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FOCUS

97TH CONGRESS
1ST SESSION

S. 1992

To amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 16 (legislative day, NOVEMBER 30), 1981

Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. METZENBAUM, Mr. WEICKER, Mr. BIDEN, Mr. CHAFEE, Mr. MOYNIHAN, Mr. CRANSTON, Mr. ANDREWS, Mr. BAUCUS, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CHILES, Mr. COHEN, Mr. DANFORTH, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. FORD, Mr. GLENN, Mr. HART, Mr. HATFIELD, Mrs. HAWKINS, Mr. HEINZ, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. LONG, Mr. MATSUNAGA, Mr. MITCHELL, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SPECTER, Mr. STAFFORD, Mr. TSONGAS, Mr. WILLIAMS, Mr. JOHNSTON, Mr. STEVENS, and Mr. MELCHER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That subsection (a) of section 4 of the Voting Rights Act of

Voting Rights Act Extension: Section 2, the New Battleground

Joint Center for Political Studies

Perspective

President Reagan has had a taste of what it is like to try to prove intent in matters concerning racial discrimination. Massive protests over his reversal of a decade-old federal policy of denying tax exemptions to racially segregated schools put him in the impossible position of trying to prove that he did not intend to encourage discrimination. Failing in this, he decided to propose legislation to confirm the policy he had tried to end.

In the final analysis, nobody much cared what the president's intention was in this case if the result of his action was to support segregated schools. It was fortunate for the president that he could propose a legislative remedy and thereby avoid a test of his intentions.

When it comes to the denial of voting rights, however, the president does not believe that the proof of the pudding is in the eating. He insists that minorities should be required to prove discriminatory intent if they want to challenge voting practices that discriminate.

This is a double standard. The president's position—"I believe that the [Voting Rights] Act should retain the 'intent' test under existing law, rather than changing to a new and untested 'effects' standard"—is also misleading and inaccurate.

In 1965, Congress deliberately designed the Voting Rights Act to ban practices that were discriminatory in purpose or effect, and the Act was so understood until the Supreme Court muddied the waters with its 1980 *Mobile* v. *Bolden* decision. Thus, the effects standard is by no means "new and untested," as alleged by the president.

The time has come for Congress to reiterate its original position. This is precisely what the House of Representatives did last October and what 64 Senators (40 Democrats and 24 Republicans) hope to do in the next month or so.

The House-passed voting rights bill makes explicit, through amendments to Section 2, that proof of discriminatory result is sufficient without specific proof of discriminatory intent. The same bill is now up for consideration in the Senate, where the Reagan administration is waging war against it. It is a war of contrivances, often bearing no relationship to reality.

One reason the intent test is both impossible and unfair is that it essentially requires the people responsible for the discrimination to come forward and confess. Not only is this unrealistic, but the fact is that Section 2 is used in combating discriminatory systems set up before 1965—sometimes long before. In many cases, neither the records nor the people responsible for the discrimination are still around.

There is no evidence to support the claims that an effects test will open the floodgates of litigation or that it will pose a threat to at-large elections everywhere. In fact, between 1965 and 1980, only a few dozen lawsuits were brought under the effects test. These were complex cases involving only the most egregious discriminatory actions, and only a small number of them were successful.

Assertions that an effects test will impose a quota system and require proportional representation are cynical and uninformed. In fact, the legislation passed by the House and now pending in the Senate states that underrepresentation of a minority in elective offices does not "in and of itself constitute a violation."

Senator Russell Long of Louisiana, one of the co-sponsors of the Senate bill, said "I think that the bill is correct in saying that if what is done has the effect of denying people their rights, that it doesn't make any difference what the intent was."

This is the standard by which the president was judged in the tax case. It ought to be the standard that he supports in voting rights cases. Now is the time for President Reagan to reverse his stand before it fuels the smoldering doubts about his commitment to racial justice.

