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## The Voting Rights Act of 1965: A Selected Annotated Bibliography

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# The Voting Rights Act of 1965: A Selected Annotated Bibliography\*

Terrye Conroy\*\*

*Several remedial or “special” provisions of the Voting Rights Act of 1965, which were enacted as temporary measures and were set to expire in August 2007 if not reauthorized by Congress, were recently extended for another twenty-five years. Ms. Conroy offers a selected bibliography of resources to introduce researchers to the issues involved in the debate over the Act’s reauthorization and its future implementation.*

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## Introduction

Keep the black man from the ballot and we’ll treat him as we please, With no means for protection, we will rule with perfect ease.<sup>1</sup>— Lizelia Augusta Jenkins Moorer

¶1 The Voting Rights Act of 1965<sup>2</sup> is widely considered one of the most important and successful civil rights laws ever enacted. A true appreciation of the significance of the Voting Rights Act of 1965 must begin with its history. Although the Fifteenth Amendment to the United States Constitution guaranteed United States citizens the right to vote without regard to race or color, nearly a hundred years

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\* © Terrye Conroy, 2006. This bibliography began as a reference guide for “The Promise of Voter Equality: Examining the Voting Rights Act at 40,” a symposium held at the University of South Carolina School of Law on Oct. 21, 2005.

\*\* Reference Librarian, University of South Carolina School of Law, Coleman Karesh Law Library, Columbia, South Carolina.

1. Lizelia Augusta Jenkins Moorer, *The Negro Ballot*, in PREJUDICE UNVEILED AND OTHER POEMS 47, 47 (1907), available at Univ. of Mich. Humanities Text Initiative, *American Verse Project*, <http://www.hti.umich.edu/a/amverse> (last visited June 22, 2006).

2. Pub. L. No. 89-110, 79 Stat. 437 (1965) (codified as amended at 42 U.S.C. §§ 1971, 1973–1973bb-1 (2000)).

later, discriminatory practices, intimidation, and violence continued to deprive minorities, particularly African Americans in the Jim Crow South, of their right to vote. The Civil Rights Acts of 1957,<sup>3</sup> 1960,<sup>4</sup> and 1964<sup>5</sup> empowered the U.S. Department of Justice to investigate and litigate voting rights violations; however, enforcement on a case-by-case basis proved time-consuming and ineffective.

¶2 Voter registration drives were often met with violence. When student volunteers from around the country gathered in Mississippi for Freedom Summer in 1964, Andrew Goodman, James Chaney, and Michael Schwerner were arrested and handed over to be murdered by Ku Klux Klan members. After Jimmie Lee Jackson was shot and killed by Alabama State Troopers while protecting his grandmother from being beaten during a voter registration march in Marion, Alabama, Martin Luther King Jr. and the Southern Christian Leadership Conference decided to organize a protest march from nearby Selma to the state capitol in Montgomery. On March 7, 1965, state troopers led by Sheriff Jim Clark trampled marchers with their horses and attacked them with whips, clubs, and tear gas as they attempted to cross the Edmund Pettus Bridge. ABC interrupted its broadcast of the movie *Judgment at Nuremburg* as Americans watched in horror the events of what was to become known as “Bloody Sunday.” John Lewis, at the time a young leader of the Student Nonviolent Coordinating Committee (SNCC) and since 1986 congressman for Georgia’s Fifth Congressional District, suffered a concussion when attacked while leading the march.

¶3 President Lyndon B. Johnson spoke to a joint session of Congress on March 15, 1965, urging members to pass the voting rights bill he would introduce a few days later.<sup>6</sup> On March 25, 1965, Martin Luther King Jr. addressed 25,000 marchers as they arrived in Montgomery from Selma under order of federal Judge Frank M. Johnson and the protection of federal troops.

¶4 On August 6, 1965, as he signed the Voting Rights Act into law, President Lyndon B. Johnson described the right to vote as “the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.”<sup>7</sup> Although South Carolina was quick to challenge the constitutionality of the Voting Rights Act, on March 7, 1966, the U.S. Supreme Court held that the Act was a “valid means for carrying out the commands of the Fifteenth Amendment.”<sup>8</sup>

¶5 Section 2 of the Voting Rights Act is a statutory version of the Fifteenth Amendment. It forbids any state or political subdivision from imposing any stan-

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3. Pub. L. No. 85-315, 71 Stat. 634 (1957).

4. Pub. L. No. 86-449, 74 Stat. 86 (1960).

5. Pub. L. No. 88-352, 78 Stat. 241 (1964).

6. Special Message to the Congress: The American Promise, 1 PUB. PAPERS 281, 283–84 (Mar. 15, 1965).

7. Remarks in the Capitol Rotunda at the Signing of the Voting Rights Act, 2 PUB. PAPERS 840, 842 (Aug. 6, 1965).

8. *South Carolina v. Katzenbach*, 383 U.S. 301, 337 (1966).

dard, practice, or procedure “in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”<sup>9</sup> Section 2 is permanent and allows either the U.S. Attorney or a private party to pursue court-ordered remedies for its violation.

¶6 Several remedial or “special” provisions of the Act, however, were enacted as temporary measures and were set to expire in August 2007 if not reauthorized by Congress. On July 20, 2006, following a 390 to 33 vote in the U.S. House of Representatives, the Senate unanimously passed the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006,<sup>10</sup> which extended the Act’s special provisions until the year 2032. Section 4 suspended the use of literacy tests and other devices as a condition to registering to vote in states and political subdivisions covered by the Act.<sup>11</sup> Section 4 also provided the formula for determining coverage under section 5,<sup>12</sup> the Act’s most controversial special provision. Section 5 requires covered jurisdictions (those with a history of discriminatory practices and low minority voting records) to obtain prior approval or “preclearance” from the U.S. Attorney or the U.S. District Court for the District of Columbia before implementing any voting changes.<sup>13</sup> Sections 6 through 9,<sup>14</sup> which also were set to expire in August 2007, empower the U.S. Attorney General to send federal examiners and poll watchers to covered jurisdictions.

¶7 These special provisions were extended for five years by the 1970 amendments to the Act<sup>15</sup> and again for seven years by the Act’s 1975 amendments.<sup>16</sup> The 1975 amendments expanded the Act’s protections to certain language minority citizens (American Indians, Asian Americans, Alaskan Natives, and persons of Spanish heritage) and added requirements for bilingual voting materials in particular jurisdictions.<sup>17</sup> The 1982 amendments<sup>18</sup> reauthorized the Act’s special provisions for another twenty-five years (to August 6, 2007) and its language assistance provisions until 1992; amended the Act to clarify section 2’s discriminatory purpose or effect standard, overturning the Supreme Court’s decision in *City of Mobile v. Bolden*;<sup>19</sup> and established standards for covered jurisdictions to “bail out” of section 5’s preclearance obligations.<sup>20</sup> The Voting Rights Language

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9. Pub. L. No. 89-110, § 2, 79 Stat. 437, 437 (1965) (codified as amended at 42 U.S.C. § 1973 (2000)).

10. H.R. 9, 109th Cong. (2006). On July 27, 2006, President Bush approved the Act. Pub. L. No. 109-246, 120 Stat. 577 (2006).

11. § 4(a), 79 Stat. at 438 (codified as amended at 42 U.S.C. § 1973b(a)).

12. § 4(b), 79 Stat. at 438 (codified as amended at 42 U.S.C. § 1973b(b)).

13. § 5, 79 Stat. at 439 (codified as amended at 42 U.S.C. § 1973c).

14. §§ 6–9, 79 Stat. at 439–41 (codified as amended at 42 U.S.C. §§ 1973d–1973g).

15. Pub. L. No. 91-285, 84 Stat. 314 (1970).

16. Pub. L. No. 94-73, 89 Stat. 400 (1975).

17. § 203, 89 Stat. at 402 (codified as amended at 42 U.S.C. § 1973b(f) (2000)).

18. Pub. L. No. 97-205, 96 Stat. 131 (1982).

19. 446 U.S. 55 (1980).

20. § 2, 96 Stat. at 131–33 (codified as amended at 42 U.S.C. § 1973b(a) (2000)).

Assistance Act of 1992<sup>21</sup> extended the language assistance provisions of the Voting Rights Act until 2007.

¶8 When the Voting Rights Act was enacted in 1965, its enforcement focused primarily upon removing barriers to actual registration and voting for minorities in the United States. Since then, the struggle for meaningful minority participation in the election process has shifted to tackling the more subtle practice of vote dilution. The U.S. Supreme Court has found such tactics as switching to at-large elections to violate section 2 of the Act,<sup>22</sup> and has interpreted section 5 to require covered jurisdictions to preclear not only election systems,<sup>23</sup> but also voting changes such as altering the manner in which votes are cast,<sup>24</sup> revising candidate qualifications,<sup>25</sup> annexing neighboring districts,<sup>26</sup> and redrawing district lines.<sup>27</sup>

¶9 The 1990s brought controversial Supreme Court redistricting decisions and much debate among legal scholars and the civil rights community over the Court's interpretation of section 2 vote dilution claims and the proper standard for preclearing voting changes under section 5. Supreme Court rulings on the extent to which lawmakers may consider race in drawing district lines have been characterized as a "counterrevolution in minority voting rights."<sup>28</sup> A second line of Supreme Court cases addressing the meaning of retrogression for purposes of denying preclearance of voting changes proposed by covered jurisdictions has prompted voting rights experts to call not only for reauthorization of section 5, but also its amendment to clarify the meaning of the right to vote under the Act.

¶10 In October 2005, Congress began hearings on the continued need for the Act's special provisions. Civil rights groups presented evidence of section 5's deterrent effect and of continued discriminatory vote dilution practices toward various minority groups since the Act was last reauthorized in 1982. Reports and studies submitted recommend the reauthorization of section 5, the language assistance provisions of the Act, and the federal observer provisions which protect minority voters against harassment at the polls.

