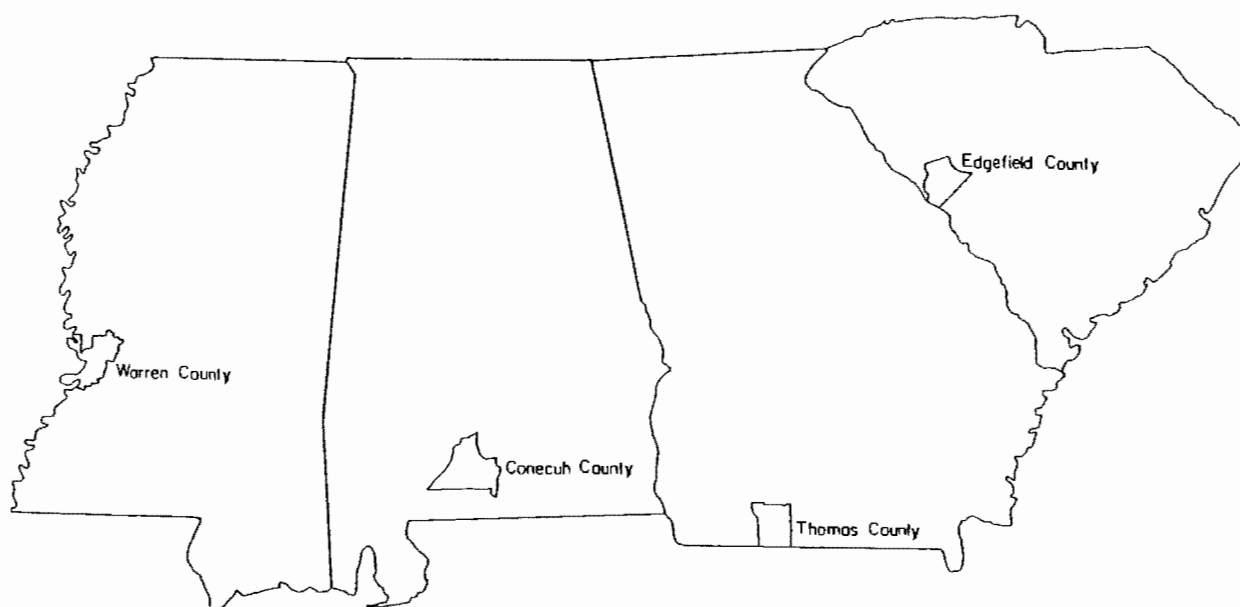


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Voting Rights in Alabama, Georgia, Mississippi and South Carolina



report of the Alabama, Georgia, Mississippi and South Carolina Advisory Committees to the States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make its reaction. In the meantime, the findings and recommendations of this report should be attributed to the Commission but only to the Alabama, Georgia, Mississippi and South Carolina Advisory Committees.

March 1981

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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ATTRIBUTION:

The findings and recommendations contained in this report are those of the Alabama, Georgia, Mississippi and South Carolina Advisory Committees to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the Alabama, Georgia, Mississippi and South Carolina Advisory Committees for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

RIGHT OF RESPONSE:

Prior to the publication of a report, State Advisory Committees afford to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

LETTER OF TRANSMITTAL

U.S. Commission on Civil Rights
March 1982

MEMBERS OF THE COMMISSION

Arthur S. Flemming, Chairman
Mary F. Berry, Vice Chairman
Stephen Horn
Blandina C. Ramirez
Jill S. Ruckelshaus
Murray Saltzman

John Hope III, Acting Staff Director

Dear Commissioners:

The chairpersons and members of the Alabama, Georgia, Mississippi and South Carolina Advisory Committees are pleased to transmit this report, Voting Rights in Alabama, Georgia, Mississippi and South Carolina. This report presents the Advisory Committees' evaluation of the current status of minority voting rights in 8 selected representative jurisdictions in Alabama, Georgia, Mississippi and South Carolina covered by the Voting Rights Act of 1965, as amended. Information contained in this report is based primarily on interviews with local officials, individual complainants, court decisions, and U.S. Department of Justice objection letters.

While there has been an increase in the political participation of minorities in the selected jurisdictions there remains throughout Alabama, Georgia, Mississippi and South Carolina continued opposition, resistance and hostility to the full participation of minorities in the electoral process. Dubious annexations, redistricting, at-large elections, bloc voting, failure to comply with the preclearance provisions of the Act and other less obvious acts of discouragement have all served to dilute the strength of increased numbers of minority voters.