Eddie N. Williams
President

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VRA Extension in the Senate: A Fact Sheet

Among both its supporters and its opponents, the Voting Rights Act is called one of the most effective civil rights laws. Enforcement of its provisions has led to dramatic increases in political participation by blacks and other minorities and to sharp growth in the number of black and Hispanic elected officials in covered jurisdictions.

Originally passed in 1965, the Act was extended in 1970 and again in 1975 to protect constitutionally guaranteed voting rights, which had been systematically denied to blacks in the South. It was expanded in 1975 to protect the voting rights of Hispanic and other language minority citizens against severe discriminatory practices, particularly in the Southwest and West.

Legislation has been passed by the House of Representatives and is now pending in the Senate which continues the Act's key provisions and clarifies what supporters believe is a misinterpretation of the Act by the Supreme Court.

In the May 1981 issue of *Focus,* the Joint Center for Political Studies presented a question-and-answer discussion of the debate that was then just beginning. The questions and answers on these pages are an update in light of developments over the past nine months. The issues that occupied most of the debate in the House were Section 5 coverage and the bail-out provisions. The bail-out issue is being raised again in the Senate. But the focus of Senate debate is an amendment to Section 2, which Senator Hatch has said he views as the most important issue.

Q. What are the key provisions of the Voting Rights Act?

A. Apart from the permanent ban on all literacy tests, which is not an issue now, the most important provisions are Section 2, a nationwide ban on voting discrimination against racial or language minorities; Section 5, which requires certain state and local governments (called "covered jurisdictions") to "preclear" proposed changes in voting or election procedures with either the U.S. Department of Justice or the U.S. District Court for the District of Columbia; and Section 203, which requires that certain state and local jurisdictions provide assistance in languages other than English to voters who are not literate or fluent in English.

Q. Where does extension of the Act stand now?

A. On October 5, 1981, the House of Representatives passed a tough but fair Voting Rights Act extension bill, H.R. 3112, by an enormous bipartisan vote of 389-24. The same bill was introduced in the Senate as S. 1992 on December 16, and it now has 64 co-sponsors, 40 Democrats and 24 Republicans. (Since the bill—shown on the cover—was last printed, Senators Schmitt, R-NM, Mattingly, R-GA, and Murkowski, R-AK, have joined as co-sponsors.) The Judiciary Subcommittee on the Constitution, chaired by Orrin Hatch (R-UT), began hearings on January 27, 1982, and is scheduled to finish by February 28. After action in the subcommittee and full committee, a bill is expected to reach the Senate floor for action in April.

Q. What are the provisions of H.R. 3112 and S. 1992?

A. There are three central provisions: (1) the Section 203 language assistance requirements are extended beyond their current expiration date of 1985, until 1992; (2) Section 5 preclearance is extended, and a new provision is included, detailing how a jurisdiction can "bail out," i.e., how it can end its coverage; and (3) Section 2 is amended so that voting discrimination can be proved in court cases by showing discriminatory results without showing a specific intention to discriminate.

Section 203: Language Assistance

Q. Are the language-assistance provisions controversial?

A. They were earlier, but opposition was soundly defeated in the House of Representatives. Although there are senators who have doubts about the extension of these provisions, the organized opposition seems to have diminished, and the president has declared support for extension of the provisions without qualification.

Section 5: Preclearance Provisions

Q. Is there any change in the areas covered by Section 5?

A. No. Section 5 continues to affect all or part of 22 states. In the South, it covers all of Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia, and half of North Carolina. Outside of the South, it covers all of Alaska and Arizona, most of New York City, and parts of 11 other states. A formula designed by Congress applies Section 5 to any state or county where a literacy test was used as of November 1, 1964, and where a participation rate of under 50 percent by eligible voters in the 1964 presidential election showed the test had a racially discriminatory basis. Later amendments to the Act included the years 1968 and 1972 in the coverage formula.