¶11 Opponents of reauthorization argue that the Voting Rights Act has accomplished its goal of providing access to the ballot and that it was never intended as an entitlement<sup>29</sup> to minority voting strength. Others offer solutions such as coalitional voting districts and commission-based redistricting as a means of achieving meaningful minority participation in the election process.

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21. Pub. L. No. 102-344, § 2, 106 Stat. 921, 921 (1992) (codified as amended at 42 U.S.C. § 1973aa-1a(b) (2000)).

22. *E.g.*, *Thornburg v. Gingles*, 478 U.S. 30 (1986).

23. *E.g.*, *Allen v. State Bd. of Educ.*, 393 U.S. 544 (1969).

24. *Id.*

25. *Id.*

26. *E.g.*, *City of Pleasant Grove v. United States*, 479 U.S. 462 (1987).

27. *E.g.*, *Georgia v. United States*, 411 U.S. 526 (1973).

28. Laughlin McDonald, *The Counterrevolution in Minority Voting Rights*, 65 *Miss. L.J.* 271 (1995).

29. *See generally* Abigail Thernstrom, *WHOSE VOTES COUNT? AFFIRMATIVE ACTION AND MINORITY VOTING RIGHTS* (1987).

¶12 Voting Rights Act scholarship also includes discussion of post-reauthorization survival of the Act's special provisions, particularly section 5, given the Supreme Court's ultimate authority to interpret their constitutionality.

### **Scope and Organization**

¶13 This selected bibliography of books, articles, government documents, audiovisual, and Internet resources is designed to introduce the researcher to the issues involved in the debate over the reauthorization of the Voting Rights Act and its future implementation. It is divided into sections that cover resources on the legislative history of the Voting Rights Act of 1965 and the events leading to its passage, the Act's key provisions and amendments, the Supreme Court's interpretation of the Act's provisions in vote dilution and redistricting cases, the Act's impact over the past forty-one years, and the reauthorization debate. Within each section, the items are arranged alphabetically by author.

### **Bibliography**

#### *History of the Voting Rights Act of 1965*

American Civil Liberties Union. "Voting Rights Act Timeline." *Voting Rights Act: Renew. Restore*. <http://www.votingrights.org/timeline>.

This comprehensive Voting Rights Act time line depicts events affecting voting rights from 1776 through August 6, 2007, when section 5 and other temporary provisions of the Voting Rights Act of 1965 expire if not reauthorized by Congress and signed into law.

Bass, Jack. *Taming the Storm: The Life and Times of Judge Frank M. Johnson, Jr., and the South's Fight over Civil Rights*. New York: Doubleday, 1993.

In his biography of U.S. District Court and Fifth Circuit Court of Appeals Judge Frank M. Johnson Jr., Bass uses transcripts of testimony and interviews with witnesses, lawyers, law clerks, and the judge himself to convey the events precipitating Johnson's order allowing the historic march from Selma to Montgomery on March 21, 1965, just months before the passage of the Voting Rights Act.

Bass, Jack. *Unlikely Heroes*. New York: Simon & Schuster, 1981.

Jack Bass tells the story of the heroic judges of the Fifth Circuit Court of Appeals (Elbert Tuttle, John Brown, John Minor Wisdom, and Richard Rives) who "helped shape the nation's Second Reconstruction, and left a permanent imprint on American history" (p.22). Chapter 14, "The Wall Tumbles," addresses the passage of the Voting Rights Act of 1965 and the pivotal role of Federal District Court Judge Frank M. Johnson Jr.<sup>30</sup>

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30. See also JACK BASS, *TAMING THE STORM: THE LIFE AND TIMES OF JUDGE FRANK M. JOHNSON, JR., AND THE SOUTH'S FIGHT OVER CIVIL RIGHTS* (1993).

Branch, Taylor. *At Canaan's Edge: America in the King Years, 1965–68*. New York: Simon & Schuster, 2006.

Taylor Branch opens the concluding volume of his *America in the King Years* trilogy<sup>31</sup> with the voting rights march in Selma, Alabama, on Bloody Sunday, March 7, 1965. Branch's detailed account of King's involvement in the Selma campaign continues through his collaboration with President Lyndon Johnson and the signing of the Voting Rights Act on August 6, 1965.

Carson, Clayborne, et al., eds. *The Eyes on the Prize Civil Rights Reader: Documents, Speeches, and Firsthand Accounts From the Black Freedom Struggle, 1954–1990*. New York: Penguin Books, 1991.

This text accompanied the college telecourse, produced in conjunction with the *Eyes on the Prize* PBS television series. Chapter 6, "Bridge to Freedom," describes the events of Bloody Sunday before the signing of the Voting Rights Act of 1965, and includes personal letters and excerpts from interviews of those present as well as the transcript of Martin Luther King Jr.'s speech, "Our God is Marching On," at the conclusion of the Selma to Montgomery march.

Carter, Dan T. *The Politics of Rage: George Wallace, the Origins of Conservatism, and the Transformation of American Politics*. New York: Simon & Schuster, 1995.

Dan Carter's biography of Alabama governor and presidential candidate, George Wallace, presents an ambitious politician willing to fan the flames of fear and racism to achieve his political goals. Chapter 8 describes how voting rights demonstrations in Selma and Wallace's "policy of stubborn resistance" paved the way for the passage of the Voting Rights Act of 1965. Carter characterizes Wallace as the "most influential loser in twentieth-century American politics" (p.468).

Christopher, Warren M. "The Constitutionality of the Voting Rights Act of 1965." *Stanford Law Review* 18 (1965): 1–37.

Christopher defends the constitutionality of the then recently enacted Voting Rights Act of 1965 through a review of prior legislative attempts to protect voting rights after ratification of the Fifteenth Amendment and an examination of both the power of Congress to legislate under the Fifteenth Amendment and the appropriateness of specific Voting Rights Act provisions. The article's appendix includes the text of the public law along with a chronological history of its enactment.

Durham, Michael S. *Powerful Days: The Civil Rights Photography of Charles Moore*. New York: Stewart, Tabori & Chang, 1991.

This book depicts the events of the struggle for civil rights in America through the eyes of photo-journalist Charles Moore as he traveled the South to cover the events of the movement for *Life* magazine. Moore's photograph collection includes stirring images of the Mississippi voter registration drives as well as the tragedy of Bloody Sunday and the triumph of the Selma to Montgomery march. Samples of Moore's photographs can be found on Kodak's Web site, *Powerful Days in Black and White* ([www.kodak.com/US/en/corp/features/moore/mooreIndex.shtml](http://www.kodak.com/US/en/corp/features/moore/mooreIndex.shtml)).

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31. The first two books in Branch's trilogy are TAYLOR BRANCH, *PARTING THE WATERS: AMERICA IN THE KING YEARS, 1954–63* (1988) and TAYLOR BRANCH, *PILLAR OF FIRE: AMERICA IN THE KING YEARS, 1963–65* (1998), for which he was awarded the Pulitzer Prize.

Garrow, David J. *Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965*. New Haven, Conn.: Yale University Press, 1978.

Garrow argues that Martin Luther King Jr. and the Southern Christian Leadership Conference brought about the passage of the Voting Rights Act of 1965 by abandoning a philosophy of nonviolent “persuasion” for a more pragmatic exercise of nonviolent “coercion.” Garrow describes a “strategy” aimed at evoking white violence against peaceful protestors to generate news coverage and thus national public support for the eventual passage of federal voting rights legislation.

Hamilton, Charles V. *The Bench and the Ballot: Southern Federal Judges and Black Voters*. New York: Oxford University Press, 1973.

Hamilton’s study addresses the advantages and disadvantages of relying upon Southern federal court judges to register black voters before the enactment of the Voting Rights Act of 1965. His research includes interviews with U.S. Department of Justice lawyers and Southern black registration workers regarding fifteen cases brought in Alabama, Mississippi, Louisiana, and Tennessee before five federal court judges and the U.S. Court of Appeals for the Fifth Circuit.

Hampton, Henry. *Eyes on the Prize: America’s Civil Rights Years, 1954–1965*. VHS. Alexandria, Va.: PBS Video, 1987.

This PBS television documentary series chronicles the American civil rights movement. Episode 6, “Bridge to Freedom (1965),” details efforts by the Student Nonviolent Coordinating Committee and the Southern Christian Leadership Conference to gain public support for voting rights in Selma, Alabama. It portrays the violence of the failed march across the Edmund Pettus Bridge in Selma on Bloody Sunday and highlights the historic Selma to Montgomery march, closing with the signing of the Voting Rights Act of 1965. Episode 5 of the series, “Mississippi, Is This America? (1962–1964),” depicts the struggle for voting rights in Mississippi before the Voting Rights Act was passed.

Johnson, Lyndon B. “Special Message to Congress: The American Promise.” In *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*, vol. 1, 281–87. Washington, D.C.: Government Printing Office, 1966.

In a March 15, 1965, address before a joint session of Congress, President Lyndon B. Johnson announced his plans to send a voting rights bill to Congress and implored members not to delay in its passage. The audio version of Johnson’s speech is accessible as part of the PBS History series *American Experience, The Presidents* ([www.pbs.org/wgbh/amex/presidents/36\\_1\\_johnson/psources/ra\\_voting.html](http://www.pbs.org/wgbh/amex/presidents/36_1_johnson/psources/ra_voting.html)).

Johnson, Lyndon B. “Remarks in the Capitol Rotunda at the Signing of the Voting Rights Act.” In *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*, vol. 2, 840–43. Washington, D.C.: Government Printing Office, 1966.

President Johnson describes the passage of the Voting Rights Act as a promise kept and the right to vote as “a right without which all others are meaningless” (p.841). He recounts his sending the Act to Congress after the “outrage of Selma” and the passage by overwhelming majorities of “one of the most monumental laws in the entire history of American Freedom” (p.841).

