford and Northampton Counties one of five commissioners is black. In the other three counties no blacks serve on the five-member county commissions.[204]

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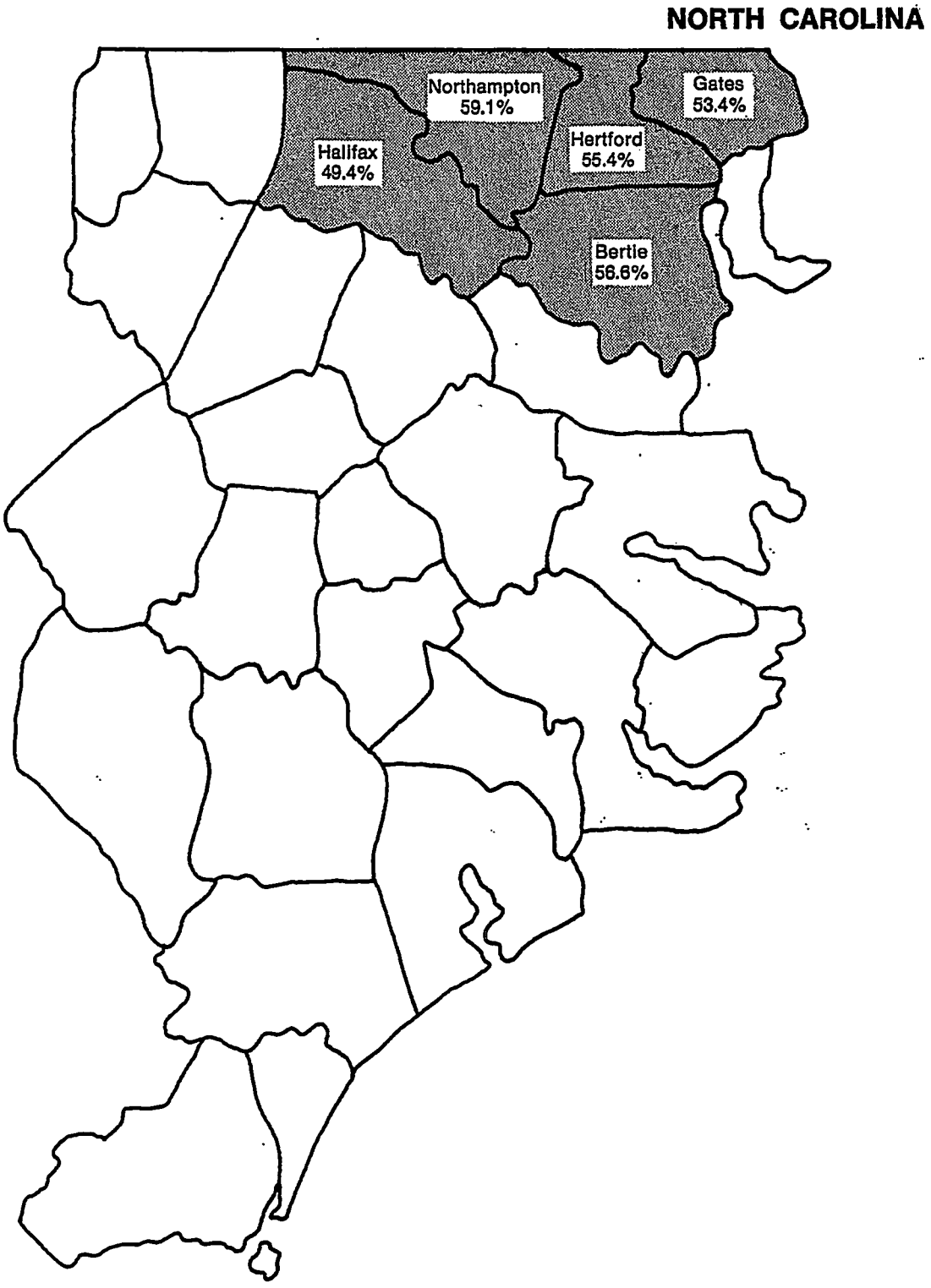
203. Bertie Co., Edith Williford, secretary, board of elections, interview, July 10, 1974; Gates Co., Hayes Carter, clerk of court, interview, July 12, 1974; Halifax Co., Marie Page, executive secretary, board of elections, interview, July 11, 1974; Hertford Co., C. L. Willoughby, chairman, board of elections, interview, July 10, 1974; Northampton Co., Barbara A. Wheeler, executive secretary, and R. L. Grant, chairman, board of elections, interview, July 12, 1974.

204. 1974 Roster, p. 165; Earl R. Lewis, commissioner, Hertford Co., interview, July 9, 1974; Wheeler and Grant Interview.



Map No. 18. The five counties in northeastern North Carolina discussed in the text are majority, or close to majority, nonwhite. The numbers indicate the nonwhite percentage.

On May 7, 1974, a primary election was held for one commissioner position in Halifax County.[205] Since the winner of the Democratic primary in that county has traditionally had little opposition in the general election, victory in the primary is tantamount to election.[206] The seat available was for district 1, a rural district which is 72.7 percent black, 18.7 percent white, and 8.6 percent Native American (Haliwa Tribe).[207] Registration for the district was 1,359 blacks, 1,144 whites, and 275 Native Americans.[208] There were four candidates for the position: the white incumbent, one black, and two Haliwas.[209] The black candidate, Horace Johnson, received a plurality in district 1 and in a runoff in that district would have had a good chance of victory. (See table 13.) With the election held countywide Johnson had no chance of even getting into a primary runoff.

Single-member districts might also have led to the election of a black to the county commission in Bertie County in 1974.[210] In the fifth district (the seat in contest) the Rev. Leroy Gilliam received

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205. 1974 Roster, p. 165, James Gilliam, Windsor (Bertie Co.), N.C., interview, July 10, 1974; Carter Interview; Horace Johnson, Sr., Hollister (Halifax Co.), N.C., July 11, 1974.

206. Roanoke Rapids (N.C.) Daily Herald, May 8, 1974, sec. 1, p. 1.

207. Ibid.

208. Page Interview.

209. Ibid.

210. James Gilliam Interview (James Gilliam is not related to Leroy Gilliam, the candidate.)

178 votes. His white opponent, the incumbent Bennie F. Bazemore received only 104. Countywide, however, Bazemore won easily, 1,059 to 779.[211]

Table 13. RESULTS OF MAY 7, 1974 PRIMARY ELECTION, HALIFAX COUNTY, NORTH CAROLINA

Candidate	Vote in District 1	Total Vote
Horace Johnson, Sr. (black)	488	1,913
Oliver L. Lynch (Haliwa)	79	280
Thomas W. Myrick (white)	433	4,212
W. R. Richardson (Haliwa)	178	778

Source: Roanoke Rapids (N.C.) Daily Herald, May 8, 1974, sec. 1, p. 8.

Halifax County's residence requirement was adopted in 1971.[212] It has been implemented without clearance under section 5 of the Voting Rights Act.[213] Other counties have made similar changes without obtaining section 5 clearance. Vance County, which is 42 percent nonwhite, adopted in 1966 the use of residence requirements and staggered

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211. Williford Interview.

212. Resolution of May 24, 1971. Jean Futrell, secretary to county auditor and former executive secretary, board of elections, Halifax Co., interview, July 11, 1974.

213. Section 5 Printout, as of May 8, 1974.

terms for commissioners; in 1968 it made the same change for school board members.[214] In Pasquotank County, which is 38 percent nonwhite, residence requirements were adopted in 1965.[215]

The county school boards in Bertie, Gates, Halifax, Hertford, and Northampton Counties also are elected at large.[216] Four of the counties each have only one black school member.[217] Northampton County has two blacks on its school board, which was expanded from the normal five to seven members in 1970.[218]

At-large election with residence requirements may have prevented the election of a Haliwa to the Halifax County school board in the May 7, 1974, nonpartisan election. The seven-member school board includes one black, who was first appointed to the school board in 1970 and became the county's first black elected official when he placed third in a six-person field in the 1974 election.[219] In fifth place in the election, but not too far behind the third and fourth place candidates, was Thomas O. Hedgpath, a Haliwa. In his own district 1, he was the

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214. Information provided by Deva W. Paschall, executive secretary, board of elections, Vance County, Aug. 15, 1974.

215. Information provided by Mildred W. Umphlet, executive secretary, board of elections, Pasquotank County, N.C., Aug. 12, 1974.

216. See note 203 above. 1974 Roster, pp. 172-74, and Gilliam, Carter, Page, and Lewis Interviews.

217. Ibid.

218. Wheeler and Grant Interview.

219. Futrell Interview; Dock M. Brown, vice president, Halifax County NAACP, Halifax, N.C., interview, July 11, 1974.

top vote getter by a wide margin. (See table 14.)

Table 14. MAY 7, 1974 SCHOOL BOARD ELECTION, HALIFAX COUNTY, NORTH CAROLINA (three elected)

Candidate	Vote in District 1	Total Vote
Charles S. Bartholomew (white)	348	3,363
Nina W. Beavers (white)	402	4,137
Thomas O. Hedgpath (Haliwa)	695	2,938
Jessie W. Richardson (Haliwa)	296	1,608
Homer G. (Fuzzy) Rose (white)	395	3,112
Walter L. Turner (black)	458	3,216

Source: Roanoke Rapids (N.C.) Daily Herald, May 8, 1974, sec. 1, p. 8; Page Interview.

At-large election is not the only barrier to minority entry into the Halifax County school board. The county has three school districts, one which corresponds approximately to the city of Roanoke Rapids, one for the city of Weldon and environs, and the county district for the remainder of the county. Residents of the Roanoke Rapids school district elect its board; the Weldon board is appointed. The county school board is chosen by the electors of the whole county.[220] Since 25 percent of the county's residents live in Roanoke Rapids, which is 90 percent white, whites dominate the county school board politically

220. Myron L. Fisher, Jr., superintendent, Weldon Public Schools, interview, July 12, 1974; Page Interview.

even though 63 percent of the county residents outside Roanoke Rapids and Weldon are black or Native American. At least 87 percent of the students of the county district are nonwhite.[221]

A similar arrangement in Robeson County, which is 31 percent Native American and 26 percent black, was challenged in Federal court by Native American voters. The district court denied them relief, and the case has been appealed to the United States Court of Appeals for the the Fourth Circuit.[222]

At-large elections also limit black success in city council elections in northeastern North Carolina. Seven communities in Halifax County have elected councils.[223] All are elected at large[224] and none has a black member.[225] Similarly, in Bertie County there are no black council members in the five towns with elected councils, all chosen at large.[226] Three of nine towns in Northampton County with

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221. U.S., Department of Health, Education and Welfare, Office for Civil Rights, Directory of Public Elementary and Secondary Schools in Selected Districts: Enrollment and Staff by Racial/Ethnic Group, Fall 1972, p. 996.

222. Locklear v. North Carolina State Board of Elections, 379 F. Supp. 2 (E.D.N.C. 1974), appeal docketed, No. 74-1856, 4th Cir., July 23, 1974.

223. Enfield, Halifax, Hobgood, Littleton, Roanoke Rapids, Scotland Neck, Weldon. Page Interview.

224. Ibid.

225. 1974 Roster, pp. 166-71.

226. Windsor, Colerain, Powellsville, Lewiston, and Aulander. Gilliam Interview.

city councils--elected at large--have among them four black council members.[227] In Hertford County, both Ahoskie (42 percent black) and Murfreesboro (39 percent black) have one black on their five-member, at-large elected city councils.[228]

ALABAMA

While 1974 was a year of breakthrough for blacks in gaining seats in the Alabama legislature, there has been no similar breakthrough for local commissions and councils. The legislative increase was primarily the result of the use of single-member districts. City council members and county commissioners are still typically elected at large.

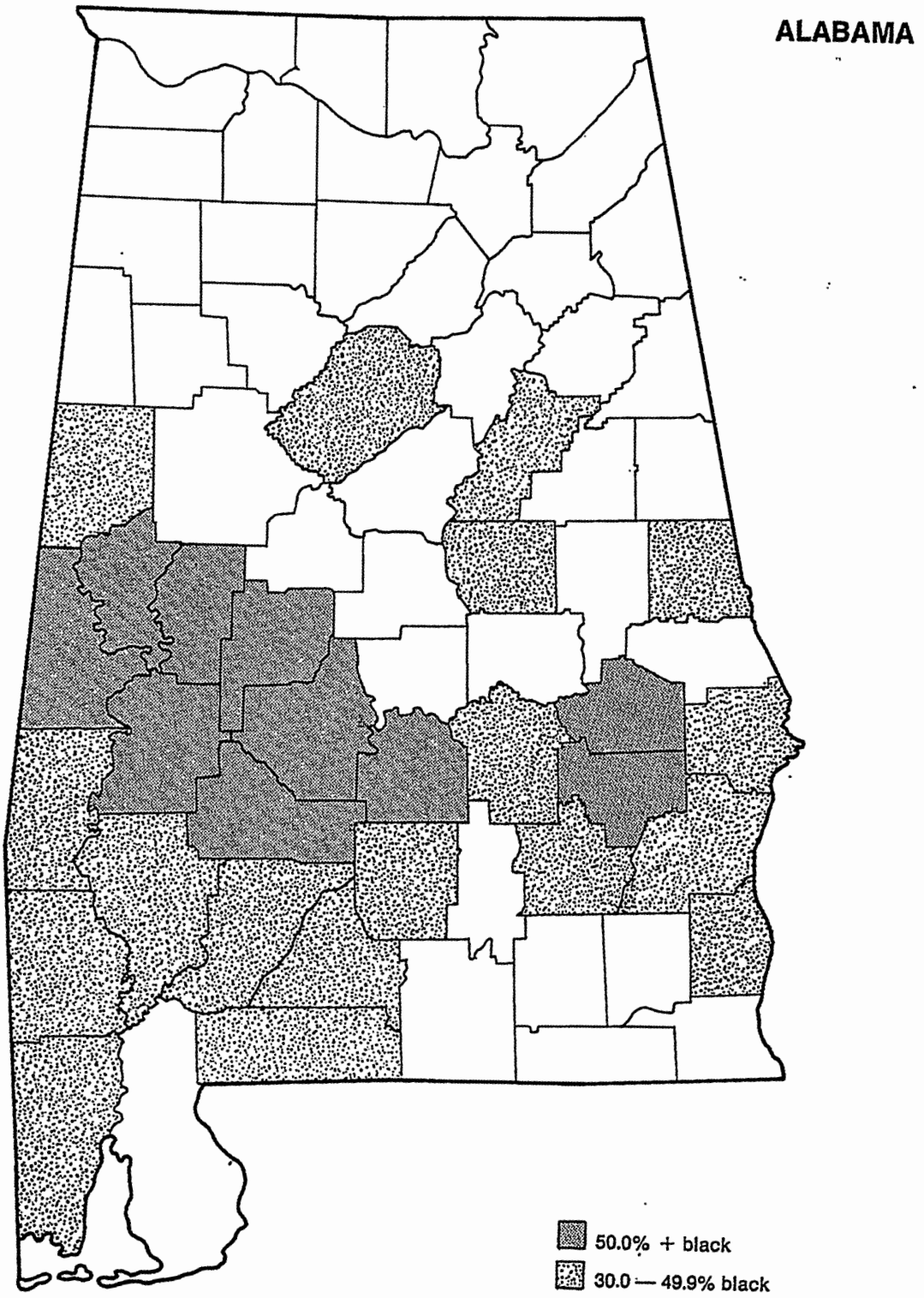
Only four counties in Alabama--Bullock, Greene, Lowndes, and Macon--have any black commissioners.[229] Each of the four is at least two-thirds black. (See map no. 19.) The six other majority black counties elect their commissioners at large.[230] In these counties the

227. Conway, Garysburg (two blacks on council), Gaston, Jackson, Lasker, Rich Square (one black on council), Seaboard (one black on council), Severin, Woodland. Wheeler and Grant Interview; 1974 Roster, pp. 166-71.

228. Viola Perry, secretary to city manager, Ahoskie, N.C., interview, July 11, 1974; Elizabeth Councill, clerk, Murfreesboro, N.C., interview, July 11, 1974; Jacob Ruffin, city councilman, Murfreesboro, N.C., interview, July 11, 1974.

229. 1974 Roster, p. 1 and Alexander, telephone interview, Dec. 6, 1974.

230. Dallas, Hale, Marengo, Perry, Sumter, and Wilcox. Information provided by officials of the six counties.



Map No. 19. Alabama racial composition.

higher proportion of blacks than whites who are below voting age and the lower black registration rates have helped to prevent blacks from electing any commissioners. (See appendix 1.)

In Dallas County, which is 52 percent black, the county commission consists of four commissioners and the probate judge--the typical arrangement in Alabama counties.[231] The commissioners are not only elected at large, but they must also reside in particular districts, which prevents single-shot voting from being effective. In addition, the way the residential districts are drawn underrepresents the main area of black concentration in the county.[232] The district containing most of Selma, which is 50 percent black, contains 27,000 people; one rural district contains only 4,000.[233] A challenge to the election system in a Federal district court was unsuccessful.[234]

No blacks have been elected to county office in 31 percent black Talladega County, where the county commission and school board are both elected at large.[235] Because of the greater number of white voters than black and the unwillingness of whites to vote for a black candidate, blacks do not expect political success in the county until

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231. Code of Ala., Tit. 12 § 5 (1958).

232. J. L. Chestnut, attorney, Selma, Ala., interview, Sept. 3, 1974.

233. Henry Sanders, attorney, Selma, Ala., interview, Sept. 4, 1974.

234. Reese v. Dallas County Commissioners, Civil No. 7503-73 (S.D. Ala. Oct. 3, 1973), appeal docketed, No. 73-3756 5th Cir., Nov. 20, 1973. As of Dec. 26, 1974, the appeal was still pending.

235. Huell Love, attorney, Talladega, Ala., interview, Sept. 7, 1974.

there are single-member districts. A black campaign worker told a Commission staff member that blacks are reluctant to run for at-large seats because there is so little expectation of victory.[236]

Blacks in Pickens County have attacked in Federal court the election scheme for county commission, county board of education, and county Democratic executive committee.[237] At-large elections with residence requirements have helped to prevent blacks from being elected, although the county is 42 percent black.[238] The judge has ruled that the districts should be equalized but has not passed on whether at-large election with residence requirements discriminates against blacks in Pickens County.[239]

There have been only six changes in districting or the method of election for county commissioners in Alabama which have been submitted to the Attorney General under section 5 of the Voting Rights Act.[240] Objections were made to the at-large election system submitted by Autauga County in 1972.[241] and by Pike County in 1974.[242]

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236. Emmett L. Gray, Talladega, Ala., interview, Sept. 7, 1974.

237. Corder v. Kirksey, Civil No. CA 73M1086 (N.D. Ala., filed Nov. 15, 1973).

238. Ed Still, counsel for plaintiffs in Corder v. Kirksey, Tuscaloosa, Ala., telephone interview, Oct. 3, 1974.

239. Corder v. Kirksey, Order of Aug. 21, 1974.

240. Section 5 Printout, as of May 8, 1974.

241. Objection letter, March 20, 1972.

242. Objection letter, Aug. 12, 1974.

In 1969 Pike County changed from electing its four commissioners from single-member districts to electing them at-large while requiring them to live in particular districts. A majority vote was also required. Though passed in 1969, this new electoral system was not submitted to the Attorney General under section 5 until May 1974.[243] The Attorney General believed that blacks might have a better chance of success with at-large election than with single-member districts because of the lack of sufficient black voting strength in any one district. The Attorney General nevertheless objected to the change because of the use of residency and majority requirements. These requirements, together with the continued use of staggered terms, could dilute black voting strength.[244]

Although blacks in Birmingham, Alabama's largest city, have been more successful politically than blacks in other parts of the State, a suit has been filed challenging the city's at-large method of electing its city council.[245] While Birmingham is 42 percent black, only two of the nine council members, or 22 percent, are black.[246] The use of numbered posts was eliminated by the Justice Department in 1971,[247] but an anti-single-shot requirement[248] continues to reduce

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243. Section 5 Printout, as of May 8, 1974.

244. Objection letter, Aug. 12, 1974.

245. Coar v. Seibels, Civil No. 748519 S (N.D. Ala., filed May 29, 1974) (pending as of Dec. 2, 1974).

246. 1974 Roster, pp. 3-5.

247. Objection letter, July 9, 1971.

248. Mayor-Council Act of 1955, as amended, sec. 3.01.

the effectiveness of the black vote.[249] In the 1971 election 16,000 ballots were voided because fewer candidates were voted for than there were positions available on the city council. Some 97 percent of the voided ballots were from black areas, a Commission staff member was told.[250]

The large black population in Birmingham and the substantial number of blacks living in other communities in the county combine to make Jefferson County 32 percent black. The absence of blacks on the county commission can be explained by the electoral system in the county: only three commissioners, elected at large, and elected to designated positions. This electoral system is also before a Federal court.[251]

Bessemer and Fairfield are smaller cities in Jefferson County that both have substantial black populations. Bessemer is 52 percent black and Fairfield, 48 percent. At-large council elections with a majority requirement in both towns and residency requirements in Fairfield help to explain the current absence of blacks from the council in

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249. Dr. Richard Arrington, member, city council, Birmingham, Ala., interview, July 19, 1974.