We have therefore concluded that the special protections of the Voting Rights Act, as amended, should be extended continually. We therefore recommend...that the Commission urge the President and Senate to support the current House Version (HR 3112) of the extension of the voting Rights Act through support and passage of Senate Bill 1992.

Further, we conclude that because of the continuing widespread noncompliance with Section 5 (the pre-clearance provisions of the Voting Rights Act), U.S. Department of Justice initiated compliance reviews are required. We therefore recommend that the U.S. Commission on Civil Rights urge the U.S. Department of Justice to initiate periodic compliance reviews designed to determine the extent to which jurisdictions are complying with both the letter and the spirit of Section 5 provisions.

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

Respectfully,

From the Advisory Committees of

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Georgia
Mississippi
South Carolina

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ACKNOWLEDGEMENTS

The Alabama, Georgia, Mississippi, and South Carolina Advisory Committees wish to thank the staff of the Commission's Southern Regional Office, Atlanta, Georgia, for its assistance in the preparation of this report.

The investigation and report were the principal staff assignment of Courtney Siceloff, who conducted field investigations along with Edith Hammond, Richmond Doyle and Miriam Grayboff. Research and writing assistance was provided by Regional Attorney Clinton M. Fried. Staff support was provided by Joan R. Harper, Emma Allen and Portia Raby. All worked under the guidance of Bobby D. Doctor, Regional Director and Idalia Morales-Miller, Deputy Director.

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INTRODUCTION

CHAPTER 1

The fifteenth Amendment to the United States Constitution adopted in 1870 provides that "[t]he right of citizens...to vote should not be denied or abridged by the United States or any State government on account of race, color, or previous conditions of servitude."¹ The Congress, acknowledging its salient obligation and responsibility to provide appropriate implementation of the fifteenth amendment during Committee debate on the Voting Rights Act stated:

The historic struggle for realization of this constitutional guarantee indicates clearly that our national achievement in this area has fallen far short of our aspiration. The history of the fifteenth amendment litigation in the Supreme Court reveals both the variety and means used to bar Negro voting and the durability of such discriminatory policies.²

The Voting Rights Act of 1965 provides a statutory framework for thwarting practices which infringe upon the rights of non-white and minority language groups to register and vote. In addition, the Act contains a special provision, Section 5, designed to stymie any new efforts on the part of state or local political subdivisions to enact new measures which adversely impact upon minority voter participation in the electoral process.

¹U.S. Const. Amend. XV, Sec. 1.

²H.R. Rep. No. 439, 89th Cong. Secs. 2437, 2439 (1965).

The special provisions of the Voting Rights Act are due to expire in August of 1982. On April 7, 1981, Senator Charles Mathias, Md., joined by 7 cosponsors and Rep. Peter Rodino, together with 43 cosponsors introduced S. 895 and H.R. 3112 respectively. Briefly, S. 895 and H.R. 3112 were duplicate, companion pieces of legislation which extend coverage of the Voting Rights Act in all jurisdictions in which the special provisions of the Act are applicable for 10 additional years, or through 1992. Likewise, the bilingual provisions of the Act are also extended by the proposed legislation for the same period of time. Significantly, the new legislation alters the present Act by broadening its provisions to prohibit indirect discrimination and uses a standard of proof for establishing discrimination which allows the courts to consider evidence that actions of voting officials have a discriminatory result. Presently, litigants in Voting Rights Act cases must establish discriminatory intent in order to prevail under Section 2.

On October 5, 1981, the House of Representatives voted 389 to 24 for extension of the Voting Rights Act by approving H.R. 3112 and rejecting all amendments which would have weakened the bill. The bill passed by the House now is in the Senate, as S. 1992 where it must run the gauntlet of hearings, judiciary committee and full committee mark-ups and consideration on the Senate floor. Hearings on the bill which began on January 27, 1982 will be conducted by Senator Orrin Hatch, Chairman of the Senate Judiciary Subcommittee on the Constitution. ³

³Voting Rights Report, No. 2, Joint Center for Political Studies (October 9, 1981); Voting Rights Extension: Section 2, The New Battleground, Focus, Vol. 10, No. 2 (February, 1982).

The aspiration of the Act was stated succinctly by the Supreme Court of the United States in South Carolina v. Katzenbach,⁴ which upheld the constitutionality of the Voting Rights Act and expressed the hope that:

...millions of non-white Americans will now be able to participate for the first time on an equal basis in the government under which they live.