Kasher, Steven. *The Civil Rights Movement: A Photographic History, 1954–68*. New York: Abbeville Press, 1996.

This photographic history of the civil rights movement begins with a foreword by Myrlie Evers-Williams and an introduction by Kasher on the importance of photography to the movement. The bulk of the book consists of concise narratives and photographs by various artists depicting such crucial events as Mississippi's Freedom Summer and the Selma marches. Kasher concludes with a bibliography and chronology of the major events of the movement. Photographs from the book may be viewed on its Web site ([www.abbeville.com/civilrights/index.asp](http://www.abbeville.com/civilrights/index.asp)).

Keyssar, Alexander. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books, 2000.

Keyssar sets out to break the "odd silence about the history of suffrage" (p.xx) in the United States by chronicling the legal and political history defining the electorate. He details the ways groups such as women, African Americans, industrial workers, and immigrants have at times gained and lost the vote, offering a framework for understanding why. While acknowledging the significance of race, ethnicity, and gender, Keyssar submits that class tension was the single most important obstacle to universal suffrage in the United States from the late eighteenth century to the 1960s.

Kotz, Nick. *Judgment Days: Lyndon Baines Johnson, Martin Luther King, Jr., and the Laws that Changed America*. Boston: Houghton Mifflin, 2005.

Kotz writes of the unlikely partnership, relationship, and accomplishments of "the president," Lyndon Baines Johnson, and "the preacher," Martin Luther King Jr.—two Southerners who seized a unique opportunity during a critical moment in history to alter the lives of all Americans through the enactment of the Civil Rights and Voting Rights acts.

Lawson, Steven F. *Black Ballots: Voting Rights in the South, 1944–1969*. New York: Columbia University Press, 1976. Reprinted with new preface. Lanham, Md.: Lexington Books, 1999. Page references are to 1999 edition.

Lawson underscores how difficult the fight was to "make our nation live up to its democratic ideals" (p.x) by detailing the operations of the executive, legislative, and judicial branches, along with those of grassroots organizations, through the passage of the Voting Rights Act of 1965. Lawson explains that his somewhat "top down" (p.x) version of history is intended to show that government officials in the United States did not act because it was the right thing to do, but in response to political pressure from African Americans and to overt crises.

Lawson, Steven F. *In Pursuit of Power: Southern Blacks and Electoral Politics, 1965–1982*. New York: Columbia University Press, 1985.

In his companion to *Black Ballots*, Lawson focuses on the enforcement of the Voting Rights Act of 1965 in the South by exploring the efforts of civil rights forces to protect the black ballot. Although Lawson concludes that actions to preserve the black ballot were on the whole successful, he submits that vigilance remains necessary and that our political system must be made more responsive to the desires of black voters.

Lewis, John. "Reflections on Judge Frank M. Johnson." *Yale Law Journal* 109 (2000): 1253–56.

In his tribute to Judge Frank M. Johnson Jr., activist and Congressman John Lewis recalls the judge's tireless pursuit of justice within the framework of the

law despite threats and actual violence perpetrated against him and his family. Johnson ruled in favor of Rosa Parks, lifted the injunction to permit the Freedom Rides to continue, and issued the order allowing the Selma to Montgomery march, which precipitated the passage of the Voting Rights Act. Lewis describes Johnson as a man who defined real justice and who “peered beneath the badge to the heart of man and saw beyond the law to the moral core of our nation” (p.1256).

Lewis, John, and Michael D’Orso. *Walking with the Wind: A Memoir of the Movement*. New York: Simon & Schuster, 1998.

*Walking With the Wind* is the story of the life of John Lewis, now congressman for Georgia’s Fifth Congressional District, and his participation in the civil rights movement, including his roles as chairman of the Student Nonviolent Coordinating Committee and leader of the march across the Edmund Pettus Bridge on Bloody Sunday. Lewis’s prologue tells a poignant story from his childhood, which explains the book’s title and represents the path he has chosen in pursuit of the “Beloved Community.” Photographs from the book can be found on the congressman’s Web site ([www.house.gov/johnlewis/bio.html](http://www.house.gov/johnlewis/bio.html)).

McDonald, Laughlin. “An Aristocracy of Voters: The Disenfranchisement of Blacks in South Carolina.” *South Carolina Law Review* 37 (1986): 557–82.

McDonald chronicles South Carolina’s history of attempts to exclude blacks from the franchise from pre-Reconstruction days through the passage of the Voting Rights Act of 1965 and the state’s challenge to its constitutionality in *South Carolina v. Katzenbach*.<sup>32</sup> McDonald concludes that, although formal barriers to black voting were absent by 1986, the strength of the black vote remained impaired, with real political equality yet to be achieved.

McDonald, Laughlin. *A Voting Rights Odyssey: Black Enfranchisement in Georgia*. New York: Cambridge University Press, 2003.

McDonald, a veteran voting rights attorney and director of the ACLU’s Regional Office in Atlanta for more than thirty years, details racial discrimination in voting in Georgia from the days of slavery to the present. Through expert reports, court documents, trial transcripts, and interviews of voting rights litigants, McDonald tells the story of the struggle for voting rights in Georgia, depicting the state’s politics during the passage of the Voting Rights Act of 1965 and its extensions and throughout redistricting in the 1980s and 1990s.

NAACP Legal Defense and Education Fund. “The VRA in 28 Days.” *The Voting Rights Act at 40*. <http://www.naacpldf.org/vra.aspx>.

This online series commemorates the fortieth anniversary of the Voting Rights Act of 1965 with a series of vignettes for the twenty-eight days of Black History Month. Each calendar day depicts a meaningful event or aspect of the struggle for the passage and continued implementation of the Voting Rights Act. For instance, day three includes a description and photo of Bloody Sunday along with a list of recommended readings and a link to an audio of the week.

Take Stock. “Civil Rights.” *Images of Change*. <http://www.takestockphotos.com/imagepages/collections.php>.

The Take Stock picture agency specializes in images of social change. Its browseable and searchable collection of 27,000 images of the civil rights movement in

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32. 383 U.S. 301 (1966).

the United States includes portfolios covering voting rights, the Mississippi Summer Project of 1964, and a three-part series on the Selma to Montgomery March. The project is an amazing example of the significance of photojournalism in America. One of its photographers, Matt Herron, designed the display of his photographs as part of the Selma March Exhibition at Stanford University ([www.takestockphotos.com/selma/index.html](http://www.takestockphotos.com/selma/index.html)).

Underwood, James L. *The Constitution of South Carolina*. Vol. 4, *The Struggle for Political Equality*. Columbia, S.C.: University of South Carolina Press, 1994.

Volume four of Underwood's *Constitution of South Carolina* begins at the close of the Civil War with the Reconstruction Era expansion of voting rights for black citizens in South Carolina. He details the calculated methods used by whites during the late nineteenth century to strip away those rights, strengthened by South Carolina's 1895 Constitution and its white primary system. Underwood next describes how court decisions, advanced by the passage of the Voting Rights Act of 1965 and its amendments, began to revive black voting rights in South Carolina. He includes a detailed analysis of both the congressional debates preceding the Voting Rights Act's passage and the United States Supreme Court opinion in *South Carolina v. Katzenbach*,<sup>33</sup> which struck down South Carolina's challenge to the Act.

Williams, Juan. *Eyes on the Prize: America's Civil Rights Years, 1954–1965*. New York: Viking, 1987.

This book accompanied the original six-part *Eyes on the Prize* PBS television series depicting America's civil rights years. Each chapter relates the main events of the movement through stirring photographs and personal accounts of those present. Chapter 8, "Selma: The Bridge to Freedom," describes the Selma experience leading to the passage of the Voting Rights Act of 1965.

#### ***Key Provisions and Amendments of the Voting Rights Act***<sup>34</sup>

Grofman, Bernard, and Chandler Davidson, eds. *Controversies in Minority Voting: The Voting Rights Act in Perspective*. Washington, D.C.: Brookings Institution, 1992.

This collection of essays grew from a conference sponsored by the Brookings Institution in 1992, which gathered voting rights experts with diverse views on the controversies surrounding the past, present, and future of the Voting Rights Act of 1965. It provides a twenty-five-year perspective on the Act while addressing the issues surrounding its implementation and the debate over minority voting rights and the concept of effective representation. Part 1 includes essays on the history of the Act and its key provisions, section 5 enforcement, and its 1982 amendments.

Laney, Garrine P. *The Voting Rights Act of 1965: Historical Background and Current Issues*. New York: Novinka Books, 2003.

This Voting Rights Act primer begins with a brief summary of the history of suffrage in the United States from the first Reconstruction Act of 1867<sup>35</sup> to the pas-

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33. *Id.*

34. The materials included in this section describe key permanent and temporary provisions of the Voting Rights Act of 1965 as amended and identify issues involved in their implementation and enforcement.

35. Ch. 153, 14 Stat. 428 (1867).

sage of the Voting Rights Act in 1965. Laney next outlines the key provisions of the Voting Rights Act; its amendments in 1970, 1975, 1982; and the amendments to section 203 by the Voting Rights Language Assistance Act of 1992.<sup>36</sup>

Magpantay, Glenn D. "Asian American Access to the Vote: The Language Assistance Provisions (Section 203) of the Voting Rights Act and Beyond." *Asian Law Journal* 11 (2004): 31–56.

For community advocates, local election officials, and policy makers, Magpantay, a staff attorney for the Asian American Legal Defense Fund, details the language assistance provisions of the Voting Rights Act. He explains section 203's test for coverage, summarizes its requirements, and recommends ways to strengthen its provisions

McDonald, Laughlin. "The 1982 Extension of Section 5 of the Voting Rights Act of 1965: The Continued Need for Preclearance." *Tennessee Law Review* 51 (1983): 1–82.

