



United States Department of Justice

CIVIL RIGHTS DIVISION

[En Español](#)

[Main Page](#)

[AAG Thomas E. Perez](#)

[About Us](#)

[Section Sites](#)

[FOIA](#)

[Press Releases](#)

[Speeches & Testimony](#)

[Frequently Asked Questions](#)

[Special Topics](#)

[Post 9/11 Backlash](#)

[H1N1 Response](#)

[ADA](#)

[FACE](#)

[Cases & Briefs](#)

[Employment Opportunities](#)

[Volunteer Internship
Opportunities](#)

[Honors & Summer
Law Intern Programs](#)

[Contact Us](#)

[✉ Sign Up for Email Updates](#)

[Go to the
Department of Justice](#)

[Privacy Act Statement](#)

[Hints...](#)

[Feedback Form](#)

Introduction To Federal Voting Rights Laws

- [Introduction To Federal Voting Rights Laws](#)
- [Before the Voting Rights Act](#)
- [The Voting Rights Act of 1965](#)
- [The Effect of the Voting Rights Act](#)

The Voting Rights Act, adopted initially in 1965 and extended in 1970, 1975, and 1982, is generally considered the most successful piece of civil rights legislation ever adopted by the United States Congress. The Act codifies and effectuates the 15th Amendment's permanent guarantee that, throughout the nation, no person shall be denied the right to vote on account of race or color. In addition, the Act contains several special provisions that impose even more stringent requirements in certain jurisdictions throughout the country.

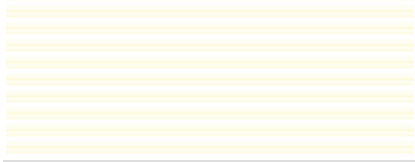
Adopted at a time when African Americans were substantially disfranchised in many Southern states, the Act employed measures to restore the right to vote that intruded in matters previously reserved to the individual states. Section 4 ended the use of literacy requirements for voting in six Southern states (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia) and in many counties of North Carolina, where voter registration or turnout in the 1964 presidential election was less than 50 percent of the voting-age population. Under the terms of Section 5 of the Act, no voting changes were legally enforceable in these jurisdictions until approved either by a three-judge court in the District of Columbia or by the Attorney General of the United States. Other sections authorized the Attorney General to appoint federal voting examiners who could be sent into covered jurisdictions to ensure that legally qualified persons were free to register for federal, state, and local elections, or to assign federal observers to oversee the conduct of elections.

Congress determined that such a far-reaching statute only in response to compelling evidence of continuing interference with attempts by African American citizens to exercise their right to vote. As the Supreme Court put it in its 1966 decision upholding the constitutionality of the Act:

Congress had found that case-by-case litigation was inadequate to combat wide-spread and persistent discrimination in voting, because of the inordinant amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

South Carolina v. Katzenbach, 383 U.S. 301, 327-28 (1966).

At the time the Act was first adopted, only one-third of all African Americans of voting age were on the registration rolls in the specially covered states, while two-thirds of eligible whites were registered. Now black voter registration rates are approaching parity with that of whites in many areas, and Hispanic voters in jurisdictions added to the list of those specially covered by the Act in 1975 are not far behind. Enforcement of the Act has also increased the opportunity of black and Latino voters to elect representatives of their choice by providing a vehicle for challenging discriminatory election methods such as at-large elections, racially gerrymandered districting plans, or runoff requirements that may dilute minority voting strength. Virtually excluded from all



public offices in the South in 1965, black and Hispanic voters are now substantially represented in the state legislatures and local governing bodies throughout the region.

Updated July 25, 2008



United States Department of Justice

CIVIL RIGHTS DIVISION

[En Español](#)

[Main Page](#)

[AAG Thomas E. Perez](#)

[About Us](#)

[Section Sites](#)

[FOIA](#)

[Press Releases](#)

[Speeches & Testimony](#)

[Frequently Asked Questions](#)

[Special Topics](#)

[Post 9/11 Backlash](#)

[H1N1 Response](#)

[ADA](#)

[FACE](#)

[Cases & Briefs](#)

[Employment Opportunities](#)

[Volunteer Internship
Opportunities](#)

[Honors & Summer](#)

[Law Intern Programs](#)

[Contact Us](#)

 [Sign Up for Email Updates](#)

[Go to the
Department of Justice](#)

[Privacy Act Statement](#)

[Hints...](#)

[Feedback Form](#)

Introduction To Federal Voting Rights Laws

- [Introduction To Federal Voting Rights Laws](#)
- [Before the Voting Rights Act](#)
- [The Voting Rights Act of 1965](#)
- [The Effect of the Voting Rights Act](#)

Before the Voting Rights Act

Reconstruction and the Civil War Amendments

Before the Civil War the United States Constitution did not provide specific protections for voting. Qualifications for voting were matters which neither the Constitution nor federal laws governed. At that time, although a few northern states permitted a small number of free black men to register and vote, slavery and restrictive state laws and practices led the franchise to be exercised almost exclusively by white males.