250. Ibid.

251. McPhearson v. Green, Civil No. 74P519 S (N.D. Ala., filed May 29, 1974) (pending as of Dec. 2, 1974).

either city.[252] A suit has been filed against the Fairfield electoral system.[253] In 1968 blacks had been elected to 6 of 13 council positions in Fairfield. In the 1972 election all eight black candidates lost, even though 42 percent of the vote was cast for black candidates.[254] Adding to the dilution of black votes in recent years in both communities has been the fact that several white areas have been annexed without preclearance under section 5 of the Voting Rights Act.[255]

SOUTH CAROLINA

During 1973 and 1974 the Attorney General objected to changes in the method of election of the governing bodies of a number of South Carolina cities and counties.[256] (See map no. 20.) During the same period section 5 objections were also entered to annexations by two cities and to a city-county consolidation.

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252. Walter Jackson, director, Legal Evaluation Action Project, Birmingham, Ala., interview, July 17, 1974; A.L. Harrison, candidate (subsequently elected), Alabama House of Representatives, Birmingham, Ala., interview, July 16, 1974. Complaint, p. 3, Memorandum in Support of Motion for Summary Judgment, p. 4, Nevett v. Sides, Civil No. 73P529 (N.D. Ala., filed May 30, 1973) (pending as of Nov. 1, 1974).

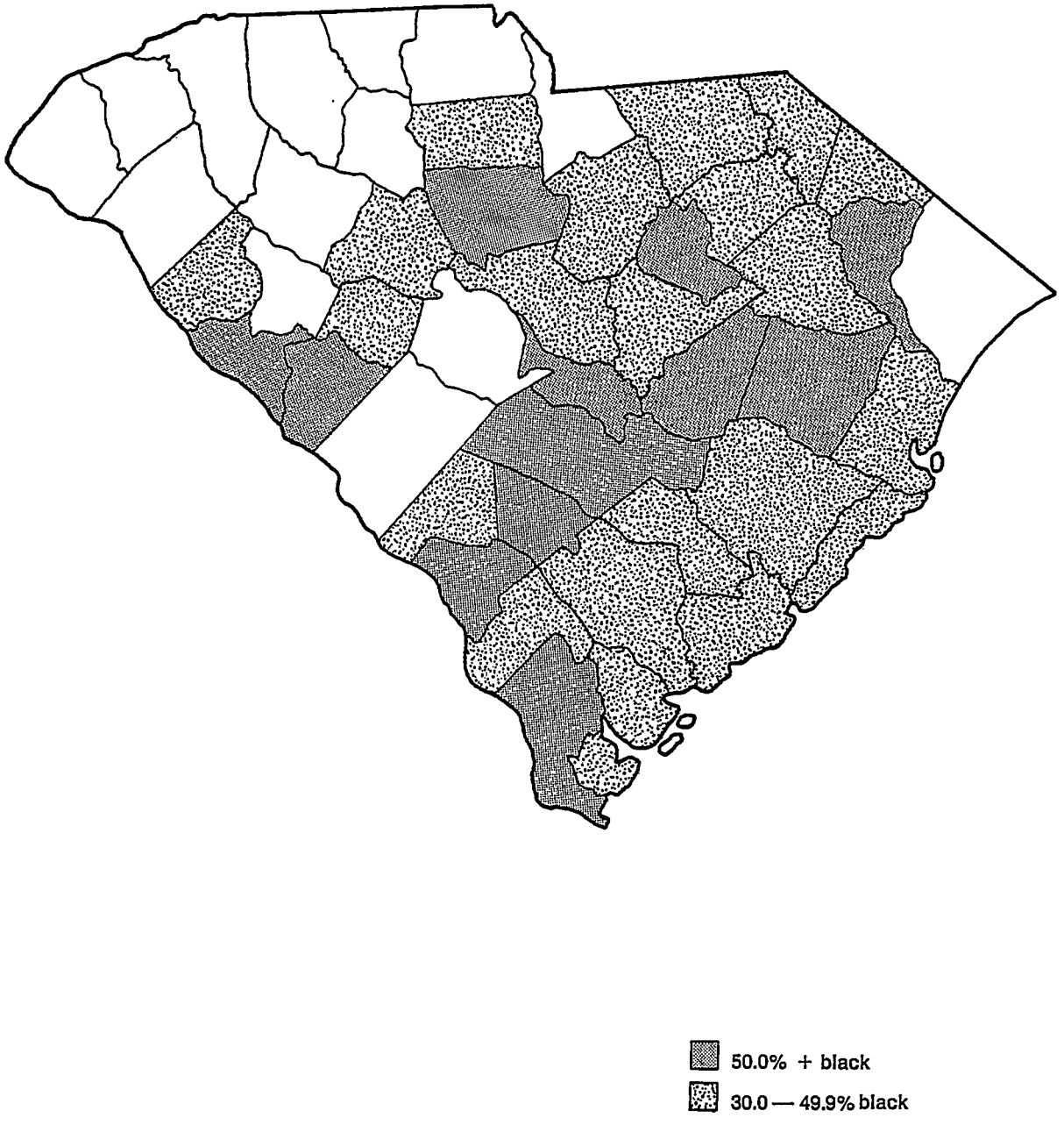
253. Nevett v. Sides.

254. Complaint, p. 4, Memorandum, p. 2, Nevett v. Sides.

255. Jackson Interview.

256. Until a recent amendment to the State constitution there was no provision for county home rule in the State. Act No. 68, [1973] Stat. at large of S.C. 67, amending Art. VIII of the Constitution of 1895, authorized the passage of county home rule charters.

SOUTH CAROLINA



Map No. 20. South Carolina racial composition.

Darlington imposed a majority vote requirement and a candidate residence requirement for city council elections in 1973.[257] The Attorney General's objection to the new requirements was based on the fact that elections were already conducted at large in a city with 51 percent black population and the requested change was passed after a near win by a black candidate. The Attorney General found that the statute would increase the number of votes needed to win, increase the likelihood of head-to-head races between blacks and whites with race made a more significant campaign issue, and thereby reduce the effectiveness of concentrated minority voting.[258]

In January 1974 the Federal district court for South Carolina found the Dorchester County method of electing its seven-member county council--multi-member district with residency and numbered post requirements--in violation of the equal protection clause of the 14th amendment.[259] The court ordered the legislature to draw up and submit a valid election plan to the Attorney General under section 5. The proposed plan called for at-large elections and was objected to on April 22, 1974, by the Attorney General.[260] Subsequent to the objection, a new single-member plan was drawn up and submitted to the court for

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257. Act 117, [1973] Stat. at large of S. C. 140.

258. Objection letter, Aug. 17, 1973.

259. DeLee v. Branton, Civil No. 73-902 (D. S. C. Jan. 2, 1974).

260. R913, adopted Feb. 11, 1974, as received by the U. S. Department of Justice for section 5 preclearance, Feb. 21, 1974. Objection letter, April 22, 1974.

approval, rather than to the Attorney General. In October of 1974 the court approved this plan without requiring the defendants to submit it to the Attorney General.[261]

On September 3, 1974, the Attorney General objected to a plan to stagger the 4-year terms of the six council members in Bishopville. The city currently has no black council members but is 49 percent black. The probable effect of the plan would have been to limit further the opportunity of blacks to elect a candidate, since they are a minority of the population and because the number of positions to be filled at any one time would drop from six to three. The Department found the change to staggered terms particularly offensive because the 1975 election would be the first in which blacks could take advantage of the opportunity to single-shot vote.[262]

On the same day the Attorney General objected to Bamberg County's use of residence requirements and staggered terms in the election its new governing body. The Department noted that the potential of blacks (42 percent of registered voters) to elect a representative of their choice that exists when only a plurality is required and single-shot voting is allowed is decreased when residency requirements narrow the field of candidates. The opportunity of a minority candidate is further reduced when staggered terms are superimposed on the residency requirement, since it further reduces the field of candidates in any given election.[263]

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261. DeLee v. Branton, Order of Oct. 7, 1974.

262. Objection letter, Sept. 3, 1974.

263. Objection letter, Sept. 3, 1974.

Later in September 1974 the Attorney General also objected to the use of at-large voting for the same body after he received a petition containing 600 signatures in opposition to the at-large system.[264] The petition questioned the Department of Justice presumption that the at-large system, even when a plurality only is required for election and single-shot voting is allowed, provides blacks a realistic opportunity to elect candidates in the county.[265]

The Attorney General also objected to the at-large election of county commissioners in Lancaster County. The county's system combined at-large election with the use of staggered terms, majority vote, residency, and numbered post requirements. The Attorney General noted that there is potential in Lancaster County for achieving a black majority district under an equitably drawn, single-member, seven-district plan.[266] Because the county had implemented this new system of election in 1972 in violation of the requirements of section 5 the Department brought suit in 1974 to overturn the 1972 elections and to assure that subsequent elections be conducted in compliance with the Voting Rights Act.[267]

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264. Objection letter, Sept. 20, 1974.

265. The objection letter stated that, since the petition was received late in the 60-day period allowed for a section 5 determination, the Department would hold open the possibility of its withdrawing the objection after further consideration of the situation and other issues raised by the black voters.

266. Objection letter, Oct. 1, 1974.

267. United States v. Lancaster County Election Board, Civil No. 74-1528 (D.S.C., filed Oct. 9, 1974) (consent decree, Oct. 11, 1974).

The 1974 Charleston city and county consolidation plan provided for the election of members of the new governing body through the use of multi-member districts, at-large elections, a majority vote requirement, residency requirements, and numbered posts. In September the Attorney General objected to these elements of the plan, though not to the consolidation itself, saying that, with the significant minority population of Charleston and a history of racial bloc voting, methods of election such as those proposed would have an impermissible diluting effect on black voting strength. Department of Justice analysis indicated that a fairly drawn plan of single-member districts would allow fair opportunity for the election of black candidates.[268] A single-member district plan was adopted immediately following the section 5 objection,[269] but the consolidation plan was turned down by the voters in a referendum held on November 5, 1974.[270]

Also in September 1974 the Attorney General objected to seven annexations made by the city of Charleston between 1964 and 1974 which were not submitted for section 5 review until July 1974. Eighteen other annexations adopted during the 10-year period and submitted at the same time were not objected to. The Department's analysis

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268. Objection letter, Sept. 24, 1974.

269. Armand Derfner, attorney, Charleston, S.C., interview, Nov. 18, 1974.

270. Herbert Fielding, former member, South Carolina house, Charleston, S.C., telephone interview, Nov. 21, 1974.

indicated that the objectionable annexations may have led to the defeat of candidates supported by the black community in 1971.[271]

Earlier in 1974 the Attorney General had objected to two annexations of predominantly white areas adjacent to McClellanville, a town with only 30 blacks in a population of 304. For racial reasons the annexation excluded a black community of 500 immediately adjacent to the town.[272] The Department later withdrew the objection after it received assurance that future annexations will be considered without regard to race or color.[273]

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While generalizations are difficult over the hundreds of counties and cities covered by the special provisions of the Voting Rights Act, a frequent occurrence is for a local governmental unit to alter its method of election to head off the possibility of minorities' gaining significant political strength at the local level. For example, Richmond, Virginia, brought in additional white voters through an annexation when it appeared that blacks had a good chance to take control of the city government. Numerous Mississippi counties adopted

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271. Objection letter, Sept. 20, 1974.

272. Objection letter, May 6, 1974.

273. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, letter to John A. Buggs, Staff Director, U.S. Commission on Civil Rights, Dec. 23, 1974. The objection was withdrawn Oct. 21, 1974.

at-large elections when black voting strength grew rapidly after 1965. Small towns in Georgia continue to adopt numbered post and majority requirements in an apparent effort to control black voting strength.

What these changes have in common is that they were made by whites in political control. Minority political strength, despite progress under the Voting Rights Act, is not yet able to prevent structural changes that limit the effectiveness of that strength. For example, when the Richmond annexation was agreed to in 1969, three of the nine city council members were black. They were excluded from the negotiations that led to the annexation and had no way to prevent its taking place. The only safeguard of minority voting rights in this situation was section 5 of the Voting Rights Act, enforced by the Attorney General, and the judicial system. In other cities and counties where changes similar in their effect have been made, minorities have had even less political strength than had been gained in Richmond by 1969. For example, when Leflore County, Mississippi, adopted at-large election for its board of supervisors and when it later adopted (as required by court order) a single-member district plan that a Federal court found to be racially gerrymandered, there was not even token black representation on the county board of supervisors.

Unfortunately, the years since the passage of the Voting Rights Act do not seem to have led to a diminution of objectionable changes in methods of election at the local level. There were more section 5

objections to changes of this type in 1974 than in any previous year. Moreover, the 1980 census will open a new round of changes that can effect the fairness of representation in local governing bodies.

CONCLUSION

In the 10 years since passage of the Voting Rights Act, minority citizens in jurisdictions covered by the act have finally begun to participate actively in the American political process. The percentage of registered blacks in covered Southern States nearly doubled between 1964 and 1972, and has continued to rise in the three States for which more current data are available. Voter turnout has also increased in Southern States covered by the act. In addition, the number of blacks elected to office in those States has increased substantially, from fewer than 100 in 1964 to 963 in 1974. Much of this change is the result of the Voting Rights Act.

The act provides several interrelated mechanisms to protect the constitutional rights of minority citizens. The suspension of literacy tests and the use of Federal examiners enabled many minority persons to register. Where examiners have not been used, the potential of their use has stimulated registration of minorities. Similarly, the use of Federal observers has helped to ease the entry of minorities into the political process and to protect against discrimination at the polls. These procedures have been supported by the authority of the Attorney General to enforce the act and the 15th amendment through the judicial process.

The section 5 preclearance provision of the Voting Rights Act, bolstered by litigation, has enabled the Justice Department to block the imposition of new discriminatory laws and practices in jurisdictions covered by the Voting Rights Act. Although section 5 review was hardly used before 1971, it has become the centerpiece of the act. The long list of objections by the Attorney General under section 5 is testimony to its importance in the progress toward full and effective minority political participation.

In most jurisdictions covered by the act there has been real progress toward achievement of its purposes. In those jurisdictions, however, as well as in areas where there has been little or no progress, minority citizens encounter barriers to free exercise of their political rights. Exclusion from the political process left minorities at a decided disadvantage when the opportunity to participate was finally achieved. The years under the Voting Rights Act have been years of catching up, a process well under way but far from complete.

The data presented in chapters 2 and 3 and the experiences described in chapters 4 through 7 document the persistence of discrimination in the electoral process. And though minority citizens usually are no longer excluded from political participation, the widespread use of racial gerrymandering and manipulation of voting rules detailed in chapters 8 and 9 dilute the effect of their participation and minimize hardwon success at the polls.

The problems facing minority voters, detailed in the report, lead to the conclusion that there is still hostility and resistance to the free and effective political participation of blacks, Native Americans, Puerto Ricans, and Mexican Americans. Where the Voting Rights Act has opened the door to political participation, minorities have stepped across the threshold with both determination and wariness. They experience the electoral process as an obstacle course, still controlled by the people (and in many instances the same individuals) who have long sought to exclude them from effective political participation. They bear the burden of mastering the intricacies of the political process in the face of persistent hostility and the often openly-expressed fear of whites that minorities in political control will treat whites as minorities themselves have been treated.

For the minority citizen, the right to vote is still a precarious right. In conjunction with the persistence of discrimination, the persistence of vulnerability to economic and physical pressure shapes the minority citizen's response to the opportunity to participate. For many minority voters, entering a polling place is crossing into dangerous territory, where personal experience and the shared heritage of centuries tell them they do not belong.

The episodes reported here may seem like isolated instances, for the scattering of details obscures their full impact on minority voters and candidates. An individual in a particular jurisdiction, however, experiences the political process as a whole, and the accumulation of these problems may deter individuals from exercising their political rights.

Consider, for example, the experience of reservation Navajos in Apache County, Arizona. Although they participate in the political process more freely now than before passage of the Voting Rights Act, their progress has been slow and uneven. Those who could read and write English were first enfranchised in 1948. Apache County was only briefly covered by the act in 1965, but the later suspension of literacy tests enabled many Navajos to register. Following the 1970 general election, however, the Arizona legislature required a complete reregistration of voters, and many newly registered Navajos were removed from the rolls.

By the 1972 election Navajo registration had increased substantially, but Apache County did not provide additional polling places. Many voters had to wait long hours in freezing temperatures to vote. Those who obtained ballots often had difficulty reading them and using the voting machine. Since Arizona requires purging if a voter misses one general election, Navajos who were unable to wait to vote, or did not vote for some other reason, were subsequently purged. Though a

notice was sent to voters who were purged, some did not receive it in time to preserve their registration. Others who received the notice were unable to read it.

Despite these problems, one Navajo was elected to the three-member Apache County Board of Supervisors. The county refused to allow him to take office until the Arizona Supreme Court ordered him seated.

Although Navajos residing on the reservation constitute about three-quarters of Apache County's population, the three supervisors' districts are drawn in such a way that all the Navajos are placed in one grossly overpopulated district. The Navajos and the Department of Justice have filed suit against the districting plan. The county's defense in the suit is that Navajos residing on the reservation should not have the right to vote and, therefore, should not be counted for the purpose of creating supervisors' districts. Thus 10 years after the Voting Rights Act enabled most Navajos in Apache County to begin to participate in the political process, their own county government is trying to exclude them from it.

Blacks in Wilcox County, Alabama, have also encountered a variety of obstacles to political participation. Wilcox is a small rural county with a population of 16,000, 60 percent of which was black in 1970. According to previous Commission reports, no black was registered to vote in Wilcox County in 1959, 1961, or 1965. By November 1967, blacks

had achieved a slight majority of the county's registration through the work of Federal examiners appointed under the Voting Rights Act.

Registration is only the beginning of the political process, however. Barriers to political success abound in Wilcox County. At-large elections make it extremely difficult for blacks to win a seat on the county commission. Many blacks are reluctant to go to the white-owned stores that serve as polling places because they fear they will not receive credit at these stores if they vote. During the 1972 election one poll watcher for a black candidate was ordered to leave such a store shortly after the polls opened.

Several events occurred during the 1972 election in Wilcox County which may deter black political activity. The 100-vote lead of a black candidate for county commission was overtaken by absentee ballots. The election for constable was confused and its integrity undermined when the Democratic Party added a number of blacks, without their knowledge or consent, to its previously all-white slate of nominees. They opposed a black slate offered by the National Democratic Party of Alabama (NDPA). In addition, black supporters of the NDPA were not allowed to cast challenge ballots. Such experiences do not encourage political participation.

Minority citizens in other jurisdictions covered by the Voting Rights Act have also encountered difficulties in attempting to exercise the rights protected by the act. Progress toward full political participation is limited by the fact that some of the barriers that continue to deter minority political activity result from abuse of discretion by local officials whose behavior cannot be monitored completely. By fostering the opportunity for minorities to participate in the political process, however, the act lays the foundation for minority participation in the selection of local procedures and personnel. Participation at that level offers some hope of protection against abuse of discretion.

The Voting Rights Act has been an effective law, but the potential of its remedies has not been fully realized. The effectiveness of the act itself in the covered jurisdictions has been limited by the fact that section 5 does not reach discriminatory practices which existed before its coverage took effect. Litigation by the Department of Justice to eradicate such practices has been limited. Also, Federal examiners have not been used in many jurisdictions where minority registration lags substantially behind white registration.

The Voting Rights Act has opened the political process to minority citizens in the covered jurisdictions. Persistent discriminatory barriers, however, undermine both the success of the act and the political system itself. A democratic system depends on the full participation

of its citizens, and until the right of minority citizens to participate freely is realized the rights of all Americans are not yet secured.

FINDINGS

PROGRESS UNDER THE VOTING RIGHTS ACT

1. Minority political participation in jurisdictions covered by the Voting Rights Act has increased substantially since passage of the act:
   a. The suspension of literacy tests has facilitated the participation of many minority citizens including those whose facility in English is limited.
   b. Registration and voting by minorities has increased to the point that their influence is being felt through their ability to elect minority public officials and to determine the outcome of elections between white candidates.

2. Progress toward full enfranchisement of minorities in the jurisdictions covered by the Voting Rights Act is uneven.
   a. In many areas minority registration lags far behind that of whites and apparently minority turnout is usually lower than white turnout.
   b. Analysis of the types of offices to which minorities, particularly blacks, have been elected indicates that minorities have not yet gained a foothold on positions of real influence.

c. There is little evidence of progress in some covered jurisdictions. For example, some counties with substantial black populations have no black elected officials at any level of government.

3. The failure of most State governments in covered jurisdictions to maintain registration and turnout data by race hampers statistical evaluation of progress made by those jurisdictions in enabling minority citizens to register and vote. The failure of the Bureau of the Census to implement Title VIII of the Civil Rights Act of 1964 to obtain reliable estimates of registration by race compounds the problem of inadequate data.