Following the 1982 extension of section 5 of the Voting Rights Act, McDonald reviews the history of voting rights in America from Reconstruction through the passage of the Civil Rights Act and the Voting Rights Act of 1965. He then describes the permanent and non-section 5 special provisions of the Act, followed by an in-depth discussion of section 5, its enforcement by the Justice Department, and the noncompliance tactics of covered jurisdictions. McDonald concludes that the congressional purpose of the Voting Rights Act will not be realized until the Department of Justice conscientiously enforces the Act's section 5 preclearance and bail out provisions.

Porto, Brian L. "What Changes in Voting Practices or Procedures Must be Precleared Under § 5 of Voting Rights Act of 1965—Supreme Court Cases." *A.L.R. Federal* 146 (2003): 619–41.

This annotation collects, categorizes, and analyzes the types of voting law changes that the United State Supreme Court has determined do and do not require preclearance (prior approval by either the U.S. Attorney General or the U.S. District Court for the District of Columbia) under section 5 of the Voting Rights Act of 1965.

U. S. Commission on Civil Rights. *A Citizen's Guide to Understanding the Voting Rights Act*. Washington, D.C.: U.S. Commission on Civil Rights, 1984.

Published following the 1982 amendments to the Voting Rights Act of 1965, this pamphlet is designed to assist minority citizens in understanding and fully exercising their rights under the Act. It includes the text of the Voting Rights Act, as amended, and six brief chapters outlining its key provisions. Chapters describe the amendments to section 2, the voting assistance provisions, and section 5 preclearance provisions and procedures. Each chapter suggests ways citizens can participate in the Act's enforcement.

U.S. Department of Justice, Civil Rights Division. "Voting Section Homepage." <http://www.usdoj.gov/crt/voting>.

This Web site provides information on the history of the passage of the Voting Rights Act of 1965 and its amendments; key provisions of the Act, such as its

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36. Pub. L. No. 102-344, 106 Stat. 921 (1992).

section 5 preclearance and section 203 language minority requirements; and cases brought by the Voting Rights Section to enforce its various provisions.

Weeks, J. Devereux, and Norman J. Slawsky. *Section Five, U.S. Voting Rights Act of 1965: Voting Changes that Require Federal Approval*. Athens, Ga.: Institute of Government, University of Georgia, 1981.

This pamphlet was produced for use in local, state, and regional workshops developed to assist jurisdictions in complying with the section 5 preclearance provisions of the Voting Rights Act of 1965. It includes a discussion of section 5 standards, practices and procedures for approval, sample compliance letters, and the text of federal regulations implementing section 5 and the Act's language assistance provisions. It is accompanied by an update addressing the 1982 amendments to the Voting Rights Act and summarizing court decisions relating to section 5.

### ***Voting Rights Act Litigation: Redistricting and Minority Vote Dilution***

Butler, Katharine Inglis. "Affirmative Racial Gerrymandering: Rhetoric and Reality." *Cumberland Law Review* 26 (1996): 313–63.

Butler submits that neither the Voting Rights Act nor the need to remedy past discrimination justifies a state engaging in affirmative racial gerrymandering. She contends that white legislatures have gone to extremes to create black majority districts because of their misunderstanding of sections 2 and 5 of the Voting Rights Act and that replacing standard geography-based districting criteria with racial ones is "inherently harmful" (p.357). Butler suggests that those who seek race-based districting are really seeking direct interest group representation, which is unavailable to any other group in our society.

Butler, Katharine Inglis. "Redistricting in a Post-*Shaw* Era; A Small Treatise Accompanied by Districting Guidelines for Legislators, Litigants, and Courts." *University of Richmond Law Review* 36 (2002): 137–270.

Butler maintains that the current tightrope that legislators must walk—consider race in redistricting or face a Voting Rights Act challenge, but not so much as to spark a constitutional challenge—was caused by interest groups and the Justice Department sending a message that the Act requires as many minority-controlled districts as possible. She contends that even after the Court limited the state's use of race in redistricting in *Shaw v. Reno*,<sup>37</sup> and despite subsequent cases that addressed the issue, the Court has not clarified the proper use of race for avoiding a redistricting challenge. Butler, therefore, offers this "small treatise analyzing and clarifying all aspects of federal law affecting redistricting" (p.145) after *Shaw* along with guidelines and procedures for producing a challenge-resistant redistricting plan.

Bybee, Keith J. *Mistaken Identity: The Supreme Court and the Politics of Minority Representation*. Princeton, N.J.: Princeton University Press, 1998.

Bybee discusses the role of political identity in voting rights jurisprudence. He asserts that the level of disagreement over the Voting Rights Act has intensified

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37. 509 U.S. 630 (1993).

as the question addressed changed from one of *should* minorities be represented in the political process to *how* they should be represented. Bybee contends that judicial interpretation of the Voting Rights Act depends on assertions regarding who “the people” are and suggests that the Court apply a theory of “political deliberation” to the jurisprudence of minority representation.

Charles, Guy Uriel E. “Racial Identity, Electoral Structures, and the First Amendment Right of Association.” *California Law Review* 91 (2003): 1209–80.

Charles posits that in addressing the role of race in democratic politics, the Supreme Court has focused on Equal Protection and ignored the First Amendment right of voters of color to political association. After surveying the Court’s interpretation of the Voting Rights Act in racial districting cases, Charles concludes that states cannot be colorblind in the design of electoral structures because to do so would significantly infringe upon associational rights of voters of color. States must instead make it possible for voters of color to aggregate their voting power when their social and political identities agree.

Davidson, Chandler, ed. *Minority Vote Dilution*. Washington, D.C.: Howard University Press, 1984.

Davidson was commissioned by the Joint Center for Political Studies to compile this collection of essays by leading experts on all aspects of vote dilution. Chapters address section 2 of the Voting Rights Act of 1965, the history of *City of Mobile v. Bolden*,<sup>38</sup> and the legislative history of the 1982 amendments to the Act. The book also includes an overview of mechanisms used to dilute the minority vote and chapters on at-large elections and racial gerrymandering.

Gerken, Heather K. “Understanding the Right to an Undiluted Vote.” *Harvard Law Review* 114 (2001): 1663–1743.

Gerken proposes that vote dilution claims, generally raised under section 2 of the Voting Rights Act, involve a special kind of injury that does not fit the typical view of individual rights, but can only be proved by reference to the status of the group as a whole—what she calls aggregate rights. She contends that the fate of vote dilution claims rests with the Court’s willingness to recognize aggregate harms in the context of race and proposes a framework for doing so. Gerken submits that if the Court refuses to consider the group-like qualities of an aggregate harm like vote dilution, it could cast doubt on the constitutionality of section 2 as well as “some of the basic assumptions behind our representative democracy” (p.1743).

Guinier, Lani. *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy*. New York: Free Press, 1994.

Following a flood of criticism and name-calling from political conservatives and moderates regarding her scholarship on voting rights, President Bill Clinton withdrew his 1993 nomination of Professor Lani Guinier to head the Justice Department’s Civil Rights Division. Guinier collected her articles for publication in this book to clarify that her ideas are not “undemocratic” or out of the mainstream, at least within the thinking of voting-rights activists. The articles cover

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38. 446 U.S. 55 (1980).

her ideas about cumulative voting and supermajority rules that helped spark the controversy over her nomination.<sup>39</sup>

Handelsman, Lauren. "Giving the Barking Dog a Bite: Challenging Felon Disenfranchisement Under the Voting Rights Act of 1965." *Fordham Law Review* 73 (2005): 1875–1940.

In this student note, Handelsman reviews both the history of racially discriminatory voting practices and felony disenfranchisement in the United States and recent conflicting federal court decisions addressing the validity of Voting Rights Act challenges to state felony disenfranchisement laws. She maintains that the Supreme Court should resolve the conflict among the circuits, that there is no inherent constitutional conflict to prevent such challenges, and that the application of the Voting Rights Act to felon disenfranchisement statutes does not exceed Congress's enforcement powers.

Hasen, Richard L. *The Supreme Court and Election Law: Judging Equality from Baker v. Carr to Bush v. Gore*. New York: New York University Press, 2003.

In the aftermath of *Bush v. Gore*,<sup>40</sup> Hasen addresses the role the United States Supreme Court has played and should play in regulating political equality. Hasen characterizes his work as contributing to the development of election law as its own field of study at a time when scholars are beginning to confront such questions. His book includes an appendix of twentieth-century election law cases.

Hayden, Grant M. "Resolving the Dilemma of Minority Representation." *California Law Review* 92 (2004): 1589–1637.

Hayden outlines the various obstacles to minority representation over the years and their respective solutions, beginning with the passage of the Voting Rights Act as a means of providing access to the ballot. He moves next to the one person, one vote solution to "quantitative" vote dilution, and then to sections 2 and 5 protections and majority-minority districts to address "qualitative" vote dilution. Hayden proposes the Court's departure from a strict one person, one vote standard in the remedy phase of minority vote dilution cases to allow the Department of Justice and the courts to create majority-minority districts without sacrificing substantive representation.

Hayden, Grant M. "The Supreme Court and Voting Rights: A More Complete Exit Strategy." *North Carolina Law Review* 83 (2005): 949–83.

Hayden suggests that if the Supreme Court is to retreat from politics, it should do so completely by relaxing the one person, one vote standard in redistricting cases. He explains that after *Bush v. Gore*,<sup>41</sup> the Supreme Court, in a series of redistricting cases, retreated from its involvement in politics by allowing state legislatures more discretion in redistricting subject to section 5 of the Voting Rights Act. By doing so without relaxing the one person, one vote standard, however, it undermined the statutory protections of the Voting Rights Act.

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39. For a review of Guinier's book and a discussion of the debate Americans missed by Clinton's withdrawal of Guinier's nomination, see Michael E. Lewyn, *How Radical is Lani Guinier?* 74 B.U. L. REV. 927 (1995).

40. 531 U.S. 98 (2000).