Nineteen days of hearings in Representative Don Edwards' House Judiciary Subcommittee, with over 100 witnesses, established a record of widespread current violations of the Act that eliminated any question as to whether Section 5 should be extended. Even skeptics were persuaded by the hearings. Likewise, there is widespread agreement that applying preclearance nationwide would "strengthen the Act to death," so although a nationwide provision has been introduced in the Senate, it does not seem to have any significant support. Debate over Section 5 has now shifted to the bail-out provision.

Q. Why is there a new bail-out formula in the bill?

A. The Voting Rights Act already has a bail-out provision, but it hasn't been used very much because individual counties in wholly covered states are not eligible to apply for bail out separately, and because the test is based on past use of a literacy test. In order to give covered jurisdictions incentives to improve their records, a new bail-out system was designed, allowing individual counties and parishes (and

VRA Extension in the Senate: More Facts

independent cities in Virginia) to bail out separately even if other areas in their state still do not have good records. In addition, the new bail-out formula takes into account more recent evidence of the jurisdiction's record of nondiscrimination.

Q. How does the new bail-out provision work?

A. In summary, a jurisdiction has to show that for the ten years leading up to a bail-out suit there have been no (1) literacy tests; (2) lawsuits ending in judgments of voting discrimination or consent decrees; (3) Section 5 objections; (4) federal examiners; or (5) Section 5 changes not submitted. In addition, the jurisdiction must show that it has taken positive action to improve voter participation and to eliminate voter intimidation and discriminatory methods of election. If a county is applying, all towns and districts within the county have to meet the tests; if a state applies, all jurisdictions within the state have to meet them. The decision is made by a federal court in the District of Columbia.

Q. What about complaints that the bail-out requirements are too tough?

A. These complaints overlook the fact that the bail-out provision already represents relaxation of the law, which was accepted as a compromise by the Act's supporters. The Joint Center has estimated that 200 of the approximately 800 counties in the wholly covered states would meet the "ten-year" tests by 1984 (when the new bail-out provision would take effect), with others becoming eligible to apply in the following several years. Eligible jurisdictions will have to take the positive steps outlined above in addition to meeting the qualifying criteria, and there is no way to predict how many of them will do so or how soon. If there is full compliance, every jurisdiction could theoretically be out by 1992.

In fact, supporters of the Act fear that instead of the bail-out procedure being too tough, it may be too easy. They believe that any further liberalizing of the bail-out provision could turn it into a sieve.

Q. How long would Section 5 continue to apply under S. 1992 and H.R. 3112?

A. Coverage is no longer extended for a specific number of years but is instead tied to a jurisdiction's record. Jurisdictions with good records will be able to end coverage earlier than they would have been able to under a straight ten-year extension. But jurisdictions with poor records will and obviously should stay covered until they can show there is no need for Section 5 preclearance protection.

Section 2: "Intent" Test Versus "Results" Test

Q. How and why do H.R. 3112 and S. 1992 amend Section 2?

A. It had been generally understood that a violation of Section 2—a permanent provision that prohibits racial discrimination in voting everywhere—could be demonstrated by proving the discriminatory result of an action; proof of a specific discriminatory intent was not required. In 1980, though, the Supreme Court ruled in *Mobile* v. *Bolden* that proof of specific discriminatory intent *is* needed to establish that a voting law or practice is racially discriminatory in violation of Section 2. Intent is next to impossible to prove, even where there is blatant discrimination. So an amendment is needed to restore Section 2's original meaning.

Q. How do we know that Congress did not mean to require an intent or purpose test in 1965?

A. Attorney General Katzenbach, who was principally responsible for drafting the Act, said that Section 2 would cover "any kind of practice of that kind if its purpose or effect was to deny or abridge the right to vote on account of race or color." Again in 1970, the Senate Committee said the power to sue over practices that had a discriminatory effect was already in the Act.