ENFORCEMENT OF THE VOTING RIGHTS ACT

4. Enforcement of the Voting Rights Act has contributed substantially to the progress toward full minority political participation, but its potential has not been fully realized.
   a. Section 5 preclearance has helped to eliminate new practices which are discriminatory in purpose or effect; however, the effectiveness of section 5 depends on the willingness of the covered jurisdictions to submit changes in electoral laws, practices, and procedures as required by the act.
   b. Compliance with the submission requirement has been uneven, and the Department of Justice does not have an effective monitoring system to bring to its attention unsubmitted changes.

c. The use of Federal examiners has stimulated minority registration in the 60 counties to which they have been assigned, but examiners have rarely been used in recent years despite persistent disparities in minority and white registration rates in many counties of covered States.

d. The presence of Federal observers in five of the covered States has helped to promote fair elections. The effectiveness of the observer program, however, has been limited by the failure to ensure that a substantial number of minorities serve as observers and to adequately inform the public of the presence and purpose of observers.

e. Litigation by the Justice Department under the Voting Rights Act has helped to eliminate discriminatory practices in some of the covered jurisdictions. Private litigants, however, still bear much of the burden of enforcing the act and challenging discriminatory practices that antedate its coverage.

REGISTRATION

5. Few jurisdictions make any affirmative nonpartisan effort to register eligible persons. The burden of registration is borne by individuals or by private nonprofit organizations. Such organizations are hampered by provisions of the Tax Reform Act of 1969 which severely limit foundation financing of nonpartisan voter registration drives.

6. Registration, including the registration of minorities, is hampered in jurisdictions covered by the Voting Rights Act by the fact that registration hours and places are limited, inconvenient, and poorly publicized. The absence or ineffective use of deputy registrars, mobile registration, and weekend and evening hours further limits opportunities to register.

7. Dual registration as practiced in many jurisdictions covered by the act is particularly burdensome to minority voters, who often are not informed of the need to register twice.

8. Few minority persons serve as registrars and a disproportionately small number of registration staff members are minorities.

9. Uncooperative and sometimes hostile behavior on the part of registrars and the failure of registrars to maintain scheduled hours limit the number of minorities who can register.

10. In some jurisdictions, minority registration has been discriminatorily reduced by unequal application of purge requirements to minorities and whites and by inadequate notice to minorities of both the purging and the procedures for reinstatement.

11. Reregistrations have removed substantial numbers of registrants including disproportionate numbers of minorities from the registration rolls. This has had the effect of undermining the objectives of the Voting Rights Act.

VOTING

12. The frequent inability of election officials to locate the names of minority voters on voting lists and numerous failures of these officials to inform minorities of their right to cast challenge ballots curtail the participation of these voters in many jurisdictions covered by the Voting Rights Act.

13. The location of polling places and the inadequacy of voting facilities deter minority voting in many areas.

14. County officials in some States often fail to inform minority voters of polling place changes. Furthermore, notification is rarely made in any language other than English, despite the presence of a substantial non-English-speaking population.

15. Minority and bilingual persons are severely underrepresented among election officials and rarely serve in supervisory positions.

16. Despite the requirement of a bilingual electoral process in certain jurisdictions, materials and assistance, including translations of ballots and voting instructions into languages other than English, have been inadequate to ensure the voting rights of Native Americans and Spanish speaking persons in those jurisdictions.

17. Illiterate persons in many jurisdictions are denied their right to cast an effective ballot because of a failure to provide for acceptable and adequate assistance.

18. Abuses of absentee ballot procedures such as permitting ineligible whites to vote absentee and applying unequally requirements for voting absentee have deprived minorities of their voting rights in some of the jurisdictions covered by the Voting Rights Act. Absentee ballots cast in some of these instances have provided the margin of victory for white candidates running against minorities.

RUNNING FOR OFFICE

19. Excessive qualifying fees deter many persons from running for office and have a disproportionate impact on the poor and minorities.

20. Lack of cooperation from some local officials has prevented minorities from running for office and has impeded the candidacies of others.

21. Poll watchers for minority candidates are sometimes excluded from polling places and frequently encounter restrictions on their observing the casting and counting of votes.

22. Minority candidates in some areas have been prevented from campaigning on an equal basis in white communities.

23. Many blacks, excluded from the traditional party structure, have encountered discriminatory restrictions in their efforts to run as independents or third party candidates.

24. Minority political success in some instances has been hampered by abolishing offices, preventing winning candidates from taking office or exercising the full powers of office, and substituting appointment for election in filling certain offices.

PHYSICAL AND ECONOMIC SUBORDINATION

25. Although physical violence against minorities who attempt to register and vote is no longer common, violent episodes have occurred in recent years in Alabama, Louisiana, and Mississippi.

26. Acts or threats of economic retaliation continue to deter minorities from registering and voting. Moreover, many minorities are deterred from participating in the political process by fear of economic harm which results from their economically dependent status.

27. The history of physical violence and economic reprisal against minority communities has left widespread fear of retaliation for political participation, particularly among rural Southern blacks.

FAIR REPRESENTATION

28. The use of multi-member districts, instead of single-member districts, especially in conjunction with one or more of the following requirements: majority vote, numbered post, candidate residence, and full-slate voting, has discriminatorily limited the impact of minority voters in the selection of State legislators in the covered States.

29. Racial gerrymandering of State legislative and congressional district lines has limited the effectiveness of minority votes in elections for those offices in the covered jurisdictions.

30. The use of at-large elections, in conjunction with numbered posts, candidate residence, majority, and full-slate requirements, has resulted in discriminatory dilution of minority influence in the election of local officials in the covered jurisdictions.

31. Practices which appear to be neutral, such as annexation, consolidation, and incorporation, have diluted the voting strength of minorities in the selection of local officials in some of the covered jurisdictions.

RECOMMENDATIONS

Extension of the Voting Rights Act

1. Prior to August 6, 1975, Congress should extend the Voting Rights Act for an additional 10 years.

After August 6, 1975, the States and counties discussed in this report will be able to remove themselves from coverage under the Voting Rights Act. This means that the Justice Department will no longer be able to send Federal examiners and observers to these jurisdictions and that preclearance of changes with respect to voting will no longer be required. Also, if Congress does not take the action urged in the next recommendation, there is a possibility that some jurisdictions will resume using literacy tests.

Despite progress in all of the areas that were studied, it is clear to the Commission that the protection provided by the Voting Rights Act is still needed. Violations of the rights of minorities continue, and minorities remain disproportionately underrepresented in the voting process and in elective office.

The Voting Rights Act originally provided protection for a 5-year period. In 1970 Congress decided that an additional 5 years of coverage was required. The Commission believes that the act should now be extended

for 10 years. Experiences of the past 10 years clearly show that the barriers which the Voting Rights Act was designed to overcome are not easily eradicated. Earlier estimates of the time required for full achievement of rights guaranteed to minorities under the 15th amendment were unrealistic.

Other factors have helped to persuade the Commission that a 10-year extension is necessary. Section 5, the preclearance provision, is the cornerstone of the Voting Rights Act. Yet its full implementation did not begin until the end of 1971. Even now some jurisdictions either are not fully aware of or fail to comply with its requirements. Second, the most serious problem for minority voters now is practices which dilute the minority vote. The greatest use of section 5 has been in preventing such practices. Following the 1980 Decennial Census, all the States covered by the act will reapportion their legislatures and their congressional districts. County and municipal redistricting will be widespread. Based on the redistricting practices which followed the 1970 census, the Commission believes it essential that section 5 protection be available during the next major period of redistricting. The Commission believes that information available to Congress now amply justifies such action and that no purpose would be served by postponing for 5 years the decision to extend the Voting Rights Act to August 6, 1985.

2. Congress should extend the national suspension of literacy tests for an additional 10 years.

In 1970 Congress enacted a 5-year suspension of literacy tests and other tests and devices. This ban will expire in August 1975. Research by the Commission in areas with large numbers of blacks, Mexican Americans, Puerto Ricans, and Native Americans whose literacy in English is limited indicates that a return to literacy tests would serve no useful purpose and would have a disproportionately adverse impact upon these groups.

3. Congress should amend the Voting Rights Act to provide for civil penalties or damages against State and local officials who violate section 5 of the act by enforcing or implementing changes in their electoral laws and procedures without having first obtained preclearance from the Attorney General of the United States or the District Court for the District of Columbia.

The effectiveness of section 5 preclearance has been limited by the failure of covered jurisdictions to submit all changes in their electoral laws and procedures for review and by the absence of direct procedures to enforce compliance with the preclearance requirement.

An enforcement provision that would assess personal damages against officials who implement unsubmitted changes, without reimbursement from public funds, would foster timely submission of changes. Damages in such cases should be awarded to those who institute proceedings against such officials.

Enforcement of the Voting Rights Act

4. The Department of Justice should strengthen its enforcement of section 5 of the Voting Rights Act, the preclearance provision.

The Department of Justice should assume the responsibility for developing a system which ensures the discovery and systematic review of election law changes. The Department also should take legal action to prevent the implementation of uncleared changes and give greater publicity to the requirements of section 5 to increase the timely submission of changes for the Attorney General's review.

5. The Department of Justice should bring lawsuits to end discriminatory practices which are not prevented by section 5.

Many of the discriminatory practices which the Commission found were instituted prior to November 1964 and therefore are not subject to the requirement of preclearance. Much of the burden of litigation to remove these practices has fallen on private parties. Where appropriate the Department should initiate litigation.

6. The Department of Justice should direct the Civil Service Commission to send Federal examiners to counties where the minority registration rate is significantly lower than the white rate, registration for minorities is inordinately inconvenient, or purges are burdensome or discriminatory in purpose or effect.

There are numerous counties in which the minority registration rate is significantly lower than the white registration rate. The reasons for this disparity vary, but they are rooted in the history of discrimination in voting which is common to the areas studied by the Commission. Similar disparities may exist in areas for which reliable statistics on voter registration by race are not available. In some jurisdictions differences between minority and white registration rates may be slight, but the process of registration still places a discriminatory burden on minorities. In other places overly-strict purge requirements result in the removal of minorities from registration lists after the initial obstacles of registration have been overcome with difficulty. In all these situations a more vigorous program for using Federal examiners under the Voting Rights Act should be instituted in order to facilitate minority registration.

7. The Department of Justice, in situations where time permits, should give advance notice of the use of Federal observers. Federal observers must be identifiable as such to minority voters and include among their

number a higher proportion of minorities.

The Department's practice of not announcing the use of observers until election day and not having observers wear distinctive identification was based on a policy of keeping the Federal presence at elections as unobtrusive as possible. During the past several years the presence of observers has become more widely accepted. Both blacks and whites often consider observers valuable in ensuring a fair election. Greater publicity for the presence of observers at elections can only increase the fairness and appearance of fairness of the elections. One concern of many blacks in areas where observers have been sent is that the observers have been too identified with the white election officials. Increasing the proportion of minority observers would ease this problem.

8. The Department of Justice should take action to ensure that minority citizens whose usual language is not English receive adequate election materials and necessary assistance in their usual languages.

The Voting Rights Act and court cases ensure the right to vote of non-English-speaking minority citizens. For this right to be meaningful, publicity and election materials must be prepared and made available in the appropriate languages. The Commission found that all too often these requirements were not adequately met. Where necessary the Department should initiate litigation to ensure that the use of a language other than English is not a barrier to voting.

9. The Department of Justice should determine whether there are other jurisdictions which satisfy the criteria of section 4(b) of the Voting Rights Act for coverage under the act.

Coverage under section 4(b) is based on voter turnout rates and on the use of a literacy test or other tests or devices. Court decisions since 1965 have given a broader interpretation to what constitutes a test or device. It is therefore possible that there are States, or counties within States, that in 1964 or 1968 in fact applied a test or device although they had no statutory literacy test. For example, if a State conducted elections exclusively in English in those years, despite a sizeable non-English-speaking population, it may actually have applied a literacy test.

10. If the staff of the Voting Section of the Civil Rights Division of the Department of Justice is inadequate for the implementation of the preceding recommendations and for full enforcement of the Voting Rights Act, the President should request and Congress should appropriate additional funds for the Department of Justice and the Department should increase its allocation of resources to that section.

Additional Recommendations

The Commission's research indicates that some problems which minorities encounter with respect to participation in the political

process are not dealt with or are not dealt with sufficiently by the Voting Rights Act. The following recommendations are intended to remedy some of the conditions that permit discrimination against minorities or that have a discriminatory effect on minorities.

11. Congress should enact a program to enhance the economic independence of all citizens.

One of the basic conditions underlying the slow progress toward complete equality in the political process is the economic dependence of minorities on whites. As long as this lasts minorities will be hesitant or unable to register, vote, and run for office freely. An impersonally administered Federal program, such as a negative income tax, can provide a measure of economic independence to those who are now dependent on local welfare administrators, local farm owners, and other employers, landlords, and creditors.

The Commission found in its 1961 report on voting that economic dependence was a substantial barrier to participation in the political process and recommended the adoption of programs to reduce the dependence which was found. In its 1968 report, Political Participation, the Commission again found a link between economic dependence and the inability to participate fully in the political process and again recommended corrective action. The Commission's research for this report indicates that the problem is still present and that a remedy is still needed.

12. Congress should enact legislation enabling an illiterate voter to receive assistance from whomever the voter wishes.

In some States a person who needs assistance in voting because of limited literacy can be helped only by an election official. In other States there is a strict limitation on the number of voters whom one person can assist. In both cases the result is that a minority voter often must accept assistance from a white election official whom the voter does not trust. The way the person votes--or whether he or she votes--may be affected by this. In some instances election officials have voted against the wishes of the persons receiving assistance. This situation could be remedied if the voter had the right to choose the person who gives the assistance, e.g., a relative, another person who accompanies the voter, or an election official considered more sympathetic.

13. The Equal Employment Opportunity Commission should take action to end discrimination in the employment of registration and election workers, which is prohibited by Title VII of the Civil Rights Act of 1964.

An important method of ensuring that the registration and voting processes are fair to minorities is for minorities to have a significant role in those processes. The Commission has found that the employment of minorities in the registration office and at the polling place is rare. Rarer still is a minority person in a supervisory position. While in some

situations remedial action can be taken under voting rights legislation, the Commission believes that a more effective approach to this problem is through the enforcement mechanisms of Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment by State and local governments as well as by private employers. If additional resources are required to ensure full implementation of this recommendation, the President should request and Congress should appropriate the necessary funds.

14. Congress should provide for the awarding of attorneys' fees where appropriate in private litigation to enforce the Voting Rights Act or rights guaranteed by the 15th amendment.

Much of the burden of voting rights litigation has fallen on private parties. The litigation is expensive and the individuals and organizations who are parties to it often cannot bear the sustained financial strain. Some Federal courts award attorneys' fees in this type of litigation, but others do not. A provision for attorneys' fees similar to that in Titles II and VII of the Civil Rights Act of 1964 should be enacted.

15. Congress should enact legislation establishing a Federal program to assist State and local governments wishing to improve and modernize their registration programs.

In many of the areas that the Commission studied registration procedures are outmoded, and many of the problems that the Commission found

are the result of inadequate financing of the registration process. Federal financial assistance would allow States and local jurisdictions to experiment with improved methods of ensuring that every citizen who wants to is able to register. One program intended to accomplish this was passed by the Senate in 1973 (section 21 of S. 372, The Federal Election Campaign Act Amendments, 93rd Cong. 1st Sess.).

16. Congress should amend the Tax Reform Act of 1969 to end the restriction on foundation financing of nonpartisan voter registration drives.

The principal burden of increasing registration has always been borne by privately-funded nongovernmental organizations. The Tax Reform Act of 1969 taxes partisan political activity by foundations, but it also severely limits foundation financing of nonpartisan voter registration drives. Those portions of the act, 26 U.S.C. § 4945(d)(2) and (f), which limit funding of voter registration drives are not necessary to prevent abuse and have served only to reduce or deny assistance to registration programs.

In addition, Congress should consider establishing a Federal program to support voter registration in areas with persistently low registration.

17. The Bureau of the Census should conduct surveys in specified States and counties to determine the level of voter registration and voter turnout by race and ethnicity.

The Commission first noted in 1959 the lack of information by race on voter registration and turnout. In 1964 Congress passed legislation to help remedy this problem. Unfortunately, the surveys called for by Title VIII of the Civil Rights Act of 1964 have never been undertaken, and reliable data for many of the States and counties considered in this report are unavailable. This lack of data adds to the difficulty of assessing the progress which has been made under the Voting Rights Act and of determining which areas should be subject to more or less intensive enforcement of the act.

18. Congress should enact a program for the collection of information on voter registration, all primary and general elections, and requirements of running for office. Such information should be distributed at United States Post Offices.

In its research the Commission staff frequently heard of persons who wished to run for office but had difficulties finding out such basic information as the filing deadline, petition requirements, and the like. If there were available at each United States Post Office a directory giving the requirements for voter registration and candidacy and showing schedules of registration and elections, minority voters and potential minority candidates would always have a reliable source of information.

19. Immediate steps should be taken to conduct a study of voting rights in jurisdictions that are not covered by the Voting Rights Act.

This report has assessed the status of minority voting rights only in jurisdictions covered by the Voting Rights Act. There is reason to believe that minority citizens in other jurisdictions encounter discrimination in the electoral process. In addition to sources cited in the report, the Commission has had representations from the Spanish speaking community regarding problems of registration and voting as well as other impediments to the exercise of the franchise by Spanish speaking citizens.

The Commission, recognizing that such a study should be accorded the highest priority, voted at its meeting on November 11, 1974, to direct that the study be undertaken no later than January 1975. It is now under way. The Commission will pursue the study in light of its belief that the concerns of language minorities, including those of Spanish speaking background, should be addressed as promptly as possible. However, it may not be completed before congressional action on this matter is concluded.

Therefore, we further recommend that the Congress not await the Commission's forthcoming report before giving serious consideration to including an amendment to the extension of the Voting Rights Act to cover those language minorities as well as other minorities who, according to preliminary information, require the protection of this law.

STATEMENT OF COMMISSIONER FRANKIE M. FREEMAN

I believe that Congress should abolish literacy tests rather than continue their suspension for 10 years. There is ample evidence that the historical purpose of literacy tests and the effect of their administration was simply to exclude otherwise qualified citizens from participating in the political process. When Congress suspended the use of literacy tests in the Voting Rights Act Amendments of 1970 the Commission recommended their abolition and I see no reason to retreat from that position now.

I find the arguments supporting the use of literacy tests misguided. Literacy tests cannot guarantee intelligent and informed voting. Literacy tests guarantee only that a class of citizens, many of whom are victims of unconstitutional discrimination in education, may not participate in their own self-government. How is the Nation's interest in fostering facility in written English served by excluding those who lack it from the political process? It is not. Literacy tests merely work further hardships on citizens, many of them minority citizens, who usually lack access to other means of political influence.

While I personally believe that all Americans should be literate in English, it is obvious to me that inability to read and write English does not necessarily prevent a citizen from casting an informed and intelligent ballot. Every citizen has ample opportunity

to receive as much or as little information on public issues as he or she wishes. The illiterate, like the blind person, may be well informed concerning public affairs through the broadcast media, public meetings, and conversation with family, friends, and coworkers. The non-English-speaking citizen may also have access to print or broadcast media in his or her usual language. Lack of facility in written English does not absolve a person of the responsibilities of citizenship. There is no reason why it should deprive a person of the rights of citizenship.

I believe that Congress has the power under the 14th and 15th amendments to abolish literacy tests. The potential of disfranchisement by literacy tests is a national problem that requires a national solution. The right to vote is too fundamental to be granted or withheld at the whim of States. Why should a citizen qualified to vote in one State be denied that right in another? Americans are a mobile people and the right to move freely from State to State is protected by the Constitution. That a citizen who has been unconstitutionally deprived of equal educational opportunity by one State may then be deprived of the right to vote by another State is contrary to the spirit of a free society. I believe that the right to vote clearly outweighs any State interest in the use of literacy tests.

In the years since literacy tests were suspended, many citizens, particularly members of minority groups, have been able to vote for the first time. I see no reason to jeopardize their participation in the political process by permitting a return to the use of literacy tests. Nor do I see any reason to make their right to vote conditional by merely extending the temporary suspension of literacy tests. As we approach the Nation's bicentennial in a chastened spirit, at a time when many citizens are "turned off" by politics, we can ill afford to exclude citizens who wish to participate in the political process. On the contrary, Congress should exercise its power to encourage the full and free political participation of all citizens, and Congress should begin by abolishing literacy tests.

STATEMENT OF VICE CHAIRMAN STEPHEN HORN

I disagree with Recommendation 2 that "Congress should extend the national suspension of literacy tests for an additional 10 years." As legislative assistant to Senator Thomas H. Kuchel (R-Calif.), I was a participant in the drafting of the original Voting Rights Act of 1965. Consequently, I am well aware of the solid and sordid record which has been laid down over the years by this Commission and various committees of the Congress as to the discriminatory misuse of literacy tests. In 1970, Congress suspended such tests nationally for a period of 5 years.

I do not favor illiterate election officials administering literacy tests which require interpretations of complex sections of State constitutions that neither they nor the Chief Justice of the United States could readily make. Neither do I favor an encouragement of citizen illiteracy in a nation where the ability to read and to write with some minimum level of competence is essential to the securing of employment in a largely technological society.

I would continue the ban for another 5 years until Congress could make a judgment as to the removal of the vestiges of past discriminatory behavior.

As an educator and a member of the Commission, I have long noted the interrelationship between the trilogy of education, employment, and housing. Without a minimum level of education, there will

be little opportunity for adequate employment in a technological society, and without a job, there is little hope that suitable shelter can be provided for oneself or one's family.