41. *Id.*

Issacharoff, Samuel. "Gerrymandering and Political Cartels." *Harvard Law Review* 116 (2002): 593–648.

Issacharoff recommends applying a political market analysis approach instead of an individual rights-discrimination analysis to redistricting to escape the "post-*Shaw v. Reno* morass" (p.594), which he contends encouraged the "racialization" (p.638) of improper redistricting claims. Issacharoff submits that the Court should reinforce political competition, while ending its "entanglement with the bruising world of race and politics" (p.648) by refusing to allow redistricting by incumbent powers. He notes that nonpartisan redistricting through the 1990s seems to have allowed for adequate levels of minority representation and suggests that commission-based redistricting may avoid vote dilution claims under the Voting Rights Act.

Karlan, Pamela S. "*Georgia v. Ashcroft* and the Retrogression of Retrogression." *Election Law Journal* 3 (2004): 21–36.

Karlan analyzes the Supreme Court's 2003 *Georgia v. Ashcroft*<sup>42</sup> decision by reviewing Georgia's history as a section 5 covered jurisdiction under the Voting Rights Act of 1965, its prior redistricting plans, the 2001 senate plan it sought to preclear, and the Court's reasoning for fundamentally altering the preclearance process by approving the Georgia plan.<sup>43</sup>

Karlan, Pamela S. "Loss and Redemption: Voting Rights at the Turn of a Century." *Vanderbilt Law Review* 50 (1997): 291–324.

Karlan addresses the second prong of arguments against race-conscious districting. Having earlier rejected arguments that such districting discriminates against white voters,<sup>44</sup> in this article she addresses the claim that majority-black districts have harmed the people they were intended to help. Karlan contends that the "bleaching critique of race conscious districting" (p.293) oversimplifies the relationship between the Voting Rights Act and black influence over the political process and rests on a series of contradictory premises about voting behavior. She further submits that the real reason Democrats have lost the solid South is that their white base has disappeared, not the black one.

Karlan, Pamela S. "Still Hazy After All These Years: Voting Rights in the Post-Shaw Era." *Cumberland Law Review* 26 (1996): 287–311.

Karlan submits that the Supreme Court's decision in *Shaw v. Reno*<sup>45</sup> and those that followed suggest three areas of "doctrinal instability" (p.287) in its approach to race and redistricting: the question of standing and personal injury in districting cases, the actual elements of wrongful districting claims, and the relationship between wrongful districting claims and the Voting Rights Act. She concludes that it is more likely that the Court's decisions, and not race-conscious districting, will hinder the development of a political system in which race no longer matters.

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42. 539 U.S. 461 (2003).

43. On July 27, 2006, President Bush signed the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. No. 109-246, 120 Stat. 577, thereby effectively overruling *Georgia v. Ashcroft*, 539 U.S. 461.

44. See Pamela S. Karlan, *Still Hazy After All These Years: Voting Rights in the Post-Shaw Era*, 26 CUMB. L. REV. 287 (1996).

45. 509 U.S. 630 (1993).

Katz, Ellen D. "Reinforcing Representation: Congressional Power to Enforce the Fourteenth and Fifteenth Amendments in the Rehnquist and Waite Courts." *Michigan Law Review* 101 (2003): 2341–2408.

Katz proposes that academic scholarship charging the Waite and Rehnquist Courts with undoing the First and Second Reconstructions, respectively, relies on a critique that is "too simple" (p.2343). She contends that decisions by the Rehnquist Court suggest a "two-tiered vision of Congress's enforcement powers under the Reconstruction-era Amendments" (p.2343), which attributes broad authority to Congress to address racial discrimination, but limits its power to battle other forms of discrimination within the political process at the state and local levels. Katz further presents the possibility that the Court could apply the Fourteenth and Fifteenth Amendments in a manner that would eliminate the vote dilution prong of section 2 of the Voting Rights Act.

Kousser, J. Morgan. *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*. Chapel Hill, N.C.: University of North Carolina Press, 1999.

Kousser's case study analysis of the adoption of electoral laws and redistricting is a product of his work as an expert witness for minority groups in voting rights cases in federal court. His goal is "to set voting rights policy straight by getting its history right" (p.2). He suggests that the Second Reconstruction succeeded where the First Reconstruction failed in part because of favorable judicial decisions, but radical interpretations of the Voting Rights Act, coupled with the *Shaw v. Reno*<sup>46</sup> decision and its successors, threaten to reverse minority political success. Kousser challenges those who defend such decisions as consistent with the "colorblind" goals of the civil rights movement and submits that government neutrality on the issue of racial inequality is in fact not colorblind, but intended to perpetrate injustice.

McCrary, Peyton. "Bringing Equality to Power: How the Federal Courts Transformed the Electoral Structure of Southern Politics." *University of Pennsylvania Journal of Constitutional Law* 5 (2003): 665–708.

McCrary, historian with the Civil Rights Division of the Department of Justice, credits the adoption and implementation of the Voting Rights Act of 1965 for eliminating racial barriers to registration and voting from 1960 to 1990. He then explains the role of the federal courts during that same period in transforming the electoral structure of Southern politics through the implementation of two policies: the one person, one vote principle and the prevention of minority vote dilution. McCrary attributes this success in part to relative consensus within the court system concerning the interpretation of the statute and related case law, which he maintains was lacking in the 1990s. He responds to critics who characterize the Act as intrusive by suggesting that fair elections in the South could not have been achieved without it.

McCrary, Peyton, and J. Gerald Hebert. "Keeping the Courts Honest: The Role of Historians as Expert Witnesses in Southern Voting Rights Cases." *Southern University Law Review* 16 (1989): 101–28.

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46. *Id.*

McCrary and Hebert explore the contribution of historians to Voting Rights Act litigation by analyzing the interpretation of factual evidence presented by historians and other expert witnesses in minority vote dilution cases, particularly testimony relating to proof of discriminatory intent and the proper statistical measures for assessing the degree of racial bloc-voting.

McDonald, Laughlin. "The Counterrevolution in Minority Voting Rights." *Mississippi Law Journal* 65 (1995): 271–313.

McDonald reflects on voting rights jurisprudence from the passage of the Voting Rights Act in 1965, to the "quiet revolution" (p.272) when majority-minority electoral districts increased minority office holding, and finally the beginning of the "counterrevolution in minority voting rights" created by the Court with its *Shaw*<sup>47</sup> and *Miller*<sup>48</sup> redistricting decisions. He then addresses the origins and false assumptions of the "counterrevolution" which he contends threaten to destroy majority-minority districts.

McDonald, Laughlin. "What Happened to the Voting Rights Act? Or Restoring the White Primary." *Journal of Southern Legal History* (1999): 207–45.

McDonald explains why the Voting Rights Act has worked and why we need majority-minority electoral districts. He suggests that the *Shaw v. Reno*<sup>49</sup> line of cases transformed the Fourteenth Amendment from a provision designed to prohibit discrimination against racial minorities to a device used to destroy majority-minority districts and restore white control of the electoral process. McLaughlin explains that the concept of race neutrality or a "colorblind" electoral process is flawed and that states may legitimately consider race in redistricting.

Miller, Andrew, and Mark Packman. "Amended Section 2 of the Voting Rights Act: What Is the Intent of the Results Test?" *Emory Law Journal* 36 (1987): 1–74.

Miller and Packman chart the law of vote dilution from the passage of the Voting Rights Act in 1965 through the Supreme Court's 1986 *Thornburg v. Gingles*<sup>50</sup> decision. After reviewing the law of vote dilution prior to the section 2 amendment in 1982 and the amendment's legislative history, the article focuses on the application of the evidentiary factors used by plaintiffs proceeding under the results test of section 2. The authors conclude by expressing their concern that a shift in emphasis on racial bloc voting and minority electoral success may upset the balance of the multifactor approach intended by Congress.

Parker, Frank R. *Black Votes Count: Political Empowerment in Mississippi After 1965*. Chapel Hill, N.C.: University of North Carolina Press, 1994.

Parker draws upon his experience as a voting rights attorney in Mississippi to analyze the struggle for black political power in Mississippi after the passage of the Voting Rights Act. Parker describes post-1965 resistance to black political empowerment in Mississippi as shifting from denial to dilution and the role of civil rights workers and their attorneys as moving from one of defense to one of attacking barriers designed to dilute black voting strength. Parker responds to

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47. *Id.*

48. 515 U.S. 900 (1995).

49. *Shaw*, 509 U.S. 630.

50. 478 U.S. 30 (1986).

critics of federal protections and the successes of the Voting Rights Act, particularly political scientist Abigail Thernstrom, by examining the historical context in which these legal principles were developed.

Parker, Frank M. "The 'Results' Test of Section 2 of the Voting Rights Act: Abandoning the Intent Standard." *Virginia Law Review* 69 (1983): 715–804.

Parker examines the results test added to section 2 by the 1982 amendment of the Voting Rights Act,<sup>51</sup> suggesting that its success will depend upon aggressive enforcement by the Justice Department and the willingness of the courts to apply the standard consistent with its legislative history. Parker's analysis includes a discussion of the law prior to the Supreme Court's *City of Mobile v. Bolden*<sup>52</sup> decision, the holding in *Bolden*, and the legislative history of the 1982 amendment to section 2.

Peacock, Anthony A., ed. *Affirmative Action and Representation: Shaw v. Reno and the Future of Voting Rights*. Durham, N.C.: Carolina Academic Press, 1997.

This collection of essays considers the implications of the Supreme Court's 1993 *Shaw v. Reno*<sup>53</sup> decision, which recognized an equal protection challenge to redistricting plans based upon a state's use of race. Contributors such as political science and social psychology professor Bernard Grofman, law professor Samuel Issacharoff, and Alabama civil rights attorney Edward Still address whether *Shaw* marked the beginning of a complete reexamination of the Voting Rights Act, as well as other issues raised by Supreme Court voting rights jurisprudence in the 1990s.