Opponents point to statements by senators in 1965 that Section 2 was supposed to be like the Fifteenth Amendment; since the Fifteenth Amendment has been held to require proof of purpose, these opponents say, Section 2 must mean the same. This ignores the fact that the Fifteenth Amendment was not held to require proof of purpose until the 1980 *Mobile* case, and that when Congress was writing the Voting Rights Act in 1965, there was no requirement of purpose in either the Fifteenth Amendment or Section 2.

Q. Is the amendment to Section 2 overruling the Supreme Court?

A. No. In *Mobile*, the Supreme Court ruled on the standard of proof both under the Fourteenth and Fifteenth Amendments and under Section 2 of the Voting Rights Act. Since the Supreme Court is the final judge of what the Constitution means, the Court's interpretation of the Fourteenth and Fifteenth Amendments cannot be changed by Congress. But when the Court rules on the meaning of a Congressional statute, Congress has the power to respond by modifying its legislation to make its meaning clear. This happens frequently.

Furthermore, the Supreme Court has said explicitly that Congress can pass laws that help enforce the Constitution. That is what Congress would be doing: it would be clarifying the way Section 2 is to be used to enforce the Fourteenth and Fifteenth Amendments.

Q. If Section 5 is extended, why is Section 2 important?

A. Section 5 covers only changes in voting procedures made after 1965 and only changes in the states and counties that are required to get preclearance. Therefore, discriminatory voting procedures instituted before 1965 or in areas of the country not subject to preclearance have to be challenged under Section 2. In addition, even the areas now covered by Section 5 will bail out at some time; Section 2 will be needed if a discriminatory law or procedure is adopted after a jurisdiction has bailed out.

Q. What would the standard be for proving discrimination under amended Section 2?

A. The amendment would reinstate the standard under which voting discrimination cases were

tried before 1980. This standard, based generally on a 1973 Supreme Court case from Texas called *White* v. *Regester,* is whether the totality of circumstances indicates that a system is discriminatory, rather than whether those who were responsible for adopting or maintaining the system had a discriminatory purpose in mind.

In applying this standard, courts look to see whether a system effectively denies equal political *access* or *opportunity* to minority voters. Relevant factors go beyond formal barriers such as literacy tests to such evidence as a history of official discrimination in voting, a history of exclusion of minorities from elective office, voting severely polarized by race, consistent defeat of minority candidates, and electoral mechanisms that sustain the exclusion. Not all of these factors would have to be shown in any particular case, but enough would have to be shown to demonstrate that minority voters were essentially shut out of the normal process of politics. If minorities simply lost elections or were underrepresented compared to their voting strength, that by itself would *not* be sufficient proof of discriminatory result.

Q. Why is a results standard necessary?

A. This standard focuses on the real-life results of the workings of the electoral system in its totality (not simply election results, as some have erroneously charged). It gets away from the virtually impossible standard of *Mobile* v. *Bolden,* which essentially made it necessary to produce a confession or a "smoking gun" as evidence. As the *Birmingham Post-Herald* said, "It would be quite a trick to subpoena them [those who passed the laws] from their graves to testify about their racial motives," and even when people are alive, they are not likely to confess to an intention to discriminate.

Q. Why can't discriminatory purpose be shown by circumstantial evidence?

A. Although the Supreme Court says discriminatory purpose can theoretically be shown by circumstantial evidence, the Court has in fact consistently rejected such proof in the discrimination cases that have come before it. In addition, the Court in the *Mobile* case said that a finding of discriminatory purpose could not be based on the legal doctrine that people are presumed to intend the natural consequences of their acts—which is the doctrine by which almost all cases requiring proof of a particular purpose are governed. Thus, the problem is not simply that discriminatory purpose has to be shown but that the ways in which it can be shown are highly restricted.

Voting rights cases decided since *Mobile* show this. In several cases, discrimination was blatant and obvious to all, yet courts ruled that it had to be allowed because no discriminatory purpose had been shown. This has happened, for example, in Thomas County, Georgia; Moultrie, Georgia; and Jackson, Mississippi.