In brief, given the complex issues which confront this democratic Republic, I do not believe that the more illiterates who vote, the better. Neither do I believe that only those with a high school or college education should vote. I do believe, however, that there is a certain minimum level of literacy which a polity that prides itself on effective citizenship has a right to expect. Perhaps the ability to read the average daily newspaper would be a start. Such a standard might be the equivalent of a sixth or eighth grade education, although I am also well aware that some of our youth, especially those who are poor, now are "graduated" from overcrowded high schools even though they can barely read or write.

I believe that the Congress should enact and the President should sign into law a National Adult Literacy Act to assure that adult illiteracy can be wiped out in this decade. Such a program should recognize the particular needs of the Asian American, Mexican American, Native American, Puerto Rican, and Spanish speaking communities throughout the country. Instead of the public schoolrooms of American becoming empty and silent at three o'clock in the afternoon, the schools together with the larger firms and unions should be providing opportunities for adults who have not had the benefit to acquire a minimum competency in English. Our nation and our citizens would be much the better for this commitment.

. . .

With reference to Recommendation 12 that "Congress should enact legislation enabling an illiterate voter to receive assistance from whomever the voter wishes," I am concerned by the possible misuse of such a provision by the corrupt political machines which still dominate a few of the urban and rural areas of the Nation. Without careful drafting such a provision would offer a sure and additional way for such machines to check effectively on the casting of votes they have already bought and paid for.

STATEMENT OF COMMISSIONER ROBERT S. RANKIN

I approve of the extension of the Voting Rights Act for 10 years. It does not interfere with the freedom to elect but, in effect, serves as a guarantee of the right to vote to many United States citizens. However, by the end of this 10-year period, I hope that future extension of this act will become unnecessary.

With the great majority of the findings and recommendations made by this report I am in agreement. A few I accept without great enthusiasm. I would like to make the following comments:

1. I approve the extension of this act, not because some irregularities still exist in the South and elsewhere--to some extent they exist nationwide--but for the improvements that have resulted from this act. This point, to my mind, should have received greater emphasis in the report. As an illustration of this great improvement, I would draw attention to the rapidly decreasing number of complaints that are filed with the Commission that concern the alleged deprivation of voting rights. Ten years ago these complaints were numerous. Today the complaints concern employment, housing, and other matters while claims of the deprivation of voting rights are the least numerous of all.

2. I attribute the improvement of voting conditions in the South not only to the Voting Rights Act but to the fact that many citizens in that area recognize on their own volition that the

right to vote belongs to all citizens. I trust that the growth of this feeling will make the extension of the Voting Rights Act unnecessary beyond the 10-year extension.

Now as to some of the subjects considered in this report. Filing fees are not necessarily bad in themselves but become so when they deter the poor of whatever race from running for public office. This observation applies to filing fees in all sections of the United States. I would welcome a broad study of the use of filing fees. Should this study show that they act as a serious detriment in keeping the poor and minority persons from running for office, I would regulate their use, not only in the South but in other sections of the United States as well.

I agree to the abolition of the literacy test for the 10-year period because of the unfair administration of that test for the past 100 years. My solution to this broad problem, however, is not to accept illiteracy but to so improve our educational systems that illiteracy in the United States will disappear. Thomas Jefferson spoke of his awareness of the great value of public opinion, but he wanted it to be an informed public opinion.

I wish there were more interviews with registrars and other election officials that would show their position and attitude toward certain events described in this report. There are frequently two sides to a case. Also, even though the description given by one

party to an incident may be accurate, the opinion of the person criticized might be of assistance to the reader in making up his mind as to the true nature and extent of the alleged discrimination.

APPENDIX 1. VOTING AGE POPULATION AND REGISTERED VOTERS BY RACE AND BY COUNTY FOR LOUISIANA, NORTH CAROLINA, AND SOUTH CAROLINA

Voting age population (VAP) is the number of persons 18 years old or older according to the 1970 census. Registration data was supplied by the respective State Election Boards in the three States which gather such data. The first counties listed in North Carolina are 39 counties covered by the special provisions of the Voting Rights Act. The 61 counties in the second list are not covered. In a number of cases, voter registration appears to exceed 100% of the voting age population. Two possible explanations for this phenomenon are infrequent or inadequate purges of voters who have moved or died, and a substantial increase in the voting age population since 1970 due to in-migration.

Table 1-A. LOUISIANA (as of Oct. 5, 1974)

Parish	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Acadia	25,706	5,548	24,089	4,837	93.7%	87.2%	6.5
Allen	9,722	2,688	8,838	2,013	90.9	74.9	16.0
Ascension*	16,011	5,188	14,841	4,463	92.7	86.0	6.7
Assumption	7,336	3,728	6,837	3,095	93.2	83.0	10.2
Avoyelles	17,717	5,173	16,476	3,980	93.0	76.9	16.1
Beauregard	11,847	2,390	11,476	1,519	96.9	63.6	33.3
Bienville	5,999	4,324	5,419	3,301	90.3	76.3	14.0
Bossier	30,869	7,092	22,115	3,948	71.6	55.7	15.9
Caddo	98,539	47,861	73,126	23,636	74.2	49.4	24.8
Calcasieu	70,763	17,161	57,802	12,148	81.7	70.8	10.9
Caldwell	4,762	1,197	4,775	899	100.3	75.1	25.2
Cameron*	4,558	316	4,388	271	96.3	85.8	10.5

LOUISIANA (continued)

Parish	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Catahoula	5,207	1,794	5,318	1,414	102.1	78.8	23.3
Claiborne	6,171	4,949	5,659	3,198	91.7	64.6	27.1
Concordia	8,378	4,562	8,300	3,756	99.1	82.3	16.8
DeSoto	7,341	7,017	6,879	4,943	93.7	70.4	23.3
East Baton Rouge**	131,065	48,107	105,432	30,859	80.4	64.1	16.3
East Carroll	3,230	3,814	3,294	3,238	102.0	84.9	17.1
East Feliciana	5,959	5,509	4,335	3,756	72.7	68.2	4.5
Evangeline	15,069	4,062	16,017	4,420	106.3	108.8	-2.5
Franklin	10,100	4,132	9,608	2,278	95.1	55.1	40.0
Grant	6,995	1,688	7,300	1,066	104.4	63.2	41.2
Iberia	24,398	8,592	21,800	6,543	89.4	76.2	13.2
Iberville	10,007	7,743	9,556	6,859	95.5	88.6	6.9
Jackson	7,603	2,928	6,671	2,291	87.7	78.2	9.5
Jefferson	180,945	21,824	145,281	14,988	80.3	68.7	11.6
Jefferson Davis	14,309	3,126	12,634	2,417	88.3	77.3	11.0
Lafayette	53,378	12,773	47,164	9,803	88.4	76.7	11.7
Lafourche	36,118	3,837	33,748	3,253	93.4	84.8	8.6
LaSalle	7,897	792	8,648	689	109.5	87.0	22.5
Lincoln	15,056	8,991	11,417	3,776	75.8	42.0	33.8
Livingston	19,619	2,068	20,876	2,032	106.4	98.3	8.1
Madison	3,811	4,781	4,258	3,953	111.7	82.7	29.0
Morehouse	12,327	6,959	9,683	4,006	78.6	57.6	21.0
Natchitoches	15,763	7,210	11,856	5,192	75.2	72.0	3.2

LOUISIANA (continued)

Parish	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Orleans	236,597	152,650	137,296	83,545	58.0	54.7	3.3
Ouachita	55,320	17,110	39,882	9,365	72.1	54.7	17.4
Plaquemines	11,290	2,907	11,216	1,828	99.3	62.9	36.4
Pointe Coupee	6,901	5,735	6,900	5,028	100.0	87.7	12.3
Rapides*	54,693	18,758	44,268	9,558	80.9	51.0	29.9
Red River	3,622	2,111	4,041	1,757	111.6	83.2	28.4
Richland	8,631	4,472	7,370	2,311	85.4	51.7	33.7
Sabine	9,784	2,056	9,867	1,885	100.8	91.7	9.1
St. Bernard	29,169	1,367	29,265	983	100.3	71.9	28.4
St. Charles	12,451	3,913	11,525	3,452	92.6	88.2	4.4
St. Helena*	2,805	2,709	3,429	2,831	122.2	104.5	17.7
St. James	6,019	4,796	5,851	4,185	97.2	87.3	9.9
St. John the Baptist	7,467	5,688	8,124	5,710	108.8	100.4	8.4
St. Landry	29,218	17,095	28,259	15,477	96.7	90.5	6.2
St. Martin	12,586	5,708	12,748	5,517	101.3	96.7	4.6
St. Mary	25,450	8,698	22,002	6,649	86.5	76.4	10.1
St. Tammany	31,164	6,209	31,557	4,346	101.3	70.0	31.3
Tangipahoa	29,681	10,610	25,725	7,428	86.7	70.0	16.7
Tensas	2,565	3,035	2,877	2,594	112.2	85.5	26.7
Terrebonne	35,434	5,927	27,486	3,416	77.6	57.6	20.0
Union	8,556	3,377	7,926	2,546	92.6	75.4	17.2
Vermilion	23,297	3,093	22,753	3,161	97.7	102.2	-4.5

LOUISIANA (continued)

Parish	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Vernon	36,572	4,393	13,392	1,116	36.6	25.4	11.2
Washington	18,767	7,171	18,539	5,067	98.8	70.7	28.1
Webster	18,775	7,364	15,891	5,097	84.6	69.2	15.4
West Baton Rouge	5,682	3,856	5,429	3,026	95.5	78.5	17.0
West Carroll	6,872	1,261	6,227	762	90.6	60.4	30.2
West Feliciana	3,004	5,624	1,791	2,136	59.6	38.0	21.6
Winn	7,785	2,808	7,475	2,050	96.0	73.0	23.0
TOTAL	1,644,732	600,425	1,335,027	391,666	81.2	65.2	16.0

* As of July 17, 1974

** As of Feb., 1974

Table 1-B. NORTH CAROLINA (as of Oct. 30, 1974)

Covered Jurisdictions

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Anson	8,897	5,914	6,554	2,490	73.7	42.1	31.6
Beaufort	16,511	6,704	12,695	2,960	76.9	44.2	32.7
Bertie	6,381	6,117	5,873	4,764	92.0	77.9	14.1
Bladen	10,774	5,528	8,271	3,420	76.8	61.9	14.9
Camden	2,331	1,066	1,704	522	73.1	49.0	24.1
Caswell	6,727	5,134	4,736	2,911	70.4	56.7	13.7
Chowan	4,297	2,566	3,601	1,415	83.8	55.1	28.7
Cleveland	38,820	7,859	23,451	2,073	60.4	26.4	34.0
Craven	30,947	8,953	15,796	3,827	51.0	42.7	8.3
Cumberland	103,405	30,073	37,311	10,133	36.1	33.7	2.4
Edgecombe	18,412	13,039	12,581	6,824	68.3	52.3	16.0
Franklin	11,275	6,222	9,318	3,788	82.6	60.9	21.7
Gaston	85,746	10,348	52,500	4,885	61.2	47.2	14.0
Gates	2,837	2,510	2,447	2,303	86.3	91.8	-5.5
Granville	12,681	8,252	9,375	4,769	73.9	57.8	16.1
Greene	5,434	3,383	4,405	1,807	81.1	53.4	27.7
Guilford	151,545	38,612	104,498	19,280	69.0	49.9	19.1
Halifax	18,965	13,715	16,206	7,446	85.5	54.3	31.2
Harnett	25,987	6,508	17,558	2,973	67.6	45.7	21.9
Hertford	7,309	7,069	5,356	4,697	73.3	66.4	6.9

NORTH CAROLINA (continued)

County	White VAP	Black VAP	White Registered	Black. Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Hoke	4,787	3,656	3,023	1,856	63.2	50.8	12.4
Lee	15,550	3,930	13,356	2,405	85.9	61.2	24.7
Lenoir	23,257	11,265	15,889	6,040	68.3	53.6	14.7
Martin	9,218	6,038	7,960	4,172	86.4	69.1	17.3
Nash	26,195	11,285	18,788	5,764	71.7	51.1	20.6
Northampton	7,326	7,545	5,949	5,911	81.2	78.3	2.9
Onslow	59,373	9,473	18,352	2,734	30.9	28.9	2.0
Pasquotank	11,367	6,052	7,682	2,906	67.6	48.0	19.6
Perquimans	3,443	1,979	2,189	955	63.6	48.3	15.3
Person	11,798	4,574	10,859	3,929	92.0	85.9	6.1
Pitt	34,859	14,152	22,102	5,671	63.4	40.1	23.3
Robeson	24,173	11,539	18,915	10,178	78.2	88.2	-10.0
Rockingham	39,218	8,565	25,363	4,440	64.7	51.8	12.9
Scotland	11,082	4,959	7,468	2,779	67.4	56.0	11.4
Union	29,498	5,491	19,738	2,495	66.9	45.4	21.5
Vance	12,952	7,796	9,101	4,450	70.3	57.1	13.2
Washington	5,393	3,053	3,648	2,004	67.6	65.6	2.0
Wayne	37,041	16,192	20,805	5,838	56.2	36.1	20.1
Wilson	25,016	11,510	17,527	5,926	70.1	51.5	18.6
TOTAL-COVERED JURISDICTIONS	960,827	338,626	602,950	173,740	62.8	51.3	11.5

NORTH CAROLINA (continued)

Uncovered Jurisdictions

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Alamance	53,792	10,151	35,587	4,177	66.2	41.1	25.1
Alexander	11,765	840	11,528	690	98.0	82.1	15.9
Alleghany	5,514	140	5,101	75	92.5	53.6	38.9
Ashe	12,966	120	12,465	78	96.1	65.0	31.1
Avery	8,489	65	6,205	26	73.1	40.0	33.1
Brunswick	11,152	3,834	10,508	3,272	94.2	85.3	8.9
Buncombe	91,020	8,386	58,898	4,287	64.7	51.1	13.6
Burke	37,174	2,679	27,299	1,496	73.4	55.8	17.6
Cabarrus	42,843	6,930	26,834	3,052	62.6	44.0	18.6
Caldwell	33,866	2,032	24,628	1,373	72.7	67.6	5.1
Carteret	18,867	1,987	15,052	1,024	79.8	51.5	28.3
Catawba	55,053	4,450	43,671	3,225	79.3	72.5	6.8
Chatham	14,231	5,229	11,418	3,149	80.2	60.2	20.0
Cherokee	10,723	213	10,239	170	95.5	79.8	15.7
Clay	3,505	32	3,935	22	112.3	68.8	43.5
Columbus	21,120	7,567	16,023	4,663	75.9	61.6	14.3
Currituck	3,523	1,045	3,401	622	96.5	59.5	37.0
Dare	4,617	308	4,604	174	99.7	56.5	43.2
Davidson	56,915	5,371	46,486	4,301	81.7	80.1	1.6
Davie	11,208	1,318	10,332	875	92.2	66.4	25.8

NORTH CAROLINA (continued)

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Duplin	16,778	7,294	15,093	3,864	90.0	53.0	37.0
Durham	63,164	27,621	43,977	13,715	69.6	50.0	19.6
Forsyth	112,264	29,131	90,153	22,559	80.3	77.4	2.9
Graham	4,071	-	4,277	-	105.1	-	-
Haywood	27,847	499	19,426	284	69.8	56.9	12.9
Henderson	28,051	1,213	21,714	651	77.4	53.7	23.7
Hyde	2,281	1,234	1,992	825	87.3	66.9	20.4
Iredell	40,421	6,924	30,010	2,912	74.2	42.1	32.1
Jackson	14,232	298	11,039	191	77.6	64.1	13.5
Johnston	33,163	7,234	26,776	3,669	80.7	50.7	30.0
Jones	3,630	2,282	3,017	1,799	83.1	78.8	4.3
Lincoln	19,554	1,890	18,864	1,647	96.5	87.1	9.4
Macon	10,785	228	9,657	57	89.5	25.0	64.5
Madison	11,315	71	9,518	48	84.1	67.6	16.5
McDowell	19,172	942	13,618	622	71.0	66.0	5.0
Mecklenburg	178,757	48,424	138,870	26,568	77.7	54.9	22.8
Mitchell	9,193	18	8,708	11	94.7	61.1	33.6
Montgomery	9,888	2,610	8,550	1,532	86.5	58.7	27.8
Moore	19,647	5,432	15,872	2,554	80.8	47.0	33.8
New Hanover	42,992	11,160	31,230	5,852	72.6	52.4	20.2
Orange	35,586	6,082	27,315	4,302	76.8	70.7	6.1
Pamlico	4,326	1,738	3,221	1,053	74.5	60.6	13.9
Pender	6,990	4,442	5,737	2,271	82.1	51.1	31.0

NORTH CAROLINA (continued)

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Polk	7,271	843	6,393	573	87.9	68.0	19.9
Randolph	47,181	3,237	36,407	1,685	77.2	52.1	25.1
Richmond	18,897	6,282	13,580	4,738	71.9	75.4	-3.5
Rowan	52,603	8,979	37,143	4,155	70.6	46.3	24.3
Rutherford	28,820	2,864	19,967	1,353	69.3	47.2	22.1
Sampson	19,579	8,646	16,509	4,830	84.3	55.9	28.4
Stanly	26,402	2,692	20,532	1,557	77.8	57.8	20.0
Stokes	14,421	1,261	15,880	1,281	110.1	101.6	8.5
Surry	32,947	1,506	24,252	1,040	73.6	69.1	4.5
Swain	4,551	127	4,873	52	107.1	40.9	66.2
Transylvania	12,270	598	11,015	427	89.8	71.4	18.4
Tyrrell	1,551	879	1,296	554	83.6	63.0	20.6
Wake	121,160	30,716	96,420	15,857	79.6	51.6	28.0
Warren	4,394	5,209	3,572	3,311	81.3	63.6	17.7
Watauga	17,089	173	11,992	69	70.2	39.9	30.3
Wilkes	30,896	1,560	25,205	1,160	81.6	74.4	7.2
Yadkin	16,049	737	12,449	375	77.6	50.9	26.7
Yancy	8,454	112	8,165	66	96.6	58.9	37.7
TOTAL-UNCOVERED JURISDICTIONS	1,686,985	305,885	1,308,498	176,820	77.6	57.8	19.8
TOTAL STATE	2,647,812	644,511	1,911,448	350,560	72.2	54.4	17.8

Table 1-C. SOUTH CAROLINA (as of Oct. 5, 1974)

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Abbeville	10,194	3,753	6,474	1,826	63.5	48.7	14.8
Aiken	44,176	11,958	30,449	6,487	68.9	54.2	14.7
Allendale	2,653	3,330	2,371	3,087	89.4	92.7	-3.3
Anderson	58,797	10,890	30,805	4,100	52.4	37.6	14.8
Bamberg	4,854	4,896	3,829	2,971	78.9	60.7	18.2
Barnwell	6,561	3,849	6,203	3,357	94.5	87.2	7.3
Beaufort	23,062	9,117	9,221	4,680	40.0	51.3	-11.3
Berkeley	21,880	8,507	14,173	6,547	64.8	77.0	-12.2
Calhoun	3,015	3,362	2,313	2,081	76.7	61.9	14.8
Charleston	113,708	41,640	62,890	29,975	55.3	72.0	-16.7
Cherokee	19,826	3,838	14,139	2,548	71.3	66.4	4.9
Chester	12,611	6,199	7,797	3,130	61.8	50.5	11.3
Chesterfield	14,743	5,873	11,272	4,192	76.5	71.4	5.1
Clarendon	6,440	7,784	5,400	5,197	83.9	66.8	17.1
Colleton	9,854	6,798	7,648	4,587	77.6	67.5	10.1
Darlington	21,865	10,671	16,204	7,163	74.1	67.1	7.0
Dillon	10,494	5,776	6,426	2,969	61.2	51.4	9.8
Dorchester	12,610	6,174	12,641	5,610	100.2	90.9	9.3
Edgefield	5,195	4,167	3,773	2,539	72.6	60.9	11.7
Fairfield	5,584	6,242	3,882	4,162	69.5	66.7	2.8
Florence	37,034	17,632	25,292	10,819	68.3	61.4	6.9
Georgetown	11,098	8,003	8,455	6,717	76.2	83.9	-7.7
Greenville	134,143	22,806	72,773	10,819	54.3	47.4	6.9
Greenwood	24,355	8,015	14,943	3,621	61.4	45.2	16.2
Hampton	5,440	4,204	4,138	3,572	76.1	85.0	-8.9

SOUTH CAROLINA (continued)

County	White VAP	Black VAP	White Registered	Black Registered	Percent White Registered	Percent Black Registered	Percentage Point Difference in White Registration Rate Over Black
Horry	34,530	8,726	23,048	5,733	66.7	65.7	1.0
Jasper	3,270	3,667	2,548	2,684	77.9	73.2	4.7
Kershaw	15,260	6,048	11,855	3,251	77.7	53.8	23.9
Lancaster	21,297	5,784	14,091	2,336	66.2	40.4	25.8
Laurens	24,447	7,992	11,590	3,054	47.4	38.2	9.2
Lee	4,922	5,278	4,369	4,262	88.8	80.8	8.0
Lexington	49,784	6,018	40,251	3,458	80.9	57.5	23.4
McCormick	2,099	2,501	1,846	1,492	87.9	59.7	28.2
Marion	9,954	8,348	6,156	4,856	61.8	58.2	3.6
Marlboro	9,850	6,229	6,473	2,990	65.7	48.0	17.7
Newberry	14,220	5,524	10,383	2,007	73.0	36.3	36.7
Oconee	24,137	2,402	12,335	949	51.1	39.5	11.6
Orangeburg	21,074	21,184	16,035	15,190	76.1	71.7	4.4
Pickens	36,979	3,263	19,290	997	52.2	30.6	21.6
Richland	114,182	43,810	59,614	28,555	52.2	65.2	-13.0
Saluda	6,464	2,560	4,575	1,454	70.8	56.8	14.0
Spartanburg	93,606	20,614	51,303	8,417	54.8	40.8	14.0
Sumter	28,903	17,602	14,263	8,772	49.3	49.8	-0.5
Union	14,391	4,583	11,285	3,136	78.4	68.4	10.0
Williamsburg	8,686	10,449	7,083	8,202	81.5	78.5	3.0
York	42,660	11,532	24,398	6,559	57.2	56.9	0.3
TOTAL	1,200,907	429,598	736,302	261,110	61.3	60.8	0.5

APPENDIX 2. BLACK ELECTED COUNTY AND MUNICIPAL OFFICIALS IN SELECTED JURISDICTIONS OF THE SOUTH

Table 2-A. BLACK ELECTED COUNTY OFFICIALS (as of April 1974)--COUNTIES WITH 25 PERCENT OR MORE BLACK POPULATION

State/County	Population	Percent Black	Offices Held: Governing Body Members [a]	Law Enforcement Officials [b]	School Board Members [c]	Others [d]
ALABAMA						
Autauga	6,911	28.3				
Barbour	10,389	46.1				
Bibb	13,812	27.9				
Bullock	11,824	67.4	1	1	2	2
Butler	22,007	40.1				
Chambers	12,637	34.8				
Choctaw	16,589	44.1				
Clarke	26,724	43.8				
Conecuh	15,645	44.7				
Coosa	10,662	35.0				

a. This includes county commissioners, supervisors, police jurors, and so forth.

b. Law enforcement officials include sheriffs, judges, justices of the peace, constables, and magistrates.

c. This includes only county school board members. Municipal school board members are included in Table 2-B.

d. All other black elected county officials.