In recognition of the topical nature of the debate concerning the proposed extension of the Voting Rights Act of 1965 and its significant continuing impact upon the voting rights of this nation's minority citizens, members of the Alabama, Georgia, Mississippi and South Carolina Advisory Committees to the U.S. Commission on Civil Rights chose to conduct a study into the status of voting rights in selected jurisdictions in Alabama, Georgia, Mississippi and South Carolina. Eight representative jurisdictions in the four states were selected because they are in states that are covered in their geographical entirety by the Voting Rights Act of 1965 as amended. The eight jurisdictions in the states namely, Evergreen and Conecuh County (Alabama), Thomasville and Thomas County (Georgia), Vicksburg and Warren County (Mississippi), and, Edgefield and Edgefield County (South Carolina) were also selected for inclusions in the study based upon their overall size, significant minority population, form of government and the availability of relevant statistical data and other research information. Members of the advisory committees and Commission staff interviewed numerous citizens, black and white, as well as public officials charged with the responsibility of supervising voter registration and elections in the aforementioned areas. At the time of these interviews no blacks or other minority citizens in Conecuh County, Alabama, Thomas County, Georgia or Edgefield County, South Carolina had ever been elected to the county

⁴383 U.S. 301 (1966).

governing commissions. And only after protracted legal action in Warren County, Mississippi was a black elected to that county's governing commission.

In view of these developments members of the Alabama, Georgia, Mississippi and South Carolina Advisory Committees to the U.S. Commission on Civil Rights sought to ascertain through this study the true status of Voting Rights in Alabama, Georgia, Mississippi and South Carolina.

Chapter 2

OVERVIEW OF VOTING RIGHTS ACT OF 1965

Enacted on August 6, 1965, the Voting Rights Act was subsequently amended in 1970 and 1975.¹ The Act is composed of both general provisions which are permanent and have nationwide applicability and special provisions which are temporary in nature and effect only certain jurisdictions meeting specifically delineated criteria.² Significantly, the general provisions state that:

No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color [or inclusion in a minority language group].³

The permanent features of the Act make it a criminal act for an official to refuse to allow a qualified person to vote or to use threats or intimidation to bar someone from voting or aid another to vote.⁴ The Act permanently prohibits the use of any test or device with respect to voting or registration, thus removing a major obstacle which had existed to voting for minorities.⁵ Furthermore, the implementation of poll taxes by certain jurisdictions as a prerequisite to voting, is declared unconstitutional.⁶

142 U.S.C. Secs. 1971, 1972-1973 bb-1.

2Id.

342 U.S.C. Sec. 1973.

442 U.S.C. Sec. 1973 j. The bill under present consideration provides that voting discrimination can be proved in court cases by showing discriminatory results without showing a specific intent to discriminate.

542 U.S.C. Sec. 1973aa-1.

642 U.S.C. Sec. 1973 h.

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Section 3 of the Act, also a permanent feature of the Act, enables private parties to bring actions for enforcement of voting rights. Both private parties and the Attorney General may bring law suits to ensure enforcement of the guarantees of the 14th and 15th amendments and may seek to invoke the Act's special provisions anywhere in the United States. Private parties are thus able to take a contrary position to that of the Attorney General insofar as seeking application of the Act's special provisions in a non-covered jurisdiction.⁷ The right of private action is enhanced by the authorization of the award of attorney's fees in voting rights cases.⁸

Whenever an action is brought as described above, the District Court may authorize the appointment of Federal election examiners as it deems appropriate to enforce the voting guarantees of the 14th and 15th amendments.⁹ In addition to the court appointment of Federal election examiners, the Attorney General may certify the necessity for appointing Federal election examiners: (1) based upon his receipt of 20 or more meritorious written citizen complaints from a political subdivision alleging a denial of the right to vote, or (2) his judgment that the appointment of examiners is otherwise necessary to enforce guarantees of the fifteenth amendment.¹⁰

The Act also establishes nationwide standards for absentee registration and balloting in presidential elections and abolishes durational residency requirements as a precondition for voting in presidential elections. Briefly, the states are required to allow all qualified persons to register to vote 30 days prior to a presidential election, and permit qualified voters to cast absentee ballots, if applied for not less than 7 days prior to the presidential election. If a qualified voter does not satisfy the 30 day registration requirement because of moving to a new state, or jurisdiction within 30 days of an election, the voter must be allowed to vote either in person or by absentee ballot at his or her prior residence.¹¹

742 U.S.C. Secs. 1973 (a)-(c).

842 U.S.C. Sec. 1973 l (e).

942 U.S.C. Sec. 1973a.

1042 U.S.C. Sec. 1973 (d).

1142 U.S.C. Sec. 1973 aa-1.

The special provisions of the Voting Rights Act are temporary and apply only to those jurisdictions meeting a "trigger" found in Sections 4 through 9 and Section 203 of the Act requiring that:

1) The jurisdiction maintained on November 1, 1964 any test or device as a precondition for voting or registering, and less than 50 percent of its total voting age population were registered on November 1, 1964, or voted in the presidential election of 1964.¹²

2) The jurisdiction maintained on November 1, 1968, a test or device as a precondition for voting or registering, and less than 50 percent of its total voting age population were registered on November 1, 1968 or voted in the presidential election of 1968.¹³

3) The jurisdiction maintained on November 1, 1972 any test or device,¹⁴ as a precondition to voting or registering, and registered on November 1, 1972 or voted in the presidential election of 1972,¹⁵ and more than 5 percent of the citizens of voting age in the jurisdiction were members of a single language minority group.¹⁶

If any of the triggering mechanisms apply to a particular jurisdiction, then it is subject to Section 5 of the Act which requires that it preclear any proposed change in its voting standards, procedures prerequisites, or practice with respect to voting with the Attorney General, and prove that

¹²42 U.S.C. Sec. 1973b(b).

¹³Id.

¹⁴42 U.S.C. Sec. 1973 b (f) (3).

¹⁵42 U.S.C. Sec. 1973 (b) (b).

¹⁶42 U.S.C. Sec. 1973 aa-1a (b).

it does not discriminate in any purpose or effect. A jurisdiction also has the option of seeking a declaratory judgment in the U.S. District Court for the District of Columbia that the proposed change in its voting standards, procedures prerequisites, or practices with respect to voting does not discriminate in any purpose or effect. The new qualification or procedure may be enforced 60 days after the submission is completed if the Attorney General interposes no objection; however, the Attorney General is not precluded from an action to enjoin enforcement of the new provision after the 60 day period lapses.

The changes that will be considered to effect voting and are thus subject to the preclearance requirement of Section 5 have been construed most expansively. The U.S. Supreme Court has held that Congress intended to include within the scope of Section 5 any voting change which altered election laws "in even a minor way" in order to give Section 5 the "broadest possible scope" and that if a change had the potential for effecting the voting rights of protected minorities, it becomes subject to Section 5 preclearance.¹⁷

Bail out from coverage by the special provisions is provided for a jurisdiction obtaining a declaratory judgment in the U.S. District Court for the District of Columbia that it has not used a discriminatory test or device with a discriminatory purpose or effect for a prescribed period of years prior to filing the action. Jurisdictions that maintained discriminatory tests or devices as a prerequisite to registering or voting on November 1, 1964, or 1968 must prove that they have not been used for 17 years.¹⁸ Jurisdictions that maintained such tests or devices in November, 1972 must establish that they have not been used for 10 years.¹⁹ Finally, bail out from Section 203 coverage can be accomplished by obtaining a declaratory judgment in any U.S. District Court that the illiteracy rate of its applicable language minority group is equal to or less than the national illiteracy rate.²⁰

¹⁷Allen v. State Board of Elections, 393 U.S. 544, 566-571 (1969).

¹⁸42 U.S.C. Sec. 1973 b(a).

¹⁹Id.

²⁰42 U.S.C. Sec. 1973 aa-1a(d).

Chapter 3

SECTION 5 REGULATIONS

Due to the importance of Section 5 in fulfilling the aims of the Voting Rights Act a discussion of its implementing regulations follows:

Section 5 Regulations

Section 5 of the Voting Rights Act of 1965 prohibits the enforcement of any voting qualification, prerequisite, standard practice, or procedure with respect to voting in any jurisdiction covered by Section 4(b) of the Act different from that in force or effect on the date used to determine coverage until either (1) a declaratory judgment is obtained from the District Court for the District of Columbia that such proposed change does not have the purpose or effect of denying or infringing upon the right to vote on account of race, color or membership in a minority language group, or (2) the proposed change has been submitted to the Attorney General and he has made no objection within a 60 day period following the submission.¹ The obligation to seek a declaratory judgment, or make a preclearance submission is not relieved by prior unlawful enforcement of the change.²

A jurisdiction's coverage under Section 5 is conclusive upon publication of the requisite determinations in the Federal Register by the Director of the Census and the date used for the determination will be either November 1, 1964, November 1, 1968, or November 1, 1972 depending upon which statutory trigger is invoking Section 5 coverage.³

¹28 C.F.R. Sec. 51.1.

²28 C.F.R. Sec. 51.9.

³28 C.F.R. Sec. 51.4.