Most telling of all, though, was a case in Edgefield County, South Carolina. There, federal Judge Robert F. Chapman, on April 17, 1980, ruled that the at-large election system was grossly discriminatory in every way. Five days later the Supreme Court issued its decision in the *Mobile* v. *Bolden* case, and just because of that decision Judge Chapman was forced to withdraw his ruling, although the evidence had not changed.

Even in the few cases where there is some evidence of a discriminatory purpose, proving purpose is a terrible burden. After the decision in the Supreme Court, the *Mobile* v. *Bolden* case went back for a new trial, and there was an attempt to prove the discriminatory purpose. It took 6,000 hours of lawyers' time (along with 7,000 for researchers and expert witnesses), cost $120,000 (not counting lawyers' fees), and resulted in a two-and-a-half-week trial exploring every minute change in the city government from 1819 to the present, with most of the attention focused on the period from 1869 to 1876. One of the lawyers remarked that he felt he was trying history, with no sense of what this investigation had to do with whether the Mobile system today is or is not discriminatory.

Q. Will the amended Section 2 lead to a flood of legal challenges to election systems?

A. No. The requirements for proving discriminatory results are quite difficult and can only be met where voting discrimination is most egregious. What happened before *Mobile* is the best indication of what will happen if the prior law is restored. During the decade before *Mobile,* an average of fewer than 10 cases per year were filed, and only 20 decisions were handed down holding that election systems were discriminatory. The cases were difficult, time-consuming, and expensive, so it is simply not true that there would be a flood of cases.

Q. Is there any basis to the claim that eliminating the "intent" or "purpose" test will lead to requirements for proportional representation or quota systems?

A. None at all. These concepts were universally rejected, by both minorities and the courts, in cases decided before *Mobile,* and S. 1992 and H.R. 3112 restore the standard under which these cases were decided. Co-sponsors and supporting witnesses have repeatedly explained that the bill in no way calls for either proportional representation or quota systems. This is underlined by a sentence in the bills specifically rejecting any proportional representation requirement.

Q. Is a straight extension of the Act, now being urged by some former opponents, acceptable to those who support full enforcement of the voting rights of minorities?

A. No. Each part of S. 1992 is vital. The preclearance and language assistance provisions must be continued. And without a workable Section 2, there is no feasible way to reach voting discrimination in places not covered by Section 5. For these reasons, supporters of the Act have resisted all efforts to play one provision off against another and have steadfastly maintained that S. 1992 is a fair and effective extension bill.

Senate Testimony on the VRA

The following are excerpts from testimony on S. 1992 before the Senate Judiciary Subcommittee on the Constitution.

"With the enactment of the 1965 Act, black Americans finally began to collect on what Dr. Martin Luther King called the 'promissory note of the Constitution.' . . . Clearly, much has been achieved under the Voting Rights Act, but much remains to be done. We still need the Voting Rights Act. . . . Not only must it be passed, but it must be passed promptly. Unless Congress acts by August 6, 1982, Section 5, in effect, will no longer apply to several jurisdictions of special concern."—*Senator Charles McC. Mathias, Jr. (R-MD)*

"There are a number of battles which this society went through in the 1960s and which we thought we had put behind us. Now, there are those who would open old wounds. On a number of fronts, they ask us to refight these old battles once again. It is a sad spectacle. But I am still hopeful that the administration will not make that necessary—at least in the case of voting rights. . . .

"In the weeks ahead, we will hear a lot of technical discussion about 'bail out' and 'intent test,' about bilingual elections and Section 5 preclearance. But make no mistake about it. The issue to which those terms refer are not mere technicalities. They go to the core of our commitment to protect the right of every American to participate in the political process."—*Senator Edward M. Kennedy (D-MA)*

"I urge you to reject the intent standard as did the House. The organizations I represent and the civil rights community, without exception, oppose the 'intent' test. It is not only a difficult test—it is almost impossible, and is ofttimes a code word for allowing discrimination to continue, even when discrimination is there for everyone to see. . . .