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
ALABAMA (cont'd)						
Crenshaw	13,188	28.7				
Dallas	55,296	52.2				
Elmore	33,535	28.2				
Escambia	34,906	30.4				
Greene	10,650	75.4	4	2	5	3
Hale	15,888	66.4		2		
Henry	13,254	40.3				
Jefferson	644,991	32.0		3	1	1
Lee	61,268	27.8				
Lowndes	12,897	76.9	1	1		2
Macon	24,841	81.1	3	1	4	3
Marengo	23,819	55.2				
Mobile	317,308	32.3				
Monroe	20,883	45.5		5		
Montgomery	167,790	36.2				
Perry	15,388	58.7			1	
Pickens	20,326	41.7				
Pike	25,038	34.5				
Russell	45,394	45.7				
Sumter	16,974	66.2		16	2	1
Talladega	65,280	30.7				
Tallapoosa	33,840	27.6				
Washington	16,241	29.9				
Wilcox	16,303	68.5	—	18	—	—
TOTAL (counties 25 percent black)			9	49	15	12
TOTAL (all counties)			9	52	16	12

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Offices Held: Law Enforcement Officials	Offices Held: School Board Members	Offices Held: Others
GEORGIA						
Atkinson	5,879	32.0				
Baker	3,875	53.0				
Baldwin	34,240	38.0				
Ben Hill	13,171	31.3				
Bibb	143,418	34.5			2	
Brooks	13,739	46.2				
Bryan	6,539	27.2				
Bulloch	31,585	36.3				
Burke	18,255	60.2				
Butts	10,560	43.0				
Calhoun	6,606	63.1				
Camden	11,334	36.2			1	
Candler	6,412	32.4				
Charlton	5,680	33.7				
Chatham	187,767	33.9	2		2	
Clay	3,636	61.7				
Clinch	6,405	31.7				
Coffee	22,828	25.8				
Cook	12,129	31.3				
Coweta	32,310	31.9				
Crawford	5,748	53.2				
Crisp	18,087	40.3				
Decatur	22,310	41.8				
Dodge	15,658	25.4				
Dooly	10,404	50.1				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
GEORGIA (cont'd)						
Dougherty	89,639	34.2				
Early	12,682	45.9				
Echols	1,924	25.6				
Elbert	17,262	31.9				
Emanuel	18,189	30.5				
Evans	7,290	35.0				
Fulton	607,592	39.1				
Grady	17,826	35.7				
Greene	10,212	51.8			1	
Hancock	9,019	73.8	2	4	4	3
Harris	11,520	45.0				
Henry	23,724	32.0				
Irwin	8,036	33.4				
Jasper	5,760	49.3				
Jefferson	17,174	54.5				
Jenkins	8,332	44.4				
Johnson	7,727	32.1				
Jones	12,218	38.5			1	
Lamar	10,688	38.7			1	
Lanier	5,031	29.3				
Laurens	32,738	33.7				
Lee	7,044	43.6				
Liberty	17,569	34.2	1			
Lincoln	5,895	46.1				
Long	3,746	31.8				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
GEORGIA (cont'd)						
Lowndes	55,112	29.0				
McDuffee	15,276	39.7			1	
McIntosh	7,371	49.9	1			
Macon	12,933	61.0			1	
Marion	5,099	52.4				
Meriwether	19,461	47.9			2	
Miller	6,397	28.8				
Mitchell	18,956	48.5			1	
Monroe	10,991	46.3				
Montgomery	6,099	34.7				
Morgan	9,904	45.1				
Muscogee	167,377	25.7				
Newton	26,282	31.1				
Oglethorpe	7,598	37.2				
Peach	15,990	57.1		1		
Pike	7,316	40.4				
Pulaski	8,066	36.8				
Putnam	8,394	48.7				
Quitman	2,180	60.1				
Randolph	8,734	55.7				
Richmond	162,437	29.9	1	1	3	
Schley	3,097	44.8				
Screven	12,591	46.7				
Seminole	7,059	35.0				
Spalding	39,514	26.7				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
GEORGIA (cont'd)						
Stewart	6,511	64.4			1	
Sumter	26,931	44.4				
Talbot	6,625	67.8	1			
Taliaferro	2,423	63.6				
Tattnall	16,557	30.8				
Taylor	7,865	44.8				
Telfair	11,381	34.5				
Terrell	11,416	59.5				
Thomas	34,515	39.7				
Tift	27,288	26.3				
Toombs	19,151	26.8				
Treutlen	5,647	32.5				
Troup	44,466	31.8			1	
Turner	8,790	35.2				
Twiggs	8,222	56.3				
Upson	23,505	28.2				
Walton	23,404	27.7				
Warren	6,669	59.1				
Washington	17,480	53.6				
Webster	2,362	58.4				
Wheeler	4,596	30.3				
Wilcox	6,998	31.3				
Wilkes	10,184	47.3				
Wilkinson	9,393	46.1				
Worth	14,770	37.4	--	--	--	--
TOTAL (counties 25 percent black)			8	6	22	3
TOTAL (all counties)			8	6	26	3

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Offices Held: Law Enforcement Officials	Offices Held: School Board Members	Offices Held: Others
LOUISIANA						
Ascension	37,086	26.8	2			
Assumption	19,654	37.3				
Avoyelles	37,751	27.6				
Bienville	16,024	46.9				
Caddo	230,184	36.6	4		3	
Catahoula	11,769	29.2				
Claiborne	17,024	50.0				
Concordia	22,578	38.8	2	1	2	
DeSoto	22,764	53.4				
East Baton Rouge	285,167	28.7			1	
East Carroll	12,884	58.7	2		1	
East Feliciana	17,657	53.8	2			
Evangeline	31,932	27.0				
Franklin	23,946	35.7		1		
Iberia	57,397	27.8				
Iberville	30,746	47.4	2			
Jackson	15,963	32.0				
Lincoln	33,800	40.0	2		2	
Madison	15,065	61.0	3	2	4	
Morehouse	32,463	42.5	2		2	
Natchitoches	35,219	37.1			3	
Orleans	593,471	45.0		2	1	
Ouachita	115,387	27.3	1		3	
Pointe Coupee	22,002	50.3	2	3	1	
Rapides	118,078	27.8				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
LOUISIANA (cont'd)						
Red River	9,226	42.0				
Richland	21,774	40.6	1		1	
St. Charles	29,550	26.3				
St. Helena	9,937	55.8			1	
St. James	19,733	47.2	1	3	2	
St. John the Baptist	23,813	46.3	1	2	3	
St. Landry	80,364	41.3		2		
St. Martin	32,453	34.8			1	
St. Mary	60,752	28.1		2		
Tangipahoa	65,875	31.3				
Tensas	9,732	59.1	2	1	1	
Union	18,447	33.3				
Washington	41,987	32.2				
Webster	39,939	31.4				
West Baton Rouge	16,864	43.1				
West Feliciana	11,376	67.1	2		3	
Winn	16,369	30.5	—	—	—	
TOTAL (counties 25 percent black)			31	19	35	0
TOTAL (all counties)			32	19	41	0

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
MISSISSIPPI						
Adams	37,293	47.9		2		
Amite	13,763	50.4				
Attala	19,570	40.4				
Benton	7,505	42.0			1	
Bolivar	49,409	61.4	1	3	7	
Calhoun	14,623	26.1				
Carroll	9,397	50.8				
Chicksaw	16,805	35.6				
Choctaw	8,440	28.0				
Claiborne	10,086	74.6	1	4	2	7
Clarke	15,049	35.9				
Clay	18,840	49.4				1
Coahoma	40,447	64.3	1	3	1	
Copiah	24,749	50.3				
Covington	14,002	32.6				
DeSoto	35,885	35.1				
Franklin	8,011	38.8				
Grenada	19,854	43.8				
Hinds	214,973	39.1				
Holmes	23,120	68.1		2	2	5
Humphreys	14,601	64.8				
Issaquena	2,737	62.0	1	5		
Jasper	15,994	46.4			1	
Jefferson	9,295	75.3	2	5	3	4
Jefferson Davis	12,936	50.2				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Offices Held: Law Enforcement Officials	Offices Held: School Board Members	Offices Held: Others
MISSISSIPPI (cont'd)						
Kemper	10,233	54.8				
Lafayette	24,181	27.7				
Lauderdale	67,087	30.8				
Lawrence	11,137	32.1				
Leake	17,085	35.7			1	
Leflore	42,111	57.9				
Lincoln	26,198	30.7				
Lowndes	49,700	32.7		1		
Madison	29,737	62.4		7	2	
Marion	22,871	31.1			1	
Marshall	24,027	62.0		3	1	2
Monroe	34,043	30.5				
Montgomery	12,918	44.8				
Newton	18,983	27.3				
Noxubee	14,288	65.8	1			
Oktibbeha	28,752	34.8				
Panola	26,829	51.3				
Perry	9,065	26.3				
Pike	31,756	43.5				
Quitman	15,888	57.4				
Rankin	43,933	28.1				
Scott	21,369	33.0				
Sharkey	8,937	64.7		1		
Simpson	19,947	31.4				
Sunflower	37,047	62.8				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
MISSISSIPPI (cont'd)						
Tallahatchie	19,338	60.2				
Tate	18,544	47.2				
Tunica	11,854	72.7				
Walthall	12,500	40.7				
Warren	44,981	40.8				
Washington	70,581	54.5		1		
Wayne	16,650	32.9				
Wilkinson	11,099	67.6	1	4	2	
Winston	18,406	39.1				
Yalobusha	11,915	40.4				
Yazoo	27,304	53.4	—	—	—	—
TOTAL (counties 25 percent black)			8	41	24	19
TOTAL (all counties)			8	41	24	19
NORTH CAROLINA						
Anson	23,488	46.4				
Beaufort	35,980	33.2				
Bertie	20,528	56.6			1	
Bladen	26,477	39.0				
Brunswick*	24,223	29.6			1	
Camden	5,453	37.0				
Caswell	19,055	48.0				
Chatham*	29,554	30.4				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Offices Held: Law Enforcement Officials	Offices Held: School Board Members	Offices Held: Others
NORTH CAROLINA (cont'd)						
Chowan	10,764	42.0			1	
Columbus*	46,937	29.7				
Craven	62,554	25.4				
Currituck*	6,976	26.4				
Duplin*	38,015	34.2				
Durham*	132,681	32.6	2		1	
Edgecombe	52,341	47.5			1	
Franklin	26,820	41.7				
Gates	8,524	53.4				
Granville	32,762	43.7				
Greene	14,967	47.0				
Halifax	53,884	48.0				
Hertford	23,529	55.2	1		1	
Hoke	16,436	44.2				
Hyde*	5,571	41.3				
Jones*	9,779	45.1			2	
Lenoir	55,204	36.8				
Martin	24,730	44.9				
Nash	59,122	35.7			1	
Northampton	24,009	59.0	1		1	
Pamlico*	9,467	33.1				
Pasquotank	26,824	37.7				
Pender*	18,149	43.7				
Perquimans	8,351	41.5				
Person	25,914	32.3	1			

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
NORTH CAROLINA (cont'd)						
Pitt	73,900	34.6				
Richmond*	39,889	29.3			1	
Robeson	84,842	25.8			3	
Sampson*	44,954	34.5				
Scotland	26,929	33.8			1	
Tyrrell*	3,806	43.4				
Vance	32,691	42.3				
Warren*	15,810	59.9			1	
Washington	14,038	41.5			1	
Wayne	85,408	33.2			1	
Wilson	57,486	36.8	—	—	1	
TOTAL (counties 25 percent black)			5	0	19	0
TOTAL (all counties)			7	2	29	0

* Counties not covered under 4(b) of the Voting Rights Act.

SOUTH CAROLINA

Abbeville	21,112	31.1				
Allendale	9,692	60.1	2			
Bamberg	15,950	54.5				
Barnwell	17,176	41.1				
Beaufort	51,136	32.9	4	2	3	

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
SOUTH CAROLINA (cont'd)						
Berkeley	56,199	30.1				
Calhoun	10,780	60.4			2	
Charleston	247,650	31.4	1		2	
Chester	29,811	39.2			1	
Chesterfield	33,667	32.9				
Clarendon	25,604	62.0	2			1
Colleton	27,622	46.8			1	
Darlington	53,442	37.9				
Dillon	28,838	41.5				
Dorchester	32,276	35.1		1		
Edgefield	15,692	51.6				
Fairfield	19,999	59.4	2	2		1
Florence	89,636	36.4	1		3	
Georgetown	33,500	48.4	1		1	
Greenwood	49,686	28.0	1			
Hampton	15,878	48.9				
Jasper	11,885	57.1	2	1	6	
Kershaw	34,727	31.8			1	
Laurens	49,713	28.4				
Lee	18,323	59.8				
McCormick	7,955	60.3				
Marion	30,270	50.5				
Marlboro	27,151	43.6				
Newberry	29,273	33.1				
Orangeburg	69,789	54.9				

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
SOUTH CAROLINA (cont'd)						
Richland	233,868	32.8		3		
Saluda	14,528	33.4				
Sumter	79,425	41.7	1		2	
Union	29,230	28.3				
Williamsburg	34,243	60.9	1	3	—	—
TOTAL (counties 25 percent black)			18	12	22	2
TOTAL (all counties)			18	12	23	2
VIRGINIA						
Accomack	29,004	37.4				
Amelia	7,592	47.2	1			
Brunswick	16,172	58.4				
Buckingham	10,597	44.2				
Caroline	13,925	50.8	2			
Charles City	6,158	74.2	2			2
Charlotte	11,551	39.8				
Cumberland	6,179	47.9		1		
Dinwiddie	25,046	45.6		1		
Essex	7,099	45.0				
Fluvanna	7,621	35.9				
Goochland	10,069	43.5	1			
Greensville	9,604	57.3		1		

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
VIRGINIA (cont'd)						
Halifax	30,076	40.1				
Isle of Wight	18,285	49.5				
James City	17,853	34.9	1			
King and Queen	5,491	50.7				
King George	8,039	26.4				
King William	7,497	42.5				
Lancaster	9,126	38.7				
Louisa	14,004	38.6				
Lunenberg	11,687	43.2				
Mecklenburg	29,426	42.2	2			
Middlesex	6,295	37.0				
Nansemond	35,166	54.1		1		
Nelson	11,702	28.6				
New Kent	5,300	44.0	1			
Northampton	14,442	52.3				
Northumberland	9,239	39.0				
Nottoway	14,260	40.0				
Pittsylvania	58,789	33.7				
Powhatan	7,696	36.4				
Prince Edward	14,379	36.6	2			
Richmond	5,841	36.6				
Southampton	18,582	54.2				
Surry	5,882	65.5	3			

Table 2-A. (continued)

State/County	Population	Percent Black	Offices Held: Governing Body Members	Law Enforcement Officials	School Board Members	Others
VIRGINIA (cont'd)						
Sussex	11,464	63.2				
Westmoreland	12,142	44.2	—	—	—	—
TOTAL (counties 25 percent black)			15	4	0	2
TOTAL (all counties)			15	4	0	2
7-STATE TOTAL (counties 25 percent black)			94	131	137	38
7-STATE TOTAL (all counties)			97	136	159	38

Sources: U.S. Census, 1970; Joint Center for Political Studies, National Roster of Black Elected Officials (April 1974).

Table 2-B. BLACK ELECTED MUNICIPAL OFFICIALS IN SEVEN SOUTHERN STATES BY POPULATION OF MUNICIPALITY (as of April 1974)

State	Population: Less than 5,000			Population: 5,000 - 50,000			Population: Over 50,000		
	Mayors	Council Members[a]	Others[b]	Mayors	Council Members	Others	Mayors	Council Members	Others
ALABAMA	5	31	0	3	15	1	0	2	0
GEORGIA	1	38	0	0	15	1	1	16	5
LOUISIANA	4	28	5	0	7	2	0	3	0
MISSISSIPPI	7	57	27	0	5	2	0	0	1
NORTH CAROLINA	6	69	3	1	24	0	1	11	2
SOUTH CAROLINA	6	38	0	0	10	1	0	3	0
VIRGINIA	0	11	0	1	17	1	0	10	0
TOTAL	29	272	35	5	93	8	2	45	8

a. Council members are members of the governing body including vice mayors and mayors pro tem.

b. Others include town marshalls, school board members, and all other elected municipal officials.

Source: Joint Center for Political Studies, National Roster of Black Elected Officials (April 1974).

APPENDIX 3. COUNTIES DESIGNATED FOR FEDERAL EXAMINERS AND NUMBER OF PERSONS LISTED BY EXAMINERS

State/County	Date of Designation[a]	Number of Persons Listed[b]
ALABAMA		
Autauga	10-29-65	1,333
Choctaw*	5-30-66	-
Dallas	8-09-65	9,068
Elmore	10-29-65	1,807
Greene	10-29-65	2,151
Hale	8-09-65	3,617
Jefferson	1-20-66	23,385
Lowndes	8-09-65	3,034
Marengo	8-09-65	5,096
Montgomery	9-29-65	10,438
Perry	8-18-65	2,877
Sumter	5-02-66	25
Talladega*	10-31-74	-
Wilcox	8-18-65	3,678
TOTAL LISTED		66,539
GEORGIA		
Baker*	11-04-68	
Hancock*	11-07-66	
Lee	3-23-67	475
Peach*	11-04-72	
Screven	3-23-67	1,478

* No examiners were sent to these counties.

a. Source: U.S. Department of Justice, "Counties Designated as Examiner Counties," Nov. 4, 1974.

b. Source: U.S. Civil Service Commission, "Cumulative Totals on Voting Rights Examining," June 30, 1974.