Shortly after the end of the Civil War Congress enacted the Military Reconstruction Act of 1867, which allowed former Confederate States to be readmitted to the Union if they adopted new state constitutions that permitted universal male suffrage. The 14th Amendment, which conferred citizenship to all persons born or naturalized in the United States, was ratified in 1868.

In 1870 the 15th Amendment was ratified, which provided specifically that the right to vote shall not be denied or abridged on the basis of race, color or previous condition of servitude. This superseded state laws that had directly prohibited black voting. Congress then enacted the Enforcement Act of 1870, which contained criminal penalties for interference with the right to vote, and the Force Act of 1871, which provided for federal election oversight.

As a result, in the former Confederate States, where new black citizens in some cases comprised outright or near majorities of the eligible voting population, hundreds of thousands -- perhaps one million -- recently-freed slaves registered to vote. Black candidates began for the first time to be elected to state, local and federal offices and to play a meaningful role in their governments.

[Back to top](#)

Disfranchisement

The extension of the franchise to black citizens was strongly resisted. Among others, the Ku Klux Klan, the Knights of the White Camellia, and other terrorist organizations attempted to prevent the 15th Amendment from being enforced by violence and intimidation. Two decisions in 1876 by the Supreme Court narrowed the scope of enforcement under the Enforcement Act and the Force Act, and, together with the end of Reconstruction marked by the removal of federal troops after the Hayes-Tilden Compromise of 1877, resulted in a climate in which violence could be used to depress black voter turnout and fraud could be used to undo the effect of lawfully cast votes.

Once whites regained control of the state legislatures using these tactics, a process known as "Redemption," they used gerrymandering of election districts to further reduce black voting strength and minimize the number of black elected officials. In the 1890s, these states began to amend their constitutions and to enact a series of laws intended to re-establish and entrench white political supremacy.

Such disfranchising laws included poll taxes, literacy tests, vouchers of "good character," and disqualification for "crimes of moral turpitude." These laws were "color-blind" on their face, but were designed to exclude black citizens disproportionately by allowing white election officials to apply the procedures selectively. Other laws and practices, such as the "white primary," attempted to evade the 15th Amendment by allowing "private" political parties to conduct elections and establish qualifications for their members.

As a result of these efforts, in the former Confederate states nearly all black citizens were disenfranchised and removed from by 1910. The process of restoring the rights taken stolen by these tactics would take many decades.

[Back to top](#)

Attacks on Disfranchisement Before the Voting Rights Act

In *Guinn v. United States*, 238 U.S. 347 (1915), the Supreme Court held that voter registration requirements containing "grandfather clauses," which made voter registration in part dependent upon whether the applicant was descended from men enfranchised before enactment of the 15th Amendment violated that amendment. The Supreme Court found the Oklahoma law was adopted in order to give whites, who might otherwise have been disfranchised by the state's literacy test, a way of qualifying to vote that was not available to blacks. In 1944, the Supreme Court held that the Texas "white primary" violated the 15th Amendment. *Smith v. Allwright*, 321 U.S. 649 (1944). The Southern states experimented with numerous additional restrictions to limit black participation in politics, many of which were struck down by federal courts over the next decade.

Congress passed legislation in 1957, 1960, and 1964 that contained voting-related provisions. The 1957 Act created the Civil Rights Division within the Department of Justice and the Commission on Civil Rights; the Attorney General was given authority to intervene in and institute lawsuits seeking injunctive relief against violations of the 15th Amendment. The 1960 Act permitted federal courts to appoint voting referees to conduct voter registration following a judicial finding of voting discrimination. The 1964 Act also contained several relatively minor voting-related provisions. Although court decisions and these laws made it more difficult, at least in theory, for states to keep all of their black citizens disenfranchised, the strategy of litigation on a case-by-case basis proved to be of very limited success in the jurisdictions were sued and it did not prompt voluntary compliance among jurisdictions that had not been sued. Literacy tests, poll taxes, and other formal and informal practices combined to keep black registration rates minimal in Alabama, Louisiana, and Mississippi, and well below white registration rates in the others.

