

Voting Rights

(for *Encyclopedia of the American Constitution, Supplement II*)

The 1980s began inauspiciously for supporters of minority voting rights when a plurality of the Supreme Court ruled in *City of Mobile v. Bolden* (1980) that the Voting Rights Act prohibited only intentional discrimination. Yet two years later, civil rights forces, over Reagan Administration objections, amended the Act to make clear that it was meant to prohibit laws or practices that had either the intent or the effect of discriminating against people on the basis of race. The bipartisan consensus in favor of a strengthened Voting Rights Act, the explicit standards in the authoritative Senate report on the Act, and the attention and élan that the 1981-82 struggle restored to voting rights carried the movement to successes through the rest of the 1980s. At-large elections like those at issue in *Bolden* were declared illegal in many areas in the South and some outside it.

Even though the Supreme Court sustained attacks on at-large elections in its most important interpretation of the 1982 amendments in *Thornburg v. Gingles* (1986), critics such as political scientist Abigail Thernstrom and Justice Clarence Thomas harshly denounced the trend. Electoral structures, Thernstrom thought, should be overturned only in the most egregious cases of discrimination against African-Americans. Latinos, she claimed, did not suffer from enough discrimination to deserve protection. The Voting Rights Act, she announced, should never have deviated from what she asserted was its sole original intent, to protect the right to cast a ballot. In a lengthy concurrence to *Holder v. Hall* (1994), Justice Thomas not only agreed with Thernstrom, but also went on to argue that the amended Voting Rights Act was never intended

to apply to such electoral structures as at-large elections and redistricting, but only to guard an individual's right to register and vote, which he believed to be of merely symbolic importance, anyway. Not only were Thernstrom's and Thomas's empirical assertions factually incorrect, but they also failed to apply their value judgments consistently when the Supreme Court vetoed pro-minority redistricting in *Shaw v. Reno* (1993) and its successors, decisions that threatened to reverse many of the voting rights victories of the 1980s. **See Reapportionment**

In the other major voting rights development of the 1990s, the Clinton Administration passed the National Voter Registration Act, popularly known as "Motor Voter," which facilitated voter registration by requiring states to register voters for federal elections in offices that served the public, such as departments of motor vehicles and welfare and unemployment bureaus. Fearing a surge of new lower-class, pro-Democratic voters, several Republican governors refused to effectuate the law and unsuccessfully took it to court. By the time that the Supreme Court rejected the challenge, it had become clear that the large number of new registrants did not affiliate disproportionately with either major party. Estimates of additional registration due to the NVRA ranged from 3.5 to 9 million people in 1995-96.

Bibliography

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