Pildes, Richard H. "Is Voting-Rights Law Now at War With Itself? Social Science and Voting Rights in the 2000s." *North Carolina Law Review* 80 (2002): 1517–73.

Pildes contends that "coalitional" districts in which minorities constitute a third or more of the voters may now be sufficient to ensure equal opportunity for minority candidates, given social science evidence that suggests white voters are now willing to vote for black candidates at a higher level. He examines the legal issues facing the 2000 redistricting process and suggests that voting-rights law could be at war with itself if the courts take a formal approach to voting rights in the 2000s by continuing to require majority-minority "safe" districts rather than considering "effective, integrated, coalitional districts" (p.1573) consistent with the purposes of the Voting Rights Act.

Ryden, David K., ed. *The U.S. Supreme Court and the Electoral Process*. 2nd ed. Georgetown University Press, 2002.

This collection of essays addresses the Supreme Court's approach to politics, voting, elections, and representation from the varied perspectives of law and political science students, academics, and practitioners. Chapter 3, "Vote Dilution, Party Dilution, and the Voting Rights Act: The Search for 'Fair and Effective Representation,'" traces the Court's struggle to define "fair and effective

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51. Pub. L. No. 97-205, § 3, 96 Stat. 131, 134 (1982) (amending 42 U.S.C. § 1973).

52. 446 U.S. 55 (1980).

53. *Shaw*, 509 U.S. 630.

tive representation” and wonders whether it is the appropriate institution to resolve such a question.

Scher, Richard M., Jon L. Mills, and John J. Hotaling. *Voting Rights and Democracy: The Politics of Districting*. Chicago: Nelson-Hall Publishers, 1997.

Motivated by their belief in voting rights as essential to our system of democracy and the protection of minority voting rights as critical to its health, the authors set out to create a resource for interested citizens to better understand the issues involved in the pursuit of these rights. The authors submit that a lack of understanding of issues such as redistricting and minority representation contributes to the public's perception that Voting Rights Act successes create unfair advantages for minorities.

Smith, Terry. “Reinventing Black Politics: Senate Districts, Minority Vote Dilution, and the Preservation of the Second Reconstruction.” *Hastings Constitutional Law Quarterly* 25 (1998): 277–355.

Smith points to the lack of minorities in the United States Senate, the members of which are elected on a statewide, at-large basis, and suggests that minority vote dilution could be addressed with majority-minority or minority-enhanced districts. He contends that compelling states to address this problem is supported by the legislative history of both the Voting Rights Act and the Seventeenth Amendment. Smith applies the guidelines of *Shaw v. Reno*<sup>54</sup> to several states to demonstrate that Senate districts lack the characteristics of use of race and geographic compactness that have threatened the constitutionality of House districts.

Thernstrom, Abigail. *Whose Votes Count? Affirmative Action and Minority Voting Rights*. Cambridge, Mass.: Harvard University Press, 1987.

In *Whose Votes Count*, Thernstrom continues her critique of the implementation of the Voting Rights Act of 1965 begun in a 1979 *Public Interest* article, “The Odd Evolution of the Voting Rights Act.”<sup>55</sup> Thernstrom's controversial<sup>56</sup> argument posits that an act that was intended only to gain the ability to vote for Southern blacks was transformed by the Court in *Allen v. State Board of Elections*<sup>57</sup> and congressional amendments into an “entitlement” to meaningful minority voting power.

### *Impact of the Voting Rights Act*

Ball, Howard, Dale Krane, and Thomas Lauth. *Compromised Compliance: Implementation of the 1965 Voting Act*. Westport, Conn.: Greenwood Press, 1982.

The authors examine the “compromised compliance” strategy they contend the Department of Justice's Voting Section followed from 1965 to 1981 in implementing the Voting Rights Act. They submit that given the lack of field personnel

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54. *Id.*

55. Abigail Thernstrom, *The Odd Evolution of the Voting Rights Act*, 55 PUB. INT. 49 (1979).

56. Pamela S. Karlan & Peyton McCrary, *Without Fear and Without Research: Abigail Thernstrom on the Voting Rights Act*, 4 J.L. & POL. 751 (1988) (book review).

57. 393 U.S. 544 (1969).

and financial incentives to compel compliance and the political pressure from competing social groups, the Department of Justice adopted a strategy of negotiated settlements rather than coercive sanctions, which diminished the substance of the voting rights policy created in 1965. They urged the Act's renewal in 1982, particularly section 5, as a prerequisite to achieving full compliance toward the goal of a representative government.

Bass, Karyn L. "Are We Really Over the Hill Yet? The Voting Rights Act at Forty Years: Actual and Constructive Disenfranchisement in the Wake of Election 2000 and *Bush v. Gore*." *DePaul Law Review* 54 (2004): 111–56.

Bass's student comment examines the Voting Rights Act of 1965 on the eve of its fortieth anniversary to determine if litigation and legislation have accomplished the goals of the Act. She begins by summarizing the key provisions and amendments of the Act. She then addresses the 2000 election and the impact of *Bush v. Gore*<sup>58</sup> on voting rights jurisprudence. She concludes that although the Voting Rights Act has led to some successes in the struggle for enfranchisement, there are many miles to go to achieve the goal of universal franchise.

Butler, Katharine Inglis. "Racial Fairness and Traditional Districting Standards: Observations on the Impact of the Voting Rights Act on Geographic Representation." *South Carolina Law Review* 57 (2006): 749–84.

Butler submits that concerns over racial fairness, especially in states required by the Voting Rights Act to preclear their voting changes, have deteriorated the U.S. system of geographic representation in favor of a dysfunctional system of interest group representation. She proposes that if geographic representation is no longer appropriate for U.S. voters, we should adopt a different system for all rather than distort the current system in an effort to benefit some.

Byrne, Dara N., ed. *The Unfinished Agenda of the Selma-Montgomery Voting Rights March*. Hoboken, N.J.: John Wiley & Sons, 2005.

Four decades after the Selma to Montgomery voting rights march, experts examine its effects from varied perspectives and explain why the struggle for equal voting rights is not complete. Essays describe the movement and those who embodied it; address racial politics and the continued uncertainty of equal access; highlight the struggles of other minorities, including Indian, Latino, and Asian voters; and propose strategies for future generations to continue the effort. The book also includes a Timeline of Civil Rights History and the text of key provisions of the Voting Rights Act of 1965.

Davidson, Chandler, and Bernard Grofman, eds. *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965–1990*. Princeton, N.J.: Princeton University Press, 1994.

This collection of proceedings from three conferences held in 1990 is the culmination of studies conducted to determine the Voting Rights Act's effect on the enfranchisement of blacks in the South and the prevention of minority vote dilution. Eight chapters address political participation in individual Southern states covered by the Act's special provisions: Alabama, Georgia, Louisiana, Mississippi, forty counties in North Carolina, South Carolina, Texas, and

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58. 531 U.S. 98 (2000).

Virginia. The authors of individual chapters include historians, voting rights attorneys, and expert witnesses.

Foster, Lorn S., ed. *The Voting Rights Act: Consequences and Implications*. New York: Praeger Publications, 1984.

This volume assesses the impact of the Voting Rights Act through a compilation of essays from a 1983 conference addressing the original enactment, its 1982 amendments, its enforcement by the Department of Justice, and racial vote dilution and the meaning of the right to vote.

Fredrickson, Caroline, and Deborah J. Vagins. *Promises to Keep: The Impact of the Voting Rights Act in 2006*. New York: American Civil Liberties Union, 2006. Also available at <http://www.votingrights.org/news/downloads/Promises%20to%20Keep.pdf>.

On March 7, 2006, on the forty-first anniversary of Bloody Sunday, the American Civil Liberties Union launched its “Every Voice. Every Vote. Renew the Voting Rights Act” campaign to raise awareness and to urge Congress to reauthorize the Act’s temporary provisions. On that same day, the ACLU released this policy report, which discusses the impact of the Act in eliminating discrimination in voting and granting access to minorities.

Hudson, David M. *Along Racial Lines: Consequences of the 1965 Voting Rights Act*. New York: P. Lang, 1998.

Hudson traces the history of the Voting Rights Act and its legislative and judicial journey since 1965 as it has affected blacks in Dallas, Texas; Hispanic immigrants in Dade County, Florida; and Indian tribes in Arizona’s Navajo Reservation. Hudson submits that, although the Act remains the most effective civil rights legislation ever, the pursuit of voting rights has encouraged separation rather than integration. He also believes that future success for minorities will depend upon increased voter participation, rather than our current system of segregating voters.

McMillen, Jeffrey D. “The Effects of the Voting Rights Act: A Case Study.” *Washington University Law Quarterly* 72 (1994): 725–56.

In this student note, McMillen measures the effectiveness of the Voting Rights Act through a case study of Jefferson Parish, Louisiana, detailing discriminatory voting practices and the resulting lack of meaningful participation by blacks in the political process. However, after reviewing two influential vote dilution cases in Jefferson Parish,<sup>59</sup> McMillen suggests that section 2 of the Act will eventually allow the black community to reach proportional representation, and that when it does, they must not be complacent but must continue to register voters and stress education and awareness.

U.S. Commission on Civil Rights. *Political Participation; A Study of the Participation of Negroes in the Electoral and Political Processes in 10 Southern States Since Passage of the Voting Rights Act of 1965*. Washington, D.C.: U.S. Commission on Civil Rights, 1968.

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59. *Citizens for a Better Gretna v. City of Gretna*, 636 F. Supp. 1113 (E.D. La. 1986), *aff’d*, 834 F.2d 496 (5th Cir. 1987); *East Jefferson Coalition v. Parish of Jefferson*, 691 F. Supp. 991 (E.D. La. 1988), *aff’d*, 926 F.2d 487 (5th Cir. 1991).