"We need not guess at the legislative intent. Testifying for the Justice Department which drafted the Act, Attorney General Katzenbach expressly stated during the 1965 hearings that Section 2 was to reach any practice or procedure 'if its purpose *or effect* was to deny or abridge the right to vote on account of race or color.' . . .

"The language in the legislative history referenced by proponents of the intent standard, indicating that Congress intended Section 2 to track the prohibition of the Fifteenth Amendment, does not suggest a contrary interpretation. For, at the time the Voting Rights Act was enacted, it was not at all clear that intent had to be proved to meet the constitutional standard. The Supreme Court had not then taken that position. To the contrary—in 1965 the Court took the position that an electoral scheme was unconstitutional because, *'designedly or otherwise,'* it worked to dilute black voting strength."—*Benjamin L. Hooks, Executive Director, NAACP, and Chairman, Leadership Conference on Civil Rights*

"Hispanics and other language minority citizens have had the protections of the Voting Rights Act for only seven years—a short time in which to remedy generations of purposeful exclusion. But in that short period of time, we have begun to enter the mainstream of American political life, not without obstacles but with the protective shield of the Voting Rights Act. Now is not the time to diminish these protections and retreat from the national commitment to minority voting rights embodied in the Voting Rights Act of 1965 and reaffirmed in 1970 and again in 1975."—*Vilma Martinez, President and General Counsel, Mexican American Legal Defense and Educational Fund*

"The Voting Rights Act has created a new climate of awareness among minority citizens in covered jurisdictions that has made them more conscious of their rights to participate fully in their communities' political decision-making process. It has made election officials wary of abridging that right. Many Leagues believe that their area's coverage under the Act's special provisions has made public officials more accepting and sensitive to the needs of the minority community. Most of all, the Voting Rights Act has been of great symbolic importance to the nation as a statement of national commitment to the equal access of all to the ballot. The passage of S. 1992, a strong, fair, widely endorsed bill, would be a signal to the nation that this commitment still stands."—*Ruth J. Hinerfeld, President, League of Women Voters*

"I should say that my views on what had to be proved before *Mobile* are borne out, to my way of thinking, by my actual experience in litigating voting discrimination cases over the past eight years. . . . We were required to prove essentially that the electoral system in the particular county or city, taken in the totality of circumstances, shut minority voters out of a fair *opportunity* to participate—that is important, there was never any aspect to our claims of any guarantee of a particular result (much less a result of proportional representation); it was opportunity. And if any of the subcommittee members would actually go and look at some of these places, they would see that it is really pretty irrelevant to talk about claims of proportional representation; just as it is also pretty irrelevant to talk about any realistic opportunity within the existing electoral system because black voters had always been shut out, pure and simple."—*David Walbert, Attorney, Atlanta, Georgia*

"The Voting Rights Act is intended to eliminate discrimination which denies or abridges the voting rights of minorities because of their status as minorities. The amendment to Section 2 is necessary to accomplish that goal. To argue that discriminatory purpose must be proved is to condone the violation of the right to vote and to make illegal only a discriminatory purpose. How can anyone claim to support the right of minorities to vote and participate in the democratic process and yet oppose an amendment which makes illegal those laws and practices which result in a denial or abridgement of that right?"—*Henry J. Kirksey, Mississippi State Senator*

Telescope

Black Organizations Support Two Women Convicted in Alabama Vote Fraud Case

Julia Wilder and Maggie Bozeman, both convicted on vote fraud charges in Pickens County, Alabama, in 1979, and later imprisoned, were released to a sheriff on a work release program January 19.