State/County	Date of Designation	Number of Persons Listed
GEORGIA (cont'd)		
Taliaferro*	11-04-68	-
Terrell	3-23-67	1,465
Twiggs*	9-03-74	-
TOTAL LISTED		3,418
LOUISIANA		
Bossier	3-23-67	1,605
Caddo	3-23-67	7,432
De Soto	3-23-67	2,332
East Carroll	8-09-65	2,738
East Feliciana	8-09-65	2,129
Madison	8-12-66	663
Ouachita	8-18-65	5,936
Plaquemines	8-09-65	2,808
Sabine*	9-27-74	-
St. Helena*	8-16-72	-
West Feliciana	10-29-65	1,335
TOTAL LISTED		26,978
MISSISSIPPI		
Amite	3-23-67	464
Benton	9-24-65	538
Bolivar*	12-20-65	-
Carroll	12-20-65	926
Claiborne	4-12-66	1,418
Clay	9-24-65	1,523
Coahoma	9-24-65	4,669
De Soto	10-29-65	1,526
Forrest	6-01-67	1,116
Franklin	3-23-67	85
Grenada	7-20-66	1,512
Hinds	10-29-65	13,348
Holmes	10-29-65	4,701
Humphreys	9-24-65	2,268
Issaquena	6-01-67	72

State/County	Date of Designation	Number of Persons Listed
MISSISSIPPI (cont'd)		
Jasper	4-12-66	673
Jefferson	10-29-65	2,070
Jefferson Davis	8-18-65	1,136
Jones	8-18-65	2,408
Kemper*	10-31-74	-
Leflore	8-09-65	8,732
Madison	8-09-65	8,163
Marshall	8-05-67	104
Neshoba	10-29-65	791
Newton	12-20-65	733
Noxubee	4-12-66	2,360
Oktibbeha	3-23-67	400
Pearl River	4-29-74	181
Rankin	4-12-66	1,147
Sharkey	6-01-67	400
Simpson	12-20-65	1,489
Sunflower*	4-29-67	-
Tallahatchie	8-14-71	132
Walthall	10-29-65	1,365
Warren	12-20-65	2,027
Wilkinson	8-05-67	152
Winston	4-12-66	58
Yazoo*	10-28-71	-
TOTAL LISTED		68,687
SOUTH CAROLINA		
Clarendon	10-29-65	3,448
Dorchester	10-29-65	1,206
TOTAL LISTED		4,654

APPENDIX 4. OBSERVATION OF ELECTIONS UNDER THE VOTING RIGHTS ACT OF 1965

State/County	Number of Observers								
	1966	1967	1968	1969	1970	1971	1972	1973	1974
ALABAMA									
Choctaw	-	-	-	-	-	-	-	-	24
Greene	118	-	22	44	40	-	-	-	18
Dallas	96	-	-	-	-	-	-	-	-
Hale	37	-	-	-	25	-	42	-	30
Lowndes	36	-	14	-	34	-	-	-	42
Marengo	208	-	10	-	54	-	-	-	-
Perry	68	-	-	-	-	-	-	-	-
Sumter	38	-	28	-	-	-	-	-	22
Talladega	-	-	-	-	-	-	-	-	54
Wilcox	138	-	24	-	52	-	68	-	44
TOTAL	739	-	98	44	205	-	110	-	234
GEORGIA									
Baker	-	-	18	-	-	-	12	-	-
Hancock	22	-	36	-	-	-	-	-	64
Peach	-	-	-	-	-	-	20	-	-
Taliaferro	-	-	22	-	6	-	12	-	-
Terrell	-	-	16	-	-	-	-	-	-
TOTAL	22	-	92	-	6	-	44	-	64

APPENDIX 4. (continued)

State/County	Number of Observers								
	1966	1967	1968	1969	1970	1971	1972	1973	1974
LOUISIANA									
DeSoto	-	12	22	-	-	-	30	-	-
East Carroll	40	40	16	-	-	-	-	-	24
East Feliciana	82	56	-	-	-	-	-	-	-
Madison	97	49	21	20	16	42	-	-	20
Ouachita	40	-	-	-	-	-	-	-	-
Plaquemines	58	38	30	-	-	-	-	-	-
Sabine	-	-	-	-	-	-	-	-	12
St. Helena	-	-	-	-	-	-	30	-	-
West Feliciana	80	56	36	-	-	12	-	-	-
TOTAL	397	251	125	20	16	54	60	-	56
MISSISSIPPI									
Amite	-	24	36	5	20	12	-	-	-
Benton	4	12	20	-	-	20	-	-	-
Bolivar	-	20	20	20	18	48	-	-	-
Carroll	10	54	20	6	-	-	-	-	-
Claiborne	22	64	32	-	6	26	38	-	-
Clay	14	12	10	-	-	24	-	-	-
Coahoma	-	40	30	28	16	122	-	-	-
DeSoto	8	8	-	-	-	-	-	-	-
Forrest	-	6	-	-	-	-	-	-	-
Franklin	-	12	26	-	-	-	-	-	-

APPENDIX 4. (continued)

State/County	Number of Observers								
	1966	1967	1968	1969	1970	1971	1972	1973	1974
MISSISSIPPI (cont'd)									
Grenada	-	44	-	-	-	-	-	-	-
Hinds	-	36	44	28	-	-	-	-	-
Holmes	22	66	36	32	10	14	-	-	-
Humphreys	10	38	20	8	-	36	6	-	-
Issaquena	-	18	20	-	-	28	19	-	-
Jasper	11	12	-	-	-	-	-	-	-
Jefferson	14	72	60	12	-	-	-	-	-
Jefferson Davis	12	-	-	-	-	6	-	-	-
Jones	8	8	-	-	-	-	-	-	-
Kemper	-	-	-	-	-	-	-	-	48
Leflore	59	68	22	6	-	34	-	-	-
Madison	24	64	24	16	12	64	47	-	-
Marshall	-	112	40	14	14	219	-	-	20
Neshoba	14	18	-	-	-	-	-	-	-
Noxubee	22	18	32	-	10	120	-	-	-
Oktibbeha	-	36	-	-	-	18	-	-	-
Rankin	6	38	-	-	-	-	-	-	-
Sharkey	-	30	14	-	-	20	-	-	-
Simpson	-	10	-	-	-	-	-	-	-
Sunflower	-	32	-	24	12	66	-	-	-

APPENDIX 4. (continued)

State/County	Number of Observers 1966	1967	1968	1969	1970	1971	1972	1973	1974
MISSISSIPPI (cont'd)									
Tallahatchie	-	-	-	-	-	10	-	-	-
Warren	-	-	48	-	-	-	-	-	-
Wilkinson	-	86	62	20	16	38	36	-	-
Winston	4	-	-	-	-	-	-	-	-
Yazoo	-	-	-	-	-	34	-	-	8
TOTAL	264	1,058	616	219	134	959	146	-	76
SOUTH CAROLINA									
Clarendon	118	-	36	-	9	-	50	-	-
Dorchester	40	-	58	-	10	-	55	-	-
TOTAL	158	-	94	-	19	-	105	-	-

Source: U.S. Department of Justice.

APPENDIX 5. OBJECTIONS UNDER SECTION 5 OF THE VOTING RIGHTS ACT
(As of Dec. 20, 1974)

Jurisdiction	Type of Change	Date	Page[a]
	Registration and Voting		
South Carolina	literacy test, poll tax	Oct. 2, 1967	17
Georgia	assistance to illiterate voters	June 19, 1968	
Webster Co., Ga.	polling place	Dec. 12, 1968	
Georgia	qualification of registration and election workers	July 11, 1968	
Georgia	tests or devices	Aug. 20, 1968	30
Alabama	signature requirement	Nov. 13, 1969	
Mobile, Ala.	signature requirement	Dec. 16, 1969	
Alabama	assistance for absentee registration	Mar. 13, 1970	
North Carolina	literacy test	Mar. 18, 1971	17
North Carolina	literacy test	Apr. 20, 1971	
Jasper County, Miss.	reregistration	June 8, 1971	
Lafayette Co., Miss.	polling place	July 6, 1971	
Caroline, Miss.	polling place	Sept. 10, 1971	
Albany, Ga.	polling place	Nov. 16, 1971	
Marshall Co., Miss.	polling place	Dec. 3, 1971	
Tate Co., Miss.	polling place	Dec. 3, 1971	
Albany, Ga.	election date	Jan. 7, 1972	
Alabama	assistance to illiterate voters	Apr. 4, 1972	
Atlanta, Ga.	polling place	Nov. 27, 1972	106
St. Landry Parish, La.	polling place	Dec. 6, 1972	
Atlanta, Ga.	polling place	Mar. 1, 1973	106
New Orleans, La.	polling place	July 17, 1973	107
Martinsville, Va.	polling place	Apr. 19, 1974	
Newport News, Va.	polling place	May 17, 1974	107
Jones Co., Ga.	polling place	Aug. 12, 1974	106
New York Co., N.Y.	polling place	Sept. 3, 1974	
Suffolk, Va.	polling place	Sept. 23, 1974	

Jurisdiction	Type of Change	Date	Page[a]
	Candidacy		
Mississippi	abolition of office	May 21, 1969	162, 172, 271
Alabama	discrimination against independent candidates	Aug. 1, 1969	162
Alabama	discrimination against independent candidates	Aug. 14, 1972	162
Alabama	abolition of office	Dec. 26, 1972	171
Ocilla, Ga.	filing fees	June 22, 1972	135
Hollandale, Miss.	abolition of office	July 9, 1973	171
Mobile, Ala.	filing fee, petition requirement	Aug. 3, 1973 (Objection withdrawn after modification, Oct. 10, 1973)	134
Clarendon Co., S.C.	abolition of office	Nov. 13, 1973	171
Shaw, Miss.	elective to appointive	Nov. 21, 1973	171
Albany, Ga.	filing fee	Dec. 7, 1973	135
Mississippi	open primary	Apr. 26, 1974	162, 274
	State and Federal Representation		
Virginia (State House)	redistricting[b]	May 7, 1971 (Objection withdrawn, June 10, 1971)	241
Virginia (State Senate)	redistricting	May 7, 1971	241
Louisiana (State House)	redistricting[b]	Aug. 20, 1971	235-36
Louisiana (State Senate)	redistricting[b]	Aug. 20, 1971	235-36
Georgia (U.S. House of Representatives)	redistricting	Feb. 11, 1972	230, 231
Georgia (State Senate)	redistricting	Mar. 3, 1972	230, 232

Jurisdiction	Type of Change	Date	Page[a]
	State and Federal Representation (cont.)		
Georgia (State House)	redistricting[b] majority requirement, numbered posts	Mar. 3, 1972	230, 232
South Carolina (State Senate)	redistricting[b] majority requirement, numbered posts	Mar. 6, 1972	218
Georgia (State House)	redistricting	Mar. 24, 1972	232
South Carolina	numbered posts	June 30, 1972	216
South Carolina (State Senate)	redistricting[b] majority requirement, numbered posts	July 20, 1973	219
South Carolina (State House)	redistricting[b] majority requirement, numbered posts	Feb. 14, 1974	216-17
Kings County, N.Y. (U.S. House of Representatives)	redistricting	Apr. 1, 1974	221-30
Kings and N.Y. Counties, N.Y. (State Senate)	redistricting	Apr. 1, 1974	221-30
Kings and N.Y. Counties, N.Y. (State Assembly)	redistricting	Apr. 1, 1974	221-30
	Local Representation		
Mississippi	county bds. of supervisors: at-large election	May 21, 1969	
East Carroll Parish, La.	police jury and school board: at-large elections	Sept. 10, 1969	297
Copiah Co., Miss.	bd. of supervisors: redistricting	Mar. 5, 1970	275
Portsmouth, Va.	40% vote requirement	June 26, 1970	
Leake Co., Miss.	bd. of supervisors: redistricting	Jan. 8, 1971	275
Warren Co., Miss.	bd. of supervisors: redistricting	Apr. 4, 1971	275
Richmond, Va.	annexation	May 7, 1971	300-03
Marion Co., Miss.	bd. of supervisors: redistricting[b]	May 25, 1971	275
Jeff Davis Parish, La.	police jury: redistricting	June 4, 1971	
Union Parish, La.	police jury and school board: redistricting	June 8, 1971	294
Grenada Co., Miss.	at-large election, residency requirement	June 30, 1971	272
Attala Co., Miss.	at-large election, residency requirement	June 30, 1971	272

Jurisdiction	Type of Change	Date	Page[a]
	Local Representation (cont.)		
Assumption Parish, La.	school board: at-large election, redistricting	July 8, 1971	294
Franklin Parish, La.	police jury: redistricting[b]	July 8, 1971	294
Birmingham, Ala.	numbered posts	July 9, 1971	317
Hinds Co., Miss.	bd. of supervisors: redistricting	July 14, 1971	275
Yazoo Co., Miss.	bd. of supervisors: redistricting	July 19, 1971[c]	275
St. Charles Parish, La.	police jury: at-large election	July 22, 1971	294
Jeff Davis Parish, La.	school board: redistricting	July 23, 1971	294
Ascension Parish, La.	school board: redistricting[b]	July 23, 1971	
Talladega, Ala.	anti-single-shot law	July 23, 1971	
Bossier Parish, La.	school board: redistricting	July 30, 1971	294
North Carolina	numbered posts	July 30, 1971	248
Clarke Co., Ga.	school board: redistricting	Aug. 6, 1971	260-61
DeSoto Parish, La.	police jury: at-large election	Aug. 6, 1971	294
East Baton Rouge, La.	parish council: redistricting	Aug. 6, 1971	294
Pointe Coupee Parish, La.	police jury: redistricting[b]	Aug. 9, 1971	
Webster Parish, La.	police jury: redistricting	Aug. 6, 1971[d]	294
Warren Co., Miss.	bd. of supervisors: redistricting	Aug. 23, 1971	275
Bibb Co., Ga.	school board: at-large election	Aug. 24, 1971	261
East Feliciana Parish, La.	police jury: at-large election, redistricting[b]	Sept. 20, 1971	294
Natchitoches Parish, La.	school board: redistricting[b]	Sept. 20, 1971	294
North Carolina	numbered posts	Sept. 27, 1971	248
Hinesville, Ga.	majority requirement, numbered posts	Oct. 1, 1971	263
St. Helena Parish, La.	police jury: redistricting	Oct. 8, 1971	294
Caddo Parish, La.	school board: redistricting	Oct. 8, 1971	294
Newnan, Ga.	numbered posts	Oct. 13, 1971	263
St. James Parish, La.	police jury: redistricting	Nov. 2, 1971	294
Conyers, Ga.	majority requirement, numbered posts, staggered terms	Dec. 2, 1971	263
Tate Co., Miss.	bd. of supervisors: redistricting	Dec. 3, 1971	275
Mecklenberg Co., Va.	county council: redistricting	Dec. 7, 1971	
East Feliciana Parish, La.	police jury: redistricting[b]	Dec. 28, 1971	294
Waynesboro, Ga.	city council: at-large election, majority requirement	Jan. 7, 1972	

Jurisdiction	Type of Change	Date	Page[a]
	Local Representation (cont.)		
St. Mary Parish, La.	school board: redistricting	Jan. 12, 1972	294
Jonesboro, Ga.	majority requirement	Feb. 4, 1972	263
Petersburg, Va.	annexation	Feb. 22, 1972	304-05
St. Helena Parish, La.	school board: redistricting	Mar. 17, 1972	
Autauga Co., Ala.	bd. of commissioners, school board: at-large election, majority requirement	Mar. 20, 1972	316
Grenada, Miss.	city council: at-large election, majority requirement, numbered posts	Mar. 20, 1972	286
Ascension Parish, La.	school board: redistricting[b]	Apr. 20, 1972	294
East Feliciana Parish, La.	school board: redistricting[b]	Apr. 22, 1972	294
Pointe Coupee Parish, La.	school board: redistricting[b]	June 7, 1972	294
Lafayette Parish, La.	school board: redistricting,[b] staggered terms	June 16, 1972	294
South Carolina	numbered posts	June 30, 1972	
Newnan, Ga.	majority requirement	July 31, 1972	263
Twiggs Co., Ga.	county commissioners: at-large election, residency requirement	Aug. 7, 1972	258
Thomasville, Ga.	majority requirement, numbered posts	Aug. 24, 1972	263
Aiken, S.C.	numbered posts, residency requirement	Aug. 25, 1972	
Saluda Co., S.C.	creation of new school district	Nov. 13, 1972	
Tate Co., Miss.	bd. of supervisors: redistricting	Nov. 28, 1972	275
Lake Providence, La.	annexation	Dec. 1, 1972	
Harris Co., Ga.	residency requirement	Dec. 5, 1972 (Objection withdrawn, Mar. 30, 1973)	
New Orleans, La.	city council: redistricting	Jan. 15, 1973	289
Cochran, Ga.	majority requirement	Jan. 29, 1973	263
Warren Co., Miss.	bd. of supervisors: redistricting	Feb. 13, 1973	
Cuthbert, Ga.	numbered posts	Apr. 9, 1973	263
New Orleans, La.	numbered posts	Apr. 20, 1973	287

Jurisdiction	Type of Change	Date	Page[a]
	Local Representation (cont.)		
Indianola, Miss.	numbered posts	Apr. 20, 1973	286
McComb, Miss.	annexation	May 30, 1973 (Objection withdrawn, Sept. 12, 1973)	
Newellton, La.	annexation	June 12, 1973	
Ocilla, Ga.	majority requirement	June 22, 1973	263
New Orleans, La.	city council: redistricting	July 9, 1973	290
Sumter Co., Ga.	majority requirement, residence requirement	July 13, 1973	260
Hogansville, Ga.	majority requirement, numbered posts	Aug. 2, 1973	263
Darlington, S.C.	residency requirement	Aug. 7, 1973	321
Grenada Co., Miss.	bd. of supervisors: redistricting	Aug. 9, 1973	275,276,282-83
Perry, Ga.	majority requirement, numbered posts	Aug. 14, 1973	263
Thomasville, Ga.	residency requirement	Aug. 27, 1973	263
Bogalusa, La.	residency requirement, anti-single-shot law	Oct. 29, 1973	299
Pearl, Miss.	incorporation	Nov. 21, 1973 (Objection withdrawn after modification, Jan. 3, 1974)	286
East Dublin, Ga.	numbered posts, staggered terms	Mar. 4, 1974	263
Dorchester Co., S.C.	county council: at-large election	Apr. 22, 1974	321
McClellanville, S.C.	annexation	May 6, 1974[e]	325
Fort Valley, Ga.	numbered posts, majority requirement	May 13, 1974	263
Fulton Co., Ga.	numbered posts, majority requirement	May 22, 1974	261
Walterboro, S.C.	residency requirement	May 24, 1974	
Clarke Co., Ga.	school bd.: at-large election, numbered posts, majority requirement	May 30, 1974	260

Jurisdiction	Type of Change	Date	Page[a]
	Local Representation (cont.)		
Louisville, Ga.	numbered posts, majority requirement	June 4, 1974	263
East Dublin, Ga.	staggered terms	June 19, 1974	
Evangeline Parish, La.	school bd. and police jury:[b] majority requirement, anti-single-shot requirement, staggered terms	June 25, 1974	294,298
Evangeline Parish, La.	school bd. and police jury:[b] majority requirement, anti-single-shot requirement, staggered terms	July 26, 1974	294,298
Lancaster Co., S.C.	school bd.: at-large election, numbered posts, majority requirement	July 30, 1974	
Meriwether Co., Ga.	county commissioners: at-large election, numbered posts, majority requirement	July 31, 1974	
Pike Co., Ala.	residency requirement, majority requirement, staggered terms	Aug. 12, 1974	316,317
Attala Co., Miss.	bd. of supervisors: redistricting	Sept. 3, 1974	275,282
Thomson, Ga.	numbered posts, majority requirement, staggered terms, extension of terms	Sept. 3, 1974	263,265
Bamberg Co., S.C.	residency requirements, staggered terms	Sept. 3, 1974	322
Bishopville, S.C.	staggered terms	Sept. 3, 1974	322
Bamberg Co., S.C.	county commissioners: at-large election	Sept. 20, 1974	323
Charleston, S.C.	annexation	Sept. 20, 1974	324-25
Charleston Co., S.C.	governing body: at-large election, consolidation, numbered posts, residency requirements, majority requirement	Sept. 24, 1974	324
Lancaster Co., S.C.	county commissioners: at-large election, numbered posts, residency requirements, majority requirement, staggered terms	Oct. 1, 1974	323

Jurisdiction	Type of Change	Date	Page[a]
	Local Representation (cont.)		
Sumter Co., Ala. Democratic Executive Committee	anti-single-shot requirement	Oct. 29, 1974	
Wadley, Ga.	numbered posts, majority requirement	Oct. 30, 1974	263
York Co., S.C.	county council: at-large elections, residency requirements	Nov. 12, 1974	
	Miscellaneous		
Arizona	procedures for recall	Oct. 9, 1973 (Objection withdrawn, Mar. 15, 1974)	

Source: Department of Justice and David H. Hunter, Federal Review of Voting Changes: How to Use Section 5 of the Voting Rights Act (Washington, D.C.: Joint Center for Political Studies et al., 1974), pp. 90-97.

a. Refers to page or pages of this report where the objection is mentioned.

b. Involved the use of multi-member districts.

c. Objection withdrawn, Sept. 23, 1971.

d. Objection withdrawn, Sept. 14, 1971.

e. Objection withdrawn after assurances, Oct. 21, 1974.

APPENDIX 6. THE VOTING RIGHTS ACT OF 1965 AS AMENDED BY THE VOTING RIGHTS ACT AMENDMENTS OF 1970

PUBLIC LAW 89–110, 89TH CONGRESS, S. 1564, AUGUST 6, 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 assembled, That this Act shall be known as the "Voting Rights Act of 1965".

TITLE I—VOTING RIGHTS

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 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 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 ten 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 ten 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 ten 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 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision

of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.

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 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) based upon determinations made under the first sentence of section 4(b) 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, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) 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, 1968, 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, 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 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 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 therefrom 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 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.

(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 subpena 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 subpena, 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 or 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 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 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 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, Delegate from the District of Columbia, 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), 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.

(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) 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 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. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

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 or this Act, subpenas 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 subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred 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.

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.

TITLE II—SUPPLEMENTAL PROVISIONS

APPLICATION OF PROHIBITION TO OTHER STATES

SEC. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

(b) As used in this section, the term "test or device" means 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.