This report concludes that although significant progress in black voter registration and political participation had occurred by the time of its publication in 1968, new barriers to full participation had arisen. It describes instances of the dilution of the black vote, prevention of blacks from becoming candidates or obtaining office, exclusion of and interference with poll watchers, vote fraud, discriminatory selection of election officials, and intimidation and economic dependence. Commission recommendations include broadening and strengthening enforcement of the Act, instituting federal programs to encourage people to register and vote and to reduce economic dependence, encouraging action by national political parties to require compliance by states before seating their delegates at national conventions, and enacting new laws to prevent discrimination and intimidation.

- U. S. Commission on Civil Rights. *The Voting Rights Act: The First Months*. Washington, D.C.: U.S. Commission on Civil Rights, 1965. Also available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12V942.pdf>.

This report briefly summarizes the history of the passage of the Voting Rights Act of 1965 and presents the results of a survey by commission staff of the Act's progress two months after enactment. The report includes recommendations from the commission for effective implementation of the Act.

- U. S. Commission on Civil Rights. *The Voting Rights Act, Ten Years After: A Report of the United States Commission on Civil Rights*. Washington, D.C.: U.S. Commission on Civil Rights, 1975. Also available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12v943a.pdf>.

Ten years after the passage of the Voting Rights Act, the U.S. Commission on Civil Rights reported marked increases in minority political participation but continued discrimination. After visiting fifty-four jurisdictions in ten states and conducting more than two hundred interviews of persons knowledgeable about the political process in those states, the commission recommended a ten-year extension of the Act, identification of other covered jurisdictions, strengthened enforcement of section 5, and the development of programs to reduce economic dependence as a barrier to political participation.

- U. S. Commission on Civil Rights. *The Voting Rights Act: Unfulfilled Goals*. Washington, D.C.: U.S. Commission on Civil Rights, 1981. Also available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12v944a.pdf>.

In its 1981 report to the president and Congress, the U.S. Commission on Civil Rights recommended the extension of the Act's special provisions for an additional ten years along with an extension of the Act's minority language provisions for an additional seven years. The commission reports "resistance and hostility . . . to increased minority participation in virtually every aspect of the electoral process" (p.iii). It also recommends that Congress amend section 2 of the Act to include discriminatory "effect."

### *The Reauthorization Debate*

- Benson, Jocelyn. "Turning Lemons into Lemonade: Making *Georgia v. Ashcroft* the *Mobile v. Bolden* of 2007." *Harvard Civil Rights-Civil Liberties Law Review* 39 (2004): 485-511.

Benson offers a congressional strategy for the 2007 Voting Rights Act reauthorization process in response to the Supreme Court's 2003 *Georgia v. Ashcroft*<sup>60</sup> decision. In particular, she proposes a reaction similar to that of voting rights advocates during the Act's 1982 reauthorization process following the *City of Mobile v. Bolden*<sup>61</sup> decision. Just as Congress clarified section 2 after *Bolden*, Benson recommends a unified agenda to amend section 5 to clarify the retrogression standard after *Georgia v. Ashcroft*.<sup>62</sup>

Burke, Lewis W. "Killing, Cheating, Legislating, and Lying." *South Carolina Law Review* 57 (2006): 859–87.

Burke offers South Carolina's history of voting rights violations to illustrate the continued need for the preclearance and other special provisions of the Voting Rights Act of 1965. He details tactics used by whites since Reconstruction to prevent black South Carolinians from exercising their right to vote, and explains how, despite the relentless pursuit of the franchise by black citizens in the face of sometimes grave consequences, reports of voter harassment as well as Department of Justice objections to proposed voting changes persist.

Cartagena, Juan. "Latinos and Section 5 of the Voting Rights Act: Beyond Black and White." *National Black Law Journal* 18 (2005): 201–23.

Cartagena demonstrates how the Voting Rights Act was "never just black and white" (p.201) by relating the significant role the U.S. Puerto Rican community played in shaping the policies of the Voting Rights Act toward Latinos regarding section 5<sup>63</sup> and section 203<sup>64</sup> protections. Cartagena further describes how widespread discrimination against Mexican Americans in Texas shaped the section 5 coverage amendments of 1975.<sup>65</sup> He concludes by cautioning that a move too quickly away from majority Latino districts in favor of influence districts could prove contrary to the original intent of the Act.

Donahue, Meghann. "The Reports of My Death Are Greatly Exaggerated: Administering Section 5 of the Voting Rights Act After *Georgia v. Ashcroft*." *Columbia Law Review* 104 (2004): 1651–85.

In this student note, Donahue argues that the Supreme Court's method for determining "effective exercise of the electoral process" in *Georgia v. Ashcroft*<sup>66</sup> does not render section 5 preclearance "unadministrable" as maintained by Justice Souter in his dissent, and thus vulnerable in the reauthorization process. She contends that the Department of Justice can continue to protect against minority vote dilution by relying on traditional racially polarized voting analyses, prioritizing the ability to elect over other forms of influence, and utilizing the seven "Senate factors"<sup>67</sup> to identify minority influence.

60. 539 U.S. 461 (2003).

61. 446 U.S. 55 (1980).

62. 539 U.S. 461. Congress did so by passing the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, H.R. 9, 109th Cong. (2006), which President Bush signed into law on July 27, 2006.

63. 42 U.S.C. § 1973c (2000).

64. 42 U.S.C. § 1973aa-1a (2000).

65. Pub. L. No. 94-73, §§ 204, 206, 405, 89 Stat. 400, 402, 404 (1975) (amending 42 U.S.C. § 1973c).

66. 539 U.S. 461.

67. S. REP. NO. 97-417, at 28–29 (1982), as reprinted in 1982 U.S.C.C.A.N. 177, 206–207 (prepared for the Act's 1982 amendments).

Hasen, Richard L. "Congressional Power to Renew the Preclearance Provisions of the Voting Rights Act after *Tennessee v. Lane*." *Ohio State Law Journal* 66 (2005): 177–207.

Given the Supreme Court's ultimate authority to decide whether a renewed section 5 is enforceable, Hasen discusses the effect the Court's "New Federalism revolution" (p.177) might have on such a determination. He notes, however, that chances of reauthorization of section 5 of the Voting Rights Act<sup>68</sup> increase given recent Supreme Court decisions, such as *Tennessee v. Lane*,<sup>69</sup> that seem to back away from such a strict evidentiary standard. Alternatively, Hasen presents the Guarantee Clause as a basis for congressional power to renew preclearance.

Issacharoff, Samuel. "Is Section 5 of the Voting Rights Act a Victim of Its Own Success?" *Columbia Law Review* 104 (2004): 1710–31.

Issacharoff proposes that the four preconditions necessary for the success of section 5 of the Voting Rights Act<sup>70</sup> have been changed by the "creation of a robust political environment . . . , particularly by the establishment of an important core of influential black elected officials" (p.1710) in jurisdictions covered by section 5. He submits that post-2000 reapportionment decisions suggest that the success of section 5 may have compromised its mission and concludes that an emerging complex administrative standard and increased partisan competition have called into question the continued utility of section 5 preclearance, at least in the area of redistricting.

Magpantay, Glenn D. *Asian American Access to Democracy in the 2004 Elections*. New York: Asian American Legal Defense and Education Fund, 2005. Also available at [http://www.aaldef.org/images/2005-08-18\\_ElectionReport.pdf](http://www.aaldef.org/images/2005-08-18_ElectionReport.pdf).

In August 2005, the Asian American Legal Defense and Education Fund (AALDEF) released this report outlining obstacles faced by Asian Americans in the 2004 presidential election. It documents Voting Rights Act violations observed by poll monitors at 167 sites in twenty-three cities across eight states, identified through exit polls of nearly 11,000 Asian American voters. Steps recommended by AALDEF to address such barriers to access include the reauthorization and expansion of the language assistance provisions found in section 203 of the Voting Rights Act<sup>71</sup> as well as increased enforcement by the Department of Justice of section 208 of the Act,<sup>72</sup> which allows voters to be assisted by a person of their choice.

McDonald, Laughlin. "The Voting Rights Act in Indian Country: South Dakota, a Case Study." *American Indian Law Review* 29 (2004): 43–74.

McDonald demonstrates the need to extend the special provisions of the Voting Rights Act, set to expire in 2007, through a review of the history of Indian voting rights in South Dakota. As evidence, McDonald describes discriminatory

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68. 42 U.S.C. § 1973c.

69. 541 U.S. 509 (2004).

70. 42 U.S.C. § 1973c.

71. Pub. L. No. 94-73, § 301, 89 Stat. 400, 402–03 (1975) (codified as amended at 42 U.S.C. § 1973aa-1a (2000)).

72. Pub. L. No. 97-205, § 5, 96 Stat. 131, 134–35 (1982) (codified as amended at 42 U.S.C. § 1973aa-6 (2000)).

vote dilution practices in South Dakota and the failure of that state to submit its changes for preclearance under section 5 of the Act. He points further to the common factors that isolate Indian voters throughout the West to support his conclusion that the Voting Rights Act, including its section 5 preclearance provisions, is “still urgently needed in Indian Country” (p.71). As an addendum, McDonald identifies those provisions of the Act that will and will not expire if not reauthorized in 2007.

McDonald, Laughlin, and Daniel Levitas. *The Case for Extending and Amending the Voting Rights Act—Voting Rights Act Litigation, 1982–2006: A Report of the Voting Rights Project of the American Civil Liberties Union*. Atlanta: American Civil Liberties Union, 2006. Also available at <http://www.votingrights.org/resources/downloads/ACLU%20Voting%20Report%20Final.pdf>.