Pickens County is a small rural area in western Alabama. Though blacks make up more than 40 percent of the population, there have never been any blacks elected to public office, with the exception of two black mayors elected in small, all black communities. The Board of Registrars refuses to hold voter registration in precincts and to educate black voters about absentee ballots. Voters must complete their ballots in the presence of white poll watchers, and policemen take photographs of people who attempt to assist illiterate black voters.

During the Spring and Summer of 1978, the Southern Christian Leadership Conference, the NAACP, and the Pickens County Voters League, led by Julia Wilder and Maggie Bozeman, organized one of the largest voter registration drives in the history of the county. House-bound citizens, elderly citizens, those with no transportation, and those who could not read or write were taken to the courthouse to register. As a result, more than 800 blacks were registered to vote, and during the election, they were assisted in completing absentee ballots. Wilder and Bozeman were later convicted on the testimony of one witness (70 years old) who testified that she didn't know what she was being asked to do when the women offered to help her mark her ballot. All 12 of the other witnesses stated that they were aware that they had cast absentee ballots.

The judge who presided over the case, Clatus Junkin, refused to grant probation to Wilder and Bozeman or to suspend their sentences and ordered them jailed immediately after the appeals of their convictions had been exhausted. This same judge had sentenced a white police chief convicted of vote fraud to six months and then suspended the sentence. According to the *New York Times,* state officials believe the two women received the stiffest jail sentences—Wilder, 5 years, and Bozeman, 4 years—in a vote fraud case in years. The U.S. Supreme Court refused to hear the case.

Their convictions and subsequent imprisonments stirred protest rallies throughout the state. A coalition consisting of more than 25 organizations including the SCLC, the NAACP, the Black Leadership Forum, the American Civil Liberties Union, and the National Urban League was formed to pressure Alabama Governor Fob James and the Board of Pardons and Parole to free the women.

SCLC president Joseph E. Lowery called the decision to release the women on a work release program "unsatisfactory," and stated that the SCLC would continue to press the parole board for full pardons for both the women. The SCLC cited this case as one more major reason why the House version of the Voting Rights Act should be extended with no weakening amendments.

Afro-American History Month

President Reagan's proclamation of February 1982 as National Afro-American History Month states, "Furthering our knowledge of black history and development is an important part of the education not only of black Americans but all Americans. . . ."

Fifty-six years ago this February, Dr. Carter G. Woodson, noted historian and founder of the Association for the Study of Afro-American Life and History, initiated the celebration of Negro History Week. At a time when the myth of black inferiority was widely accepted, his aim was to foster among Afro-Americans a knowledge of their history and pride in their race, and to focus public attention on the contributions of black Americans to the development of this nation. His effort was widely supported by schools, churches, and clubs in the black community, and the observance gradually gained support among public institutions throughout the United States. In 1976, during America's bicentennial celebration, Negro History Week was expanded to become Afro-American History Month, which is now observed nationally by all segments of the society.

Afro-American History month is important because it helps to destroy the misunderstanding and prejudice that spring from ignorance. It is especially important for black Americans because it serves as a rise in the landscape from which we can focus proudly on our past and consider the future.

President Reagan's Tax Exemption Policies

On January 13, Eddie N. Williams, president of the Joint Center, issued a statement condemning President Reagan's reversal of a decade-old policy of denying tax exemption to racially segregated schools and his subsequent attempt to "compensate for a bad political blunder" by saying he planned to submit tax-exemption legislation to Congress. "Once again," Williams said, "President Reagan says he will not tolerate racial discrimination, while his actions show the opposite."

Since that time, the situation has grown cloudier, not clearer. There are grave concerns over the entire notion of passing legislation now that would state what Congress and the courts had understood to be the law all along. By passing new legislation, the original meaning of the Civil Rights Act of 1964 could be called into question. A rash of lawsuits could result, with schools that had been denied exemptions under the old policy claiming that the passage of a new law now meant the old policy *was* illegal and seeking to recover the taxes they had paid. And a dangerous precedent could be set for the relationship between the specific policies of administrative agencies and Congressional legislation. It has been pointed out that the IRS has been exempting Social Security payments for income taxation since 1941 without authorization from Congress. Is that policy about to be altered?