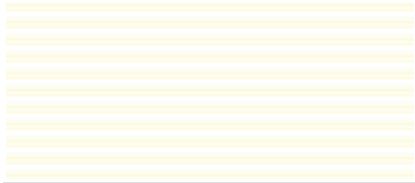
Faced with the prospect that black voter registration could not be suppressed forever, however, some states began to change political boundaries and election structures so as to minimize the impact of black re-enfranchisement. In 1960, the Supreme Court struck down one such effort, in which the state legislature had gerrymandered the city boundaries of Tuskegee, Alabama, so as to remove all but a handful of the city's black registered voters. The Supreme Court ruled that by doing so Alabama had violated the 15th Amendment. *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

[Back to top](#)

The "Reapportionment Revolution"

In the early 1960s, the Supreme Court also overcame its reluctance to apply the Constitution to unfair redistricting practices. Prior to 1962, the United States Supreme Court had declined to decide constitutional challenges to legislative apportionment schemes, on the grounds that such "political questions" were not within the federal courts' jurisdiction. In *Baker v. Carr*, 369 U.S. 186 (1962), however, the Supreme Court recognized that grossly malapportioned state legislative districts could seriously undervalue -- or dilute -- the voting strength of the residents of overpopulated districts while overvaluing the voting strength of residents of underpopulated districts. The Supreme Court found that such malapportionment could be challenged in federal court under the Equal Protection Clause of the 14th Amendment.

In later cases including *Reynolds v. Sims*, 377 U.S. 533 (1964), and *Wesberry v. Sanders*, 376 U.S. 1 (1964), the Supreme Court established the one-person, one-vote principle. Because in many states malapportioned legislative districts had resulted in sparsely-populated rural counties having a much greater share of their state's political power than their state's population, correcting this imbalance led to dramatic realignments of political power in several states. In *Fortson v. Dorsey*, 379 U.S. 433 (1965), the Supreme Court suggested, but did not hold, that certain types of



apportionment might unconstitutionally dilute the voting strength of racial minorities.

[Back to top](#)

Updated July 25, 2008



United States Department of Justice

CIVIL RIGHTS DIVISION

[En Español](#)

[Main Page](#)

[AAG Thomas E. Perez](#)

[About Us](#)

[Section Sites](#)

[FOIA](#)

[Press Releases](#)

[Speeches & Testimony](#)

[Frequently Asked Questions](#)

[Special Topics](#)

[Post 9/11 Backlash](#)

[H1N1 Response](#)

[ADA](#)

[FACE](#)

[Cases & Briefs](#)

[Employment Opportunities](#)

[Volunteer Internship
Opportunities](#)

[Honors & Summer](#)

[Law Intern Programs](#)

[Contact Us](#)

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[Go to the
Department of Justice](#)

[Privacy Act Statement](#)

[Hints...](#)

[Feedback Form](#)

Introduction To Federal Voting Rights Laws

- [Introduction To Federal Voting Rights Laws](#)
- [Before the Voting Rights Act](#)
- [The Voting Rights Act of 1965](#)
- [The Effect of the Voting Rights Act](#)

The Voting Rights Act of 1965

The 1965 Enactment

By 1965 concerted efforts to break the grip of state disfranchisement had been under way for some time, but had achieved only modest success overall and in some areas had proved almost entirely ineffectual. The murder of voting-rights activists in Philadelphia, Mississippi, gained national attention, along with numerous other acts of violence and terrorism. Finally, the unprovoked attack on March 7, 1965, by state troopers on peaceful marchers crossing the Edmund Pettus Bridge in Selma, Alabama, en route to the state capitol in Montgomery, persuaded the President and Congress to overcome Southern legislators' resistance to effective voting rights legislation. President Johnson issued a call for a strong voting rights law and hearings began soon thereafter on the bill that would become the Voting Rights Act.