RESIDENCE REQUIREMENTS FOR VOTING

SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall

provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

JUDICIAL RELIEF

SEC. 203. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

PENALTY

SEC. 204. Whoever shall deprive or attempt to deprive any person of any right secured by section 201 or 202 of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

SEPARABILITY

SEC. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

TITLE III—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

DECLARATION AND FINDINGS

SEC. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

PROHIBITION

SEC. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

ENFORCEMENT

SEC. 303. (a)(1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this title.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title, 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 and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by this title shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITION

SEC. 304. As used in this title the term "State" includes the District of Columbia.

EFFECTIVE DATE

SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971.

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APPENDIX 7

RESPONSES RECEIVED TO LETTERS SENT PURSUANT TO 42 U.S.C.S 1975a(e) (1970)

Response to comments on page 73.

According to Myrtis Bishop, the registrar in Madison Parish, Louisiana, she closes the registration office only "on rare occasions for meetings and such, but I always put it in the paper."[12] Zelma Wyche, chief of police of Tallulah, the parish seat, and President of the Madison Parish Voters League, said that the registrar is ready with excuses for closing the office whenever she feels like it, often to the disadvantage of blacks, as for example, during a voter registration drive. Frequently the office is closed by 4:00 p.m.[13]

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12. Myrtis Bishop, interview in Tallulah, La., Sept. 4, 1974.

13. Zelma C. Wyche, interview in Tallulah, La., Sept. 3, 1974.

When this office is being closed for various meetings, conventions, etc., I publish this fact if time permits. Permission is granted by Russell Gaspard and Police Jury President, Joe Thornton. As for the office being closed at 4:00 P.M., this is untrue. Our courthouse hours are 8:30 A.M. to 4:30 P.M.

Myrtis Bishop

Mrs. Myrtis Bishop
Registrar of Voters

Response to comments on page 80.

In Madison Parish the entire registration process is run by one person, the registrar, Myrtis Bishop. Black community leaders and officials have found the registrar to be incompetent, uncooperative, and hostile. One black official stated that her behavior was that of a "vicious racist." In addition to closing the office without notice when it is scheduled to be open, the registrar is charged with harassing black registrants.[61] She is particularly strict in demands for identification. Many blacks, especially the more elderly, do not have adequate identification with them, lacking such things as social security cards or birth certificates. Even blacks who have identification with them have difficulties.[61a]

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61. Wyche Interview.

61a. Ibid.

True, I am the only person in this office, therefore it is run by one person.

The black community leader most often quoted in this report, Zelma C. Wyche, would find any white registrar to be "incompetent, uncooperative, and hostile." Every since my appointment to the Office of Registrar in 1967, Zelma C. Wyche has attempted almost unceasingly to have me removed from office so that I might be replaced with a black registrar.

The only demands that are made on any person regardless of race is to be able to prove his or her identity. That is why a drivers license is asked for, if not a drivers license then a Social Security Number. People with their identification are not turned away.

Myrtis Bishop

Mrs. Myrtis Bishop
Registrar of Voters

Response to comments on page 80.

> Sometimes she will accept social security cards as sufficient identification. Other times she will require much more and make people go back home three and four times. 62

According to another source, Mrs. Bishop often intimidates registrants. A black volunteer in a registration drive took two young blacks to register. One of them, a young woman while filling out the registration form asked the registration volunteer a question, at which point Mrs. Bishop yelled: "I'll answer your questions here...you don't ask anyone for information here except me."[63] In another instance she was involved in a fight with a registrant.[64]

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62. Id.

63. Staff interview in Tallulah, La., Sept. 4, 1974.

64. This incident is described in Chap. 7, Physical and Economic Subordination, pp. 213-214.

When a person comes to register and has their identification with them they are told, "If you need any assistance, I will be glad to help in filling out the form completely if necessary."

Myrtis Bishop

Mrs. Myrtis Bishop
Registrar of Voters

Response to comments on page 183.

A fight involving the registrar of Madison Parish, Myrtis Bishop, and a black woman attempting to register occurred on February 19, 1974. Arnicey Tyson accompanied by her husband, Ramon, and their 3-year-old son went to the courthouse in Tallulah to register. According to an account of the incident sent to the Department of Justice by Mr. Tyson, Mrs. Bishop, after exchanging angry remarks with Mrs. Tyson over the lack of information concerning previous registration, refused to register her. Mrs. Tyson questioned the registrar regarding this refusal at which point the registrar slapped her in the face. Mrs. Tyson then slapped Mrs. Bishop several times at which point Mr. Tyson intervened to separate the two women. Mr. Tyson was then attacked by three men including a deputy sheriff and in the ensuing struggle thrown to the floor, beaten and his clothes torn. The Tysons were then taken to jail and subsequently released on bond.[21]

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21. Ramon E. Tyson, letter to Michael Shaheen, Voting Rights Section, U.S. Department of Justice, Wash., D.C., Feb. 20, 1974.

I might add that Arnicey Tyson was registered on February 19, 1974, contrary to the above statement. A copy of her application for registration is annexed hereto.

As the date specifies above, this being eleven (11) months ago, I'd rather you just read the statement I gave the Sheriff's office on February 20, 1974.

Myrtis Bishop

Mrs. Myrtis Bishop
Registrar of Voters

44 Attachment 1 to response of Mrs. Myrtis Bishop. Date Feb. 20, 1974 Page No. 1

STATEMENT OF: Myrtis Bishop
Registrar.

Tuesday afternoon at approximately 3 o' Clock J. D. Porter came in my office to pick up a drivers license that a black man had used to get his S.S. number from so he could register to vote. He was still standing in my office when a black man & woman came in to register They were the same people who came the evening before and she had been told that I had to have her social security number before I would register her. He was indignant but left shortly.

She brought with her a slip of paper with the S.S. number written on it. Normally I would not accept a number that way, but not wanting to argue I said nothing. She filled out her registration form and when I read that she had been registered in California I asked if she had a registration Card from there, She replied no. I then asked if she knew what Ward she lived in there. She replied no.

Myrtis Bishop

STATEMENT OF:

I then asked if she knew when the place was located or the name of the place, such as school, fire station etc. She still replied no. I asked how long that had been + she replied two years. I smiled + replied + said "You can't remember two years back?" At this she became very excited + called me a "Monkey Cracker" and that people like me should not be in an office + several things about white folks & did not have to listen to such so I turned + went to the Sheriffs office + asked Mr. Deckard to come to my office. I turned + returned or started back to my office + she met me shaking her fingers in my face + hit me across my nose demanding a registration card. Naturally I slapped her back + told her not to. When she came at me with her purse raised + the black man held me by the shoulders + Mr. Porter pinned her against the wall, at which time the man attacked him, + the woman also picked him + hit him with her purse. After a scuffle with both

Monte Bishop

STATEMENT OF:

Of them, Mr. Deckard + Mr. Lewis put them in jail. I left my office and went to Dr. Webb's office. After examining me he gave me a sedative and told me I had to go home and could not return to work until the next day.

Mystic Bishop

Attachment 2 to response of Mrs. Myrtis Bishop. Date February 19, 1974 Page No. 1

STATEMENT OF:

J. D. "Mike" Porter, Drivers License Examiner, Tallulah, La.

About three P.M., on the afternoon of Tuesday, February 19, 1974, I went into the Registrar's Office for the purpose of picking up an old Drivers License which had been used for the purpose of obtaining a Social Security Number as voting identification. While I was there a negro male and female, along with a child about 4 years of age, came in. When Mrs. Bishop, the Registrar of Voters, asked if she could help them, the negro female said she wanted to register. Mrs. Bishop handed her a card which she filled out and returned. After the card was returned to Mrs. Bishop she asked if she had voted before. The girl said she had voted in Los Angeles, but she did not have her registration card, nor could she give information as to what precinct she had voted in. Mrs. Bishop handed her a form to sign. The man with her said it was a form to keep her from voting in Los Angeles. At which time, the girl said, "That's alright." Then further statements were made by her such as... that her vote was needed here ... to help clean out this mess ---- to help get people out of offices where they dont belong .... like this Honkie-cracker here and pointed her finger at Mrs. Bishop.

At that time Mrs. Bishop left the office without saying where she was going. Immediately afterwards the two negros left and turned to the right toward the south door. Just after the got into the hall I heard the man ask the woman if she got her registration card. She said, "No, but I want it." ....and I'm going to get it." She turned and started back to the office and met Mrs. Bishop near the door. They exchanged words, but I do not know just what was said, but the negro girl struck Mrs. Bishop in the face and a scuffel occured, at which time I stepped in front of the negro girl.

J. D. Porter

Date February 19, 1944 No. 2

STATEMENT OF:

J. D. "Mike" Porter, Drivers License Examiner, Tallulah, La.

knocking off my glasses and breaking them
She hit me with her purse/ and I caught her arm. About that time, the man hit me and knocked my leg from under me, and I fell to the floor.
and Oran Lewis
When I got up Deputy Wayne Deckard /arrived and subdued the subjects

J. D. Porter

Attachment 3 to response of Mrs. Myrtis Bishop.

Date 2/19/74

Social Security or Registration Number 566-88-8929

APPLICATION FOR REGISTRATION

Office of Registrar of Voters

State of Louisiana

Parish of Madison

Ward No. 1 Prct. No. 2

Municipality: In ___ Out ___

Mailing Address 411 Chesterfield Dr Tallulah, La

I am a citizen of the United States and of the State of Louisiana and have not been disfranchised by any provision of the Constitution of this State.

My name is Arnicey Nicey Tyson
(Mr.—Mrs.—Miss) (First) (Maiden or Middle) (Last)

I live at 111 Chester Dr. Tallulah
(House or Apt. No.) (Street) (City or Town). I have resided in this State

since JAN 15, 73 (date), in this Parish since JAN 15, 73 (date) and at my present address since JAN 15, 73 (date)

The place of my birth is Ark (City) Ware (Parish, County or Province) (State or Foreign Country)

The date of my birth is 5 4 51 (Month) (Day) (Year) I was last registered as a voter in (Leave blank if none) Catahoula (Parish or County) (State)

I hereby declare my party affiliation to be (Circle one) American - Democrat - Republican - None - Other (Specify) ___.

Have you been convicted of a felony? Yes [ ] No [✓] If yes, have you received full pardon and restoration of franchise? Yes [ ] No [ ]

Under Louisiana Revised Statutes 18: 270.802, no person shall register falsely or illegally as a voter or make a false statement in an affidavit or other document that he presents for the purpose of procuring himself to be registered or to be retained as a registrant. No person shall knowingly present, for any purpose within the purview of this Chapter, an affidavit or other document containing a false statement.

Whoever violates this Section shall be fined not less than five hundred nor more than one thousand dollars or imprisoned for not less than six months nor more than one year, or both. The penalties shall be doubled for the second or any succeeding offense of the same character. I have read the statements above. Yes ✓ No ___

I do hereby solemnly swear or affirm that I will faithfully and fully abide by all the laws of the State of Louisiana, so help me God.

Sworn to and subscribed before me this 19 day of Feb., 19 74

Myrtis Bishop
(Deputy) Registrar

Arnicey Tyson
Applicant's Signature

LR-71

UPON REQUEST, THE REGISTRAR SHALL FURNISH EACH APPLICANT A COPY OF HIS APPLICATION FORM

Copy of Registration Form showing that Arnicey Tyson was registered on Feb 19, 1974

Attachment 4 to response of Mrs. Myrtis Bishop.

OFFENSE REPORT | Complainant Mrs. Myrtis Bishop № 4958

Address Registrar of Voters, Tallulah, La. Phone 574-2193

Offense Disturbing the Peace Place of Occurrence Court House

Report received by 3:00 at M. Date 2/19/74 19 How reported In Person

Date and time offense committed 3:00 P.M.

Time of investigation M. Date 2/19/74

Suspects and/or persons arrested Ramon Elwood Tyson, Jr., 111 Chestnut St., Tallulah, La
Arnicey Tyson, 111 Chestnut St., Tallulah, La.

DETAILS OF OFFENSE (State fully all other circumstances of this offense and its investigation)

At approximately 3:00 P.M. I was in the Sheriff's Office when Mrs. Bishop, the Registrar of Voters, ran into the front office and called me. She said,"Wayne come quick." I went out into the hall. I was a short distance behind Mrs. Bishop and just as I got into the hall I saw her (Mrs. Bishop) and a colored female in the hall just outside the Registrar's Office door. They were exchanging words in a heated manner and I saw the negro girl strike Mrs. Bishop in the face. As I arrived on the scene a negro man, who was apparently with the girl, stepped up behind the girl and swung at Mrs. Bishop with his fist. I grabbed him and kept him from striking her. He fought back and after an exchange of blows I finally subdued the subject and with the help of Oran Lewis, both subjects were taken to the Madison Parish Jail where they were booked on a charge of Resisting arrest. At that time they caused a further disturbance by using profane language. Subjects were identified as Ramon Elwood Tyson, Jr., 111 Chestnut St. and Arnicey Tyson, 111 Chestnut St.

Later in the afternoon the following charges were filed:

ARNICEY TYSON:
Simple battery on the person of Mrs. Myrtis Bishop, bond set at $1,000.00
Resisting Arrest, bond $1,000.00
Simple Battery on the person of J. D. Porter, bond $1,000.00
Simple Criminal Damage, bond $100.00
Disturbing the peace at the jail, bond $50.00

RAMON ELWOOD TYSON, JR.:

Simple battery on the person of Myrtis Bishop, bond $1,000.00
Simple Battery on the person of J. D. Porter, Bond $1,000.00
Resisting Arrest, bond $1,000.00
Bistrubing the Peace in the Courthouse, bond $1,000.00

Investigating Officer: Deputy Wayne Dodson Date 2/19/74

JAMES T. BRIDGES
ATTORNEY AT LAW
BELZONI, MISSISSIPPI 39038

January 15, 1975

Ms. Lucy R. Edwards
Assitant General Counsel
United States Commission on Civil Rights
Washington, D. C. 20425

In re: G. H. Hood
Circuit Clerk & Registrar
Belzoni, Mississippi

Dear Ms. Edwards:

Mr. Hood has asked me to comment on the material you forwarded to him on January 8, 1975. One page of the report reads,

> "In Humphreys County blacks informed the Commission that even if they are able to get off from work to register there is no way of knowing whether the circuit clerk and registrar will be there. On some days when a number of blacks were brought in to register, the circuit clerk had left.[17]"

Mr. Hood's office is open from 8:00 a.m. to 5:00 p.m. each business day except Saturday, when it is closed all day pursuant to Resolution of the Board of Supervisors, and it is closed from 12:00 to 1:00 for lunch. These are the same hours as all of the officers in the Court House and is required by Section 25-1-99 of the Mississippi Code of 1972. Of course, the allegation is that Humphreys County blacks informed the Commission that they couldn't tell whether he was there or not, and if they would give days and times when Mr. Hood was not there perhaps we could answer it. There is absolutely no way to answer such a general allegation except to say that the office was kept open at the times required by statute. On the other page we have several allegations and I noticed you have changed that Mr. Hood has been in office since the early 1950's, as he was elected in 1959 and began service as Circuit Clerk and Registrar on the first Monday in January of 1960. Mr. Hood denies the allegations that he had steadfastly opposed the black franchise and would show that he has followed the statutes in registration of the individuals. Mr. Hood is not a member of the Legislature and has to follow the statutory requirements until they are held invalid by a court.

The allegation that he is reported to have been operating a segregated facility with separated waiting areas for the races in the registration office is untruthful. The Circuit

JAMES T. BRIDGES January 15, 1975

Clerk and Registrar operates in a one room office approximately 20 x 20 feet in dimension with a vault opening off it. A counter with filing cabinets runs the length of the room about five feet inside the door and this is the only waiting area in the office. There are five chairs adjacent to one another for any person who has to wait. The space inside the counter is the office of the Registrar and Circuit Clerk and contains a double desk and a secretary's desk, a chair for each side of the desk and for the secretary and a deacon's bench for business visitors. The Clerk uses the vault for applicants to register to complete their registration forms and has about two at a time in the vault, as that is about all the room there is. The allegation that he "operates his office in such an arrogant manner that registrees come away thoroughly denigrated, embarrassed and intimidated.", which is contained in a letter from Lawrence Tardy as shown in footnote 59 is absolutely untrue. To the recollection of Mr. Hood, Lawrence Tardy has only been in his office one time, and that was to qualify as a candidate for Justice of the Peace, District #1, as an Independent candidate in the 1971 general election. The answer to the "many people would not register if he came knocking at their door" is untenable in that the Registrar must register the applicants at his office and cannot do so by travelling around the country knocking on doors. The statement that a staff member was told that the "registrar continues to behave in a manner that makes registration a grueling process", footnote 60a, must be by a staff member who interviewed only the black political activists who are dissatisfied because they did not win the election in 1971. The Registrar has registered every person that has applied for registration at his office since the enactment of the Voting Rights Act in 1965 that were qualified and completed the form required by statute.

The allegations made against Mr. Hood are so vague that it is difficult to set forth defense thereto as most of them are conclusions of "black political leaders" and the allegations were not followed up by the staff interviewer so as to get any facts to support the conclusions drawn.

Very truly yours,

James T. Bridges

JAMES T. BRIDGES
Attorney for G. H. Hood

JTB:jdt

cc: Mr. G. H. Hood
Circuit Clerk & Registrar
Court House
Belzoni, Mississippi 39038

MONTEREY COUNTY

OFFICE OF THE COUNTY CLERK

☒ P.O. BOX 1819 - SALINAS, CALIFORNIA 93901 -- (408) 424-0417
☐ 1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940 -- (408) 372-6081

ERNEST A. MAGGINI
COUNTY CLERK

PLEASE REPLY TO ADDRESS CHECKED.

January 14, 1975

Mr. John A. Buggs
Staff Director
US Commission on Civil Rights
Washington, D. C. 20425

Dear Sir:

In reply to your undated letter received by me on Monday, January 13, 1975, I would like to make the following response.

At no time did I or anyone in my office tell persons interested in serving as election officials, whether they be bilingual or not, that we had already filled our quota for election officials. There is no such thing as a quota for election officials in Monterey County as it is quite difficult at times securing enough precinct election officials. Also, there are always last minute cancellations from election officials for various reasons and it is essential and very helpful to contact persons for replacements.

Also, my office received a list of names of Mexican-Americans who were bilingual from interested citizens to recruit as election officials and each one contacted declined to serve for various reasons.

Prior to the Primary and General Elections, instruction classes are held for persons who will serve as election officials and they are all instructed that they may as an election official use a language other than English at the polls to communicate with voters.

Sincerely,

Ernest A. Maggini
County Clerk-Registrar of Voters

33 Line 380—74—T.P.

BOARD OF ELECTIONS
IN
THE CITY OF NEW YORK
GENERAL OFFICE, 80 VARICK STREET
NEW YORK, N. Y. 10013

December 19, 1974

Hon. John A. Buggs
Staff Director
United States Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Buggs:

In reply to your letter received on December 18, 1974 with regard to Spanish translation of the ballot, please be advised that when the Board was apprised of the alleged errors in our "voting instructions", contact was made with the Department of Justice. Recommended by the State Department was one, Dr. Arsenio Rey.

We immediately contacted Dr. Rey and he re-edited the voting instructions, as well as all other bi-lingual materials sent to the voters. He has consented to work with our Board on all future translations.

As a result of his re-editing, all interested persons were completely satisfied with the bi-lingual materials.

Should you require additional information, please do not hesitate to call me at Canal 6-2196.

Very truly yours,

BETTY DOLEN
Executive Director

State of Georgia
Superior Courts of the Southwestern Judicial Circuit
P. O. DRAWER 784
Americus, Georgia

CHAMBERS OF
W. F. BLANKS
JUDGE

LEE, MACON, SCHLEY
STEWART, SUMTER
AND WEBSTER
COUNTIES

December 31, 1974

Mr. John A. Buggs
Staff Director
United States Commission on Civil Rights
Washington, D. C. 20425

Re: Allegations concerning Macon County Primary of 13 August, 1974, and Run-off of 3 September, 1974

Dear Mr. Buggs:

Thank you very kindly for your undated letter recently received which dealt with certain allegations concerning my conduct in relation to the captioned elections. As usual in such allegations, they are a mixture of truth and fiction, and I will refer to them by number in case you care to discuss further the matters herein related, to wit:

1. As of 1 November, 1974, I became Judge of Superior Court, Southwestern Judicial Circuit, and at that time resigned from the State Election Board and from other pertinent positions. I am in the process of relinquishing my Chairmanship of the Macon County Democratic Executive Committee.

2. It is true that I talked with Lynmore James and tried to discourage him from running for the office of County Commissioner from the Montezuma District. As you may or may not know, political affairs in a small county are very complex, but I have always exerted my influence in such manner as to try to insure that all public affairs were conducted in a responsible and progressive manner. It is not true that I treated Lynmore James discourteously, but it is true that I contended that he should not run.

3. It is true that I discussed with Lynmore James the problems that he would have as the first black man seeking to serve as a County Commissioner, which might diminish his influence with the other Commissioners. The Montezuma District has

fifty percent of the population of the County, pays sixty percent of the taxes of the county, yet, has only one of the five commissioners who govern the County. This is disproportionate, especially since two other commissioner districts have fewer than four hundred registered voters each. The situation is so complex that I doubt that Lynmore James would even appreciate the problem. The county is divided by the Flint River with sixty percent of the population on the East side and forty percent on the West side. In addition, the Marshallville District has commercial and cultural ties with Fort Valley (on the North) and has never supported county-wide movements such as the completion of a county hospital and/or consolidation of schools. This has created a situation where the Montezuma District has been under-represented, and this, in turn, has caused many conflicts over the years.