The *New York Times,* in an editorial on February 5, said, "When it proposed to start granting segschool exemptions, the administration was flirting with contempt of court. By asking for legislative action now, it flirts with cynical contempt for Congress."

Minorities in the State Department

As of September 30, 1981, minorities made up 10.9 percent and women 15.8 percent of all U.S. Department of State foreign service officers and career candidates, according to the January 1982 report by the Equal Employment Opportunity Office of the department. Ambassadorial nominations between January and December 1981 included 12 minorities and 9 women—16 percent of the 132 ambassadors nominated by President Reagan.

At present, the six black ambassadors are John A. Burroughs, Jr., ambassador to Malawi; Horace G. Dawson, Botswana; Ronald D. Palmer, Malaysia; Terrence A. Todman, Spain; Melvin H. Evans, Trinidad and Tobago; and Gerald E. Thomas, Guyana. Howard K. Walker, nominated to be ambassador to Togo, has not yet been confirmed by the Senate.

A report published in June 1981, by the U.S. Commission on Civil Rights, entitled *Equal Opportunity in the Foreign Service,* found that minorities and females continue to be underrepresented at senior levels in the Department of State, the International Communication Agency (ICA), and the Agency for International Development (AID). The report, describing the Department of State's efforts to increase the representation of minorities and women in the Foreign Service, states, "Foreign service positions have traditionally been filled almost exclusively by white males [because of] its complex and lengthy entrance procedures, its relatively small size, and . . . elitist attitudes."

Under the Carter administration, minorities and women received 5 of the top 24 appointments to noncareer positions at the State Department and 26 of 157 ambassadorial appointments (17.3 percent). During the same period, the percentage of minorities and women appointed to top positions at AID and ICA was considerably lower.

Secretary of State Dean Rusk launched the State Department's first affirmative action efforts in 1963. Recognizing that major changes throughout the world—including the emergence of newly independent nations in Africa, Asia, and the Caribbean—demanded that the personnel of the Foreign Service be more representative of American society as a whole, Secretary Rusk instituted programs to recruit minorities and women. In 1977, however, a study showed that the composition of the Foreign Service had not changed appreciably.

Shortly after taking office that same year, Secretary of State Cyrus Vance appointed an Executive Level Task Force on Affirmative Action to prepare recommendations concerning personnel policies in the foreign affairs agencies. In 1979, he appointed another high-level study committee to focus specifically on recruitment and examination procedures. The fact that an undersecretary of state, Philip Habib, was appointed to head the committee indicates the importance attached to the committee's mission. Many of the 150 recommendations of the two study commissions have been implemented, according to the Equal Employment Opportunity Office at the department.

The 1981 Civil Rights Commission report and the more recent report by the Equal Employment Opportunity Office of the Department of State indicate somewhat improved minority and female representation at State, ICA, and AID. Currently, blacks make up 6.2 percent of all foreign service officers and career candidates; Hispanics, 3.2 percent; Asian Americans, 1.2 percent; and American Indians, 0.3 percent.

On February 5, the Thursday Luncheon Group, an organization composed mainly of black employees of the foreign affairs agencies, honored Arthur S. Flemming, former chairman of the Civil Rights Commission, for the report, which was prepared under his direction. Guest speaker Congressman George W. Crockett, Jr., a member of the House Foreign Affairs Committee, noted the continuing underrepresentation of blacks in senior policy-making positions. He reminded the group "that you too have friends in Congress, both black and white, who are watching this situation and are prepared to work with you and stand by you in your efforts to make the Department of State and the Foreign Service of the United States the truly diverse and representative body that it really should be."

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