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

President Johnson signed the resulting legislation into law on August 6, 1965. [Section 2](#) of the Act, which closely followed the language of the 15th amendment, applied a nationwide prohibition against the denial or abridgment of the right to vote on the literacy tests on a nationwide basis. Among its other provisions, the Act contained special enforcement provisions targeted at those areas of the country where Congress believed the potential for discrimination to be the greatest. Under [Section 5](#), jurisdictions covered by these special provisions could not implement any change affecting voting until the Attorney General or the United States District Court for the District of Columbia determined that the change did not have a discriminatory purpose and would not have a discriminatory effect. In addition, the Attorney General could designate a county covered by these special provisions for the appointment of a [federal examiner](#) to review the qualifications of persons who wanted to register to vote. Further, in those counties where a federal examiner was serving, the Attorney General could request that [federal observers](#) monitor activities within the county's polling place.

The Voting Rights Act had not included a provision prohibiting poll taxes, but had directed the Attorney General to challenge its use. In *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966), the Supreme Court held Virginia's poll tax to be unconstitutional under the 14th Amendment. Between 1965 and 1969 the Supreme Court also issued several key decisions upholding the constitutionality of Section 5 and affirming the broad range of voting practices that required Section 5 review. As the Supreme Court put it in its 1966 decision upholding the constitutionality of the Act:

Congress had found that case-by-case litigation was inadequate to combat wide-spread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

South Carolina v. Katzenbach, 383 U.S. 301, 327-28 (1966).

[Back to top](#)

The 1970 and 1975 Amendments

Congress extended Section 5 for five years in 1970 and for seven years in 1975. With these extensions Congress validated the Supreme Court's broad interpretation of the scope of Section 5. During the hearings on these extensions Congress heard extensive testimony concerning the ways in which voting electorates were manipulated through gerrymandering, annexations, adoption of at-large elections, and other structural changes to prevent newly-registered black voters from effectively using the ballot. Congress also heard extensive testimony about voting discrimination that had been suffered by Hispanic, Asian and Native American citizens, and the 1975 amendments added protections from voting discrimination for language minority citizens.

In 1973, the Supreme Court held certain legislative multi-member districts unconstitutional under the 14th Amendment on the ground that they systematically diluted the voting strength of minority citizens in Bexar County, Texas. This decision in *White v. Regester*, 412 U.S. 755 (1973), strongly shaped litigation through the 1970s against at-large systems and gerrymandered redistricting plans. In *Mobile v. Bolden*, 446 U.S. 55 (1980), however, the Supreme Court required that any constitutional claim of minority vote dilution must include proof of a racially discriminatory purpose, a requirement that was widely seen as making such claims far more difficult to prove.

[Back to top](#)

The 1982 Amendments

Congress renewed in 1982 the special provisions of the Act, triggered by coverage under Section 4 for twenty-five years. Congress also adopted a new standard, which went into effect in 1985, providing how jurisdictions could terminate (or "bail out" from) coverage under the [provisions of Section 4](#). Furthermore, after extensive hearings, Congress amended Section 2 to provide that a plaintiff could establish a violation of the Section without having to prove discriminatory purpose.

[Back to top](#)

Updated July 25, 2008



United States Department of Justice

CIVIL RIGHTS DIVISION

[En Español](#)

- [Main Page](#)
- [AAG Thomas E. Perez](#)
- [About Us](#)
- [Section Sites](#)
- [FOIA](#)
- [Press Releases](#)
- [Speeches & Testimony](#)
- [Frequently Asked Questions](#)
- [Special Topics](#)
 - [Post 9/11 Backlash](#)
 - [H1N1 Response](#)
 - [ADA](#)
 - [FACE](#)
- [Cases & Briefs](#)
- [Employment Opportunities](#)
 - [Volunteer Internship Opportunities](#)
 - [Honors & Summer Law Intern Programs](#)
- [Contact Us](#)

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[Go to the Department of Justice](#)

[Privacy Act Statement](#)

[Hints...](#)

[Feedback Form](#)

Introduction To Federal Voting Rights Laws

- [Introduction To Federal Voting Rights Laws](#)
- [Before the Voting Rights Act](#)
- [The Voting Rights Act of 1965](#)
- [The Effect of the Voting Rights Act](#)

The Effect of the Voting Rights Act

Soon after passage of the Voting Rights Act, federal examiners were conducting voter registration, and black voter registration began a sharp increase. The cumulative effect of the Supreme Court's decisions, Congress' enactment of voting rights legislation, and the ongoing efforts of concerned private citizens and the Department of Justice, has been to restore the right to vote guaranteed by the 14th and 15th Amendments. The Voting Rights Act itself has been called the single most effective piece of civil rights legislation ever passed by Congress.

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