4. It was, and is my opinion, that Lynmore James was seeking the office in fulfillment of his personal ambition rather than for the furtherance of higher ideals such as construction of a county-wide general hospital, which is the number one need of the population at this time. You probably do not know that there is not a hospital bed in the county for Medicare and/or Medicaid patients. Neither is there presently a decent hospital bed available in the county for a black citizen. The construction of this medical facility has been my Number One priority for a number of years and I certainly did not want Lynmore James to interfere with the accomplishment of this very real and basic need.

5. Macon County, particularly the City of Montezuma, has moved progressively to achieve an accommodation acceptable to both races as is attested by the fact that black citizens are serving as Council Members both in the City of Montezuma and in the City of Marshallville. They also serve as members of the Draft Board, the Board of Jury Commissioners, the Board of Registrars, and many other Boards and Committees, including the Macon County Chamber of Commerce and the Macon County Hospital Authority.

6. It is not true that I said anything about a "damn nigger" either at a public or private meeting. In fact, for many years I have personally refrained from using such terminology and have sought to influence others to cease using words which are offensive to our black citizens. You will find that I have been extremely influential in Macon County, Georgia in supporting a fair deal

for all citizens, both black and white. Let it further be said that Lynmore James has not been influential in actions taken by many of us to improve race relations. In the run-off there were a number of white citizens who did not vote for Hugh Crook. At the same time, there were an estimated four hundred to five hundred black citizens who did not think that Lynmore James was the black man to become the first black Commissioner; therefore, they did not vote for him. In my opinion, it was his failure to attract black-voter support which caused him to be defeated. It should also be noted that the population of Macon County is about sixty-eight percent black, further, that the black voters constitute a majority of those registered. In this race, all voters were urged to consider carefully the respective qualifications of the candidates and to vote for the candidate who they thought would best represent the Montezuma District and best aid in mobilizing the political support necessary to construct our county-wide general hospital.

Please feel free to contact me in relation to any further information you might desire in relation to the subject matter of this complaint.

Sincerely,

William F. Blanks

W. F. Blanks
Judge, Superior Courts
Southwestern Judicial Circuit

WFB/pl

Sworn to and subscribed before me
this 31st day of December, 1974.

Virginia M. Culpepper

Notary Public State of Georgia My
Commission Expires June 3, 1977.

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

December 31, 1974

Hon. John A. Buggs
Staff Director
U.S. Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Buggs:

I have read with great concern the abstract regarding Congressman Badillo's allegations of "...blatant appeals to prejudice..."

I am, to be sure, totally in favor of a system which, strictly and unequivocally, provides absolute accountability for any and all individuals vested with the public trust. Within the framework of our political system, the ways and means of conducting a campaign have, particularly in recent times, received the attention and concern of our entire populace. Campaign literature and/or the public utterings by any political candidate should and must be maintained at the highest moral as well as legal standard.

Consistent with the aforementioned, I state as emphatically as I can, that neither I, nor any one operating under my instructions, and/or knowledge, did at any time before, during, or after the Mayoral Campaign in question, ever partake in the type of scurrilous and reprehensible efforts referred to by Congressman Badillo.

When the literature in question was first brought to my attention in the midst of the 1973 Mayoral Primary Runoff, I denounced it publicly and disassociated myself and my entire campaign organization from the sentiments and the issues with which it dealt.

Furthermore, we made every effort possible, under the circumstances, to track down those responsible for these tactics. In the few cases where we were successful, we ordered the material destroyed.

I would also like to point out that after the Primary Runoff, but during the ensuing Election Campaign, a Committee of the New York State Legislature conducted an investigation into the charges made by Congressman Badillo and held public hearings on them.

My campaign representatives cooperated fully with the committee and testified at the public hearings. The Committee found no connection between me or my campaign and the material in question. Some of the literature was, indeed, untraceable.

My representatives also brought to the attention of the committee unfair and derogatory literature and advertisements against me put out by my opponent's campaign.

If a transcript of the public hearings is available from the New York State Legislative Committee, I urge that any pertinent testimony be included in your final report.

I deplore the type of unfair, undemocratic tactics alleged by Mr. Badillo. I sincerely believe that my many years of public service lend credence to the strong personal feelings I have in this regard.

I trust that this information is responsive to your request. Please don't hesitate to contact me if I can be of further assistance.

Very truly yours,

Abraham D. Beame

Abraham D. Beame
MAYOR

STATE OF...New York.....
COUNTY OF...New York.....
On the ...31st... day of ...December..., 1974 before me came ...Abraham D. Beame..., to me known to be the individual described in and who executed the foregoing instrument and acknowledged that he executed the same.

...William J. Tierney.....
Notary Public

WILLIAM J. TIERNEY
Notary Public, State of New York
No. 31-3983751
Qualified in New York County
Term Expires March 30, 1975

ROLAND COOPER
JUDGE OF PROBATE

MRS. ANNIE LEE BAILEY
CHIEF CLERK

PROBATE COURT OF WILCOX COUNTY
P. O. BOX 220
CAMDEN, ALABAMA 36726

TELEPHONE:
682-4883
AREA CODE 205

December 30, 1974

Mr. John A. Buggs
Staff Director
United States Commission on Civil Rights
Washington, D. C. 20425

Dear Mr. Buggs:

I have your letter concerning the election of constables in Wilcox County in the National Democratic Party of Alabama in the November 7, 1972 Election.

This office can see no reason for complaint by any of those constables elected because this is an outdated position. This office is no more recognized as an office of authority, in as much as they have no duties required to perform and no provisions for payment or fees. To my knowledge the November 1972 Election was the first time any person had run for this office in this County. In that Election 19 constables were elected but only 11 qualified by making bond. Five of those making bond were elected under the NDPA ticket and 6 of those making bond were elected under the Democratic Party ticket. Those 11 constables that posted bond were given the oath of office, however; the 5 constables elected on the NDPA ticket were never technically qualified because their bond was only paid for one year and should have been for the four year term of office.

In as much as the position of constable carries no official capacity, also due to the fact that none had been previously elected, plus the fact that I was new in this office, no cards were issued. I have recently secured certificates for issuing commissions and I have issued commissions to each of those constables whose bonds are in order.

Sincerely,

Roland Cooper

Roland Cooper

STATE OF LOUISIANA

PARISH OF EAST CARROLL

BEFORE ME, the undersigned authority, personally came and appeared JAMES T. HERRINGTON, who, being duly sworn, deposed and said as follows:

That he is presently and has been for a period of about four years the Superintendent of Schools for East Carroll Parish, Louisiana; that he is the "Superintendent of Schools" referred to in a staff interview, East Carroll Parish, Louisiana, September, 1974, specifically referred to in Footnote Numbered 37 in the proposed report of the U. S. Commission on Civil Rights; that he has not, to the best of his recollection, been in the Registrar's office of East Carroll Parish, Louisiana, at any time during the year 1974 (presumably the alleged occurrence took place in 1974); that the duties of his office do require that he conduct business with the offices of East Carroll Parish Police Jury, East Carroll Parish Tax Assessor, East Carroll Parish Clerk of Court and East Carroll Parish Sheriff's Department, all of which are or were located on the same floor with and are of no greater distance than 100 feet from the Registrar's Office; that his presence at any time on the first floor of East Carroll Parish Court House would have involved business transactions with one or more of the offices aforementioned, but under no circumstances would his presence there have involved any activities in or with the Registrar's Office, and in no case has his presence in said Court House ever in any manner related to or concerned the activities of the Registrar, any persons who might have been in the office of the Registrar for the purpose of registration, or any persons who might have been at or in the Re-

gistrar's Office for the purpose of assisting others to register.

James T. Herrington
JAMES T. HERRINGTON

SWORN TO AND SUBSCRIBED before me, Notary, on this the 9th day of January, 1975.

Carol D. McDiarmid
NOTARY PUBLIC

Response to comments on p. 187.

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OFFICE OF STAFF DIRECTOR

'75 JAN 3 PM 3:17

Lake Providence, Louisiana
December 31, 1974

Mr. John A. Buggs
Staff Director
United States Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Buggs:

I acknowledge your recent communication to me relative to #37. Staff Interview, East Carroll Parish, September, 1974.

In answering this interview, certainly I could have been in the Registrar's office. It is my feeling that this is a public office and as a citizen, I certainly had a right there. I am wondering if Mr. Lane was there to register, and perhaps his presence was not coincidental.

Answering Interview #38, i.d., it is with reluctance that I admit that I do not own the firm that supplies the city's gas. The fact is I am a lowly service man for the Louisiana Gas Service Company, who has served the area of Lake Providence since 1932. Mr. Lane is certainly right that I try to be nice to all customers of the Company - black and white. As for gas cut-offs, the names of the cut-offs are issued to me from the Central Office of the company and I immediately cut off any and all persons who are on the list. This is a strict company policy and if I do not follow their instructions I would have to pay the bill personally.

Since I have become a subject to your study, I would appreciate receiving a copy of the report issued by your Commission when same is completed.

Yours truly,

Lloyd L Clement

Lloyd Clement

dm

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RESPONSE OF H. E. MITCHELL TO SUMMARY OF MATERIAL PERTAINING TO ALLEGED ACTIVITIES IN TALLADEGA COUNTY, ALABAMA, DURING JUNE 1974 DEMOCRATIC PRIMARY RUN-OFF

I am the duly elected and presently serving Sheriff of Talladega County, Alabama. I served in this capacity during June 1974.

It is my information that staff personnel of the United States Commission on Civil Rights have interviewed certain persons in Talladega County relative to the Democratic Primary run-off of June 1974. I was a candidate in that election.

I have not been furnished any written information as to any misconduct at any specific voting place, no specific information as to individuals involved, no specific information as to names or identity of witnesses to any such incidents, no specific information as to the names or identity of persons who allegedly committed any acts of misconduct and no specific information as to the time when said alleged acts occurred. It is therefore very difficult, if not impossible, for me to respond to these reported incidents. It would seem that any reasonable interpretation of the Federal statutes would entitle me to at least have information as to the specific time and place when reported acts of misconduct were committed and some information as to the name or identity of the officers who committed the acts and the names of persons who are familiar with the incident. It would seem that anyone with a sense of fairness would agree that at least some limited information should be made available to me so that I can make a response as required by the statute.

The only specific information with which I have been furnished is that the alleged misconduct occurred at the National Guard Armory in Talladega. This voting place was open from 8:00 a.m. to 6:00 p.m. There were ten voting machines in the Armory and 2,765 voted there on June 4, 1974. Information furnished me about the alleged incidents at the Armory was not in writing but given by telephone to my attorney.

I have never authorized, permitted or condoned misconduct, violence or harassment by any officer under my jurisdiction at the June 1974 Primary run-off or any other election. I did not use city police or county deputies in such tasks as putting up posters or handing out leaflets in connection with my campaign and neither I nor anyone under my jurisdiction or acting under the color of my office has ever talked with a black person

or warned them that they would not receive welfare or food stamps if they voted for my opponent. How any intelligent person, whether an informer or the recipient of information, could believe that I have any control over the Alabama Department of Pensions and Securities (welfare and food stamps) is beyond comprehension.

I urgently suggest that the source or sources of information furnished staff personnel of the Civil Rights Commission be investigated more thoroughly. I suggest you will find that one of those sources was a former deputy of my predecessor in office. This informer is black. My predecessor was impeached by the Supreme Court of Alabama in September 1972 and removed from office. I headed the investigation which resulted in the impeachment proceedings.

I have never authorized, permitted or condoned any of the alleged acts of misconduct which are vaguely and indefinitely set forth in the summary attached to the undated letter from the United States Commission on Civil Rights which I received December 19, 1974. I have never participated in any such activities and none of the deputies or personnel under my supervision or control have ever participated in any such acts of misconduct.

I respectfully request that this response be made a part of any published report of the Commission in this matter and in addition request that as much time be spent on investigating the sources of information as to their truth and veracity as has been spent in compiling the scurrilous generalities which I have been furnished.

H. E. Mitchell

Subscribed and sworn to before me this the 15th day of January, 1975.

Notary Public

House of Representatives - State of South Carolina - Columbia

ALBERT L. KLECKLEY
MEMBER FROM JASPER COUNTY

HOME ADDRESS:
P. O. DRAWER X
RIDGELAND, S. C. 29936

COMMITTEES:
AGRICULTURE AND CONSERVATION
ETHICS

January 2, 1975

Mr. John A. Buggs
Staff Director
U.S. Commission on Civil Rights
Washington, D.C. 20425

Dear Mr. Buggs:

I am happy to reply to your letter received December 19, 1974, concerning false and deceitful allegations about the July 30, 1974 run-off primary in Jasper and Beaufort Counties.

I have investigated thoroughly the allegation about Kleckley Gas Company and can assure you that no member of Kleckley Gas Company ever made any statement to voters about not supplying them gas if they did not vote for me. From the information I have received this malicious rumor was started by members of Juanita White's campaign force in order to discredit me and my family. My family has lived in this area since the 1930's and I don't feel that you can find anyone who would have downgraded any member of my family prior to this election. I can assure you also that Kleckley Gas Company would have continued to give the same equal treatment to all persons whether I had won or lost. Many tactics were used and this was just one.

I did ask that one of our dirvers come to the Sheldon precinct since that is an area with which I am not familiar and it was just incorporated into District 122. This driver lives in that area and knows most of the people there. He introduced me to quite a few people and many stated that had they known me before they had voted, they probably would have voted for me.

Concerning the allegations about photographic pictures, there were pictures taken outside of the polling place of vehicles only. There was never at any time any pictures taken inside the polling place by me or any of my campaign workers.

The vehicles that were photographed were thought to be of an agency in this area who thrives solely by federal funds and I was informed was subject to prosecution under the Hatch Act. As a matter of fact, a high ranking member of this agency testified before the S.C. Democratic Party Executive Committee that he was coordinating about fifteen vehicles who were hauling voters to the polls. This same person testified under oath that he approached a person carring the voters to the polls for me and severely chastized, berated and intimidated this driver into not driving for me.

The last allegation about a black man being asked not to enter a polling place may be true. There were several individuals working for Juanita White which, in my opinion, broke almost every rule in the book. Some would bring the voters to the polling place, usher them inside, tell the poll worker that they were helping the voter and then vote the voter. On numerous occasions I had voters tell me that they would have voted for me had they not been intimidated into letting other people vote them.

The person who I have in mind who possibly could have been asked to leave was a member of this same agency mentioned above. He was extremely adamant and should have been asked to leave, if he wasn't. This person was not a voter nor a resident of District 122 and had no authority nor business in interferring with the voting process. Yet he insisted time and again to follow his own rules. However,there was never at any time any threat of physical violence by anyone connected with me or my campaign.

In conclusion, allow me to reiterate that there was no coercion used by me, my campaign workers or Kleckley Gas Company in the July 30, 1974 run-off primary in District 122. I have heard a lot of sour grapes cried over Juanita White losing. However, these and other matters have been tried before the S.C. Democratic Executive Committee, the State Court system and the Federal Court system. To date, they have held unanimously that there was no wrongdoing on my part, nor by my campaign workers nor by Kleckley Gas Company.

I regret that your Commission staff members did not contact me concerning any grievances or false allegations that they have received. If I had been contacted, I feel sure that any rumor concerning me could have been traced down and found to be false. As you can tell, I too have grievances and could make all types of allegations. Therefore, it is extremely distressing to me that your Commission has not seen fit to investigate completely any and all voting procedures and irregularities. Without an impartial investigation, any report that you may make will in all likelihood, be only the false allegations of a poor loser.

With kindest regards, I am

Sincerely,

Albert L. Kleckley

ALK:bs

A.D.RUCKER

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Rucker & Richardson
ESTABLISHED 1919
REAL ESTATE & INSURANCE
MORTGAGE LOANS
DIAL 648-4741
118 NORTH EIGHTH STREET
Richmond, Va.

January 6, 1975

Mr. John A. Buggs
Staff Director
United States Commission
on Civil Rights
Washington, D. C. 20425

Dear Mr. Buggs:

Thank you for the opportunity to respond to "certain materials pretaining to" me regarding the Annexation Litigation of the City of Richmond, Virginia and the surrounding counties of Henrico and Chesterfield, Virginia.

It has always been my policy not to discuss matters currently in litigation (the annexation case will be heard by the United States Supreme Court at an undetermined future date). However, I believe your inquiry merits the attached comments.

Your letter was addressed to my son, Philip J. Bagley, 3406 Wythe Avenue. I am Phil J. Bagley, Jr., 6222 West Franklin Street should you desire to contact me in the future.

Respectfully,

Phil J. Bagley, Jr.
Former Mayor of Richmond, Virginia
6222 West Franklin Street
Richmond, Virginia 23226

PJB,Jr/v

Enc.

RESPONSE TO CIVIL RIGHTS COMMISSION REGARDING
RICHMOND-CHESTERFIELD ANNEXATION

It should be noted that in the previous Richmond Councilmanic Election, some candidates ran on a platform to expand the boundaries of Richmond, other candidates adamantly opposed annexation (one contributed to an anti-annexation fund), stating publicly that they wanted "No part of annexation."

Near the conclusion of the prolonged annexation trial, I entered the press room as reporter Mr. James Davis of the Richmond Times-Dispatch was talking on the telephone with the chairman of the Board of Supervisors of Chesterfield County. Mr. Davis suggested that I should, as Mayor of the City of Richmond, talk with the chairman to bring the litigation to a close. I agreed and met the chairman in a public restaurant at Southside Plaza to discuss the possibility of terminating the trial. Subsequently, I talked individually to members of City Council who favored boundary expansion to determine their views as to accepting a smaller area than that requested of the court. There was no need to contact those opposed to annexation in any form as I already knew their views as publicly expressed.

I advised city attorneys that a majority of the council, in order to assure an orderly and cooperative transition, were in accord with accepting a lesser area and suggested this possibility be presented to the court for the court's consideration. It should be emphasized the matter was in litigation and any decision was solely up to the court and not within the authority of the city council nor the board of supervisors. The award verdict was made by the Judges of the Annexation Court.

Regarding alledged statements, I testified that the statements attributed to me were ridiculous. One ridiculous statement was alledged to have been made at a football game in Charlottesville, Virginia (hardly a place to issue statements regarding Richmond). To the best of my knowledge, I have never met or talked with this gentleman. I was later informed this gentleman lives in the area annexed.

The second ridiculous statement was alledged to have been made to one of the councilmen who opposed annexation. This gentleman has since resigned from city council stating, "I heard voices telling me to go elsewhere." To the contrary, it is a matter of record that I was the patron of the ordinance to create a Human Relations Commission to develop better race relations. Also, it is on record that I voted for Mr. Cephas (a Negro) for Vice Mayor and that I have voted for Negroes for the School Board, the Planning Commission and many committees and positions. In addition, I ran on the Richmond Forward Slate for election with Mr. Cephas and Mr. Mundle (also a Negro). I would not have voted for them if I had thought they were not qualified for office.

As to motivation for annexation and the contention that Richmond had no interest in economic or geographical considerations, tax revenue, vacant land, utilities or schools, I brand this assertion as a blatant untruth. The City of Richmond presented valid documents and reams of evidence concerning the above items and legally established its right to expand, not only to the Chesterfield Court but also in a previous case against the County of Henrico. Both courts recognized this evidence as justification and the Henrico Court awarded the City a verdict. Unfortunately the price tag was not feasible and gave the City inadequate open areas to develop to justify the cost. The City rejected this award. I submit that if the City only wanted white bodies, we would have accepted the thousands of white citizens involved in the Henrico award at any cost. But the award was rejected because of the exhorbitant cost and absence of adequate open area to develop.

Henrico 16 square miles with 16% vacant.
Chesterfield 23 square miles with 52% vacant.

Henrico 45,300 population with approximately 900 blacks.
Chesterfield 47,000 population with approximately 1380 blacks.

Henrico cost $55,000,000.
Chesterfield cost $47,000,000.

From a personal viewpoint, I had no reason nor need to acquire additional voters as I ran first in a field of over twenty candidates in the previous council election and second to top in a field of 24 candidates in the last election. In both elections I received thousands of votes in predominately Negro precincts.

The fact is there is no way Richmond can expand its boundaries without acquiring a majority of white citizens. This is due to the citizen make up of the surrounding counties and not to any design of the City. The allegation that I, as Mayor, would not agree to a settlement without the Supervisors guaranteeing 44,000 white citizens is an out and out falsehood. The fact is the Supervisors, even if they wished, could not guarantee anything as the decision, if any, was to be made by the Judges of the Annexation Court.

One would have to be naive and politically stupid to believe that any one being a party to annexing people against their will would receive the votes of the people annexed.

The case was referred to "a master" of the District Court, who, to this day, has not contacted me in any form to determine the truth. Obviously, the text of the District Court relied on the "Master's" report which resulted in the text being fraught with error.

The case has been appealed and the United States Supreme Court has agreed to a hearing.

Phil J. Bagley Jr.
former Mayor
City of Richmond, Virginia

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