On March 7, 2006, on the forty-first anniversary of Bloody Sunday, the American Civil Liberties Union released this 867-page report recounting the involvement of its Voting Rights Project in 293 cases brought in thirty-one states since the Voting Rights Act was reauthorized in 1982. The report concludes that there is still strong evidence of discrimination in voting, voter manipulation, and racially polarized voting in the United States, and that section 5 has blocked discriminatory voting changes, had a deterrent effect, and is still needed to protect the rights of minority voters. The report recommends that Congress renew section 5 along with the language assistance and federal observer provisions of the Act; that it amend the Act to provide for the recovery of expert fees for prevailing parties in voting rights cases; and that it amend section 5 to address the problems created by the U.S. Supreme Court decisions in *Reno v. Bossier Parish School Board*<sup>73</sup> and *Georgia v. Ashcroft*.<sup>74</sup>

National Commission on the Voting Rights Act. *Protecting Minority Voters: The Voting Rights Act at Work 1982–2005*. New York: Lawyers’ Committee for Civil Rights under the Law, 2006. Also available at <http://www.votingrights-act.org/report/finalreport.pdf>.

In February 2006, the National Commission on the Voting Rights Act released its report on the status of voting discrimination in the United States since the Act was reauthorized in 1982. Its findings are based upon testimony gathered from more than a hundred witnesses at hearings held across the country and documents and other information received by the commission from governmental, legal, media, and scholarly sources. The 125-page report concludes that the two major problems addressed by the Act, restricted ballot access and minority vote dilution, persist today and that the need for the Act’s temporary provisions to both remedy and deter such discrimination continues.

Pitts, Michael J. “Let’s Not Call the Whole Thing off Just Yet: A Response to Samuel Issacharoff’s Suggestion to Scuttle Section 5 of the Voting Rights Act.” *Nebraska Law Review* 84 (2005): 605–30.

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73. 528 U.S. 320 (2000).

74. 539 U.S. 461 (2003). Section 5 was in fact amended by Congress when it passed the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, H.R. 9, 109th Cong. (2006), which President Bush signed into law on July 27, 2006.

Pitts contends that contrary to Professor Issacharoff's earlier implications regarding section 5 of the Voting Rights Act,<sup>75</sup> it should be "mended," not "ended." He points to the deterrent effect of the Voting Rights Act and its significant role on the local level to suggest that if section 5 preclearance is eliminated for congressional and statewide redistricting, it should be retained for local level voting changes. He then offers Georgia's recent history of voting-related discrimination and its greater level of racially polarized voting to justify, at the least, a more limited version of section 5 coverage for such states. Finally, Pitts characterizes Issacharoff's concerns about partisanship administration of section 5 as a problem only at the very margins.

Rodriguez, Victor Andres. "Section 5 of the Voting Rights Act After *Boerne*: The Beginning of the End of Preclearance?" *California Law Review* 91 (2003): 769–826.

In this student comment, Rodriguez describes the events leading to the passage of the Voting Rights Act and stresses the continued importance of section 5<sup>76</sup> to the protection of minority voting rights. He compares early Supreme Court decisions upholding the Act to later ones limiting the constitutional enforcement power of Congress. After examining three possible contexts in which the constitutionality of section 5 might be challenged—either pre-2007 reauthorization, during reauthorization debates, or post-reauthorization—Rodriguez concludes that section 5 could survive even the most difficult post-reauthorization challenge.

Tucker, James Thomas, and Rodolfo Espino. *Minority Language Assistance Practices in Public Elections*. 2006. <http://www.votingrights.org/news/downloads/Report.pdf>.

This comprehensive report, released on March 7, 2006, updates the cost data of two previous GAO studies and assesses the availability and quality of language assistance provided voters under the language assistance provisions of the Voting Rights Act in thirty-one states and more than five-hundred political subdivisions across the United States. The report explains the triggering formulas and resulting obligations imposed by sections 4(f)(4) and 203 of the Act and outlines the covered jurisdictions by section and by language group. It then summarizes the data collected from surveys of election officials from jurisdictions currently and formerly covered by the Act. The report recommends reauthorization of the Act's language assistance provisions for an additional twenty-five years along with a more proactive approach by chief election officials in covered jurisdictions toward training political subdivisions to provide language assistance and in monitoring compliance with section 203.

U.S. Congress. House. Committee on the Judiciary. [Hearings on] Voting Rights Act. 109th Congress, 1st–2nd Sess., 2005–06.

The Subcommittee on the Constitution of the House Committee on the Judiciary held a series of oversight hearings, beginning in October 2005, into the reauthorization of the six temporary provisions of the Voting Rights Act. The hearings were designed to examine the impact and effectiveness of the Voting Rights Act

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75. See Samuel Issacharoff, *Is Section 5 of the Voting Rights Act a Victim of Its Own Success?* 104 COLUM. L. REV. 1710 (2004).

76. 42 U.S.C. § 1973c (2000).

since 1982 and its continued relevance in protecting minority voting in the future. Witness lists and transcripts of their testimony (in PDF format) are available on the committee's Web site (<http://judiciary.house.gov/Printshop.aspx>). The specific hearings were:

- *Voting Rights Act: To Examine the Impact and Effectiveness of the Act* (Oct. 18, 2005)
- *Voting Rights Act: An Examination of the Scope and Criteria for Coverage Under the Special Provisions of the Act* (Oct. 20, 2005)
- *Voting Rights Act: The Continuing Need for Section 5* (Oct. 25, 2005)
- *Voting Rights Act: Section 5 of the Act—History, Scope, and Purpose* (Oct. 25, 2005)
- *Voting Rights Act: Section 5—Preclearance Standards* (Nov. 1, 2005)
- *Voting Rights Act: Section 203—Bilingual Election Requirements (Part I)* (Nov. 8, 2005)
- *Voting Rights Act: Section 203—Bilingual Election Requirements (Part II)* (Nov. 9, 2005)
- *Voting Rights Act: Section 5—Judicial Evolution of the Retrogression Standard* (Nov. 9, 2005)
- *Voting Rights Act: Sections 6 and 8—The Federal Examiner and Observer Program* (Nov. 15, 2005)
- *Voting Rights Act: Evidence of Continued Need* (Mar. 8, 2006)

U.S. Congress. Senate. Committee on the Judiciary. [Hearings on] Voting Rights Act. 109th Congress, 2nd Sess., 2006.

The Subcommittee on the Constitution, Civil Rights and Property Rights of the Senate Committee on the Judiciary held a series of hearings, beginning in April 2006, on the reauthorization of the temporary provisions of the Voting Rights Act, their continuing need, and modern enforcement. Transcripts of witness testimony for the following hearings are available on the Committee's Web site (<http://judiciary.senate.gov/index.cfm>):

- *Renewing the Temporary Provisions of the Voting Rights Act: An Introduction to the Evidence* (Apr. 27, 2006)
- *An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization* (May 9, 2006)
- *Modern Enforcement of the Voting Rights Act* (May 10, 2006)
- *The Continuing Need for Section 5 Pre-Clearance* (May 16, 2006)
- *Understanding the Benefits and Costs of Section 5 Pre-Clearance* (May 17, 2006)
- *Continuing Need for Section 203 Provisions for Limited English Proficient Voters* (June 13, 2006)
- *Reauthorization of the Voting Rights Act: Policy Perspectives and Views from the Field* (June 21, 2006)
- *Renewing the Temporary Provisions of the Voting Rights Act: Legislative Options after LULAC v. Perry* (July 13, 2006)

Valelly, Richard M. *The Two Reconstructions: The Struggle for Black Enfranchisement*. Chicago: University of Chicago Press, 2004.

In anticipation of congressional action regarding reauthorization of provisions of the Voting Rights Act of 1965, Valelly compares the “first reconstruction” of Southern politics (1867–77) with the “second reconstruction of electoral politics,” resulting in the passage of the Act. Valelly writes to foster understanding of why the first effort failed and the second succeeded. He asserts, however, that the second reconstruction will not be over until the inequalities created by disenfranchisement are gone and urges the reauthorization of the temporary provisions of the Voting Rights Act in 2007.

Valelly, Richard M., ed. *The Voting Rights Act: Securing the Ballot*. Landmark Events in U.S. History Series. Washington, D.C.: CQ Press, 2006.

Valelly presents issues surrounding the Voting Rights Act as Congress prepares to address the reauthorization of its special remedial provisions in 2007. Essays by historians, political scientists, voting rights experts, and legal scholars address the struggle for black enfranchisement in the United States from before the Civil War through the passage of the Voting Rights Act and its 1970, 1975, and 1982 extensions. They also consider the impact of the Voting Rights Act on Southern politics, its implications for non-black minority voters, the scholarly debate over the scope of the franchise under the Voting Rights Act, and the current state of voting rights law. Essays are supplemented by excerpts from constitutional amendments, the text of the Voting Rights Act and its amendments, U.S. Supreme Court decisions, historic speeches, and transcripts of congressional testimony.

## Conclusion

¶14 The Voting Rights Act has recently been a popular topic for writers, both to celebrate its fortieth anniversary and to assess the need for its reauthorization in 2007.<sup>77</sup> This bibliography selectively lists and describes books, articles, key reports and studies, and audiovisual materials documenting the history, implementation, and enforcement of the Act. These materials are essential to a complete understanding of the struggle of minority voters for meaningful participation in America’s democratic process. I hope in the future to add relevant works to those included here.<sup>78</sup> I fervently hope that my generation will experience at least a beginning of the end of discrimination in voting in the United States, which brings to mind the African proverb I found printed below a picture of John Lewis and Hosea Williams leading a group of marchers across the Edmund Pettus Bridge—*When You Pray, Move Your Feet*.<sup>79</sup>

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77. Much more is likely to be written in response to the unanimous vote by the U.S. Senate on July 20, 2006 to reauthorize the Act’s special provisions until 2032. On July 27, 2006, President Bush signed into law the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. No. 109-246, 120 Stat. 577.

78. Please send suggestions for additional books, articles, or other materials to conroy@law.sc.edu.

79. See Library of Congress, American Memory, Today in History: March 7, <http://memory.loc.gov/ammem/today/mar07.html> (last visited June 25, 2006).