Aside from voting, changes which are brought about by action of state or political subdivisions, political parties are also subject to Section 5 in two instances: (1) where the change relates to a public electoral function of the party, and (2) where the party is acting under authority either explicitly, or implicitly granted by a covered jurisdiction, or political subdivision subject to Section 5.⁴

The obligation to comply with the provisions of Section 5 apply to

Any change affecting voting , even though it appears to be minor or indirect, even though it ostensibly expands voting rights, or even though it is designed to remove the elements that caused objection by the Attorney General to a prior submitted change. ⁵

The regulations set forth 11 non-exhaustive examples of changes which are subject to Section 5:

- (1) changes in qualifications of eligibility for voting,
- (2) changes concerning registration, balloting, and the counting of votes as well as any changes concerning publicity for or assistance in registration or voting,
- (3) any change with regard to the use of any language other than English in any phase of the electoral process,
- (4) any change in the boundaries of voting precincts, or in any location of voting places,
- (5) any change in the constituency of an official, or vice versa,
- (6) any change in the method of determining election outcome, such as by requiring a majority vote, or the use of a designated post or place system,

⁴28 C.F.R. Sec. 51.7.

⁵28 C.F.R. Sec. 51.11.

- (7) any change affecting the eligibility of persons to become or remain candidates, to obtain a position on the ballot in primary or general elections, or to become or remain holders of elective office,
- (8) any change in the eligibility and qualification procedure for independent candidates,
- (9) any change in the term of an elective office, or an elected official, or in the offices that are elective, such as by shortening the term of an office, changing from election to appointment, or staggering the terms of offices,
- (10) any change affecting the necessity of or methods for offering issues and propositions for approval by referendum, and
- (11) any change affecting the right or ability of persons to participate in political campaigns which is effected by a jurisdiction covered by Section 5.⁶

The failure of the Attorney General to make an objection to legislation which (1) authorizes a political subunit to make a voting change, or (2) authorizes a political subunit to make a voting change upon the happening of a future event or upon satisfaction of certain criteria, does not excuse the subunit from the preclearance requirement unless it is explicitly provided for in the enabling legislation.⁷ Nor does the failure of the Attorney General to object to a procedure for instituting a change absolve the submitting authority of seeking preclearance of any substantive change brought about under the approved procedure.⁸

Changes affecting voting ordered by a Federal court do not have to make a Section 5 submission; however, changes necessitated by the court order must be submitted, such as when there is a change in polling places required due to a court ordered districting plan.⁹

⁶28 C.F.R. Sec. 51.12.

⁷28 C.F.R. Sec. 51.14.

⁸28 C.F.R. Sec. 51.15.

⁹28 C.F.R. Sec. 51.16.

Section 5 submissions to the Attorney General may be by letter, or any other written form as soon as possible after the changes affecting voting are final, and should be made by the chief legal officer, or other officials designated by the submitting authority, or official of the political party submitting the change. ¹⁰

Information required to accompany a Section 5 submission includes: a copy of any ordinance, enactment, order or regulation calling for a change affecting voting, if the change affecting voting is not readily apparent, a clear explanation of the change, the location of the submitting authority, the date of adoption of the change, the date the change is to take effect, a statement identifying any past or present litigation concerning the change or related voting practices, a statement on the anticipated effect of the change on members of racial or language minority groups and a statement that the prior practice has been precleared (with the date), or is not subject to preclearance as well as the procedure for adopting the change. Other information which may be requested includes demographic information, maps and election returns. ¹¹

Significantly, where the submission involves controversial or possibly controversial changes, submissions should show evidence of public notice of the opportunity to be heard and the opportunity for interested persons to participate in the decision to adopt the proposed change, and how much participation actually took place, particularly by minorities. Materials which demonstrate public notice, or participation include: newspaper articles discussing the proposed change, copies of public notices describing the proposed change in inviting public comment, or participation in hearings or comments for consideration of the Attorney General, as well as statements describing where the notices appeared, excerpts from legislative journals, copies of comments from the general public and minutes of hearings concerning the proposed changes. ¹²

¹⁰28 C.F.R. Sec. 51.21.

¹¹28 C.F.R. Sec. 51.25.

¹²25 C.F.R. Sec. 51.26(e).

The regulations invite information from individuals or groups concerning changes affecting voting in Section 5 jurisdictions, which should include a description of the proposed change and whether the change has a discriminatory purpose, or effect, and also request that jurisdictions having a significant minority population submit names, addresses, telephone numbers and organization affiliation of minority group members who have either been politically active, or are familiar with the proposed change. 13

Chapter 4

REGISTRATION AND VOTING

Table 4.1 shows the percentage of those persons 18 years old or older who registered and voted in the 1980 elections by race in the 4 states which are the subject of this study as well as, the comparable percentages nationwide. The data contained in this table show that nationwide 66.9 percent of all persons 18 years old or older are registered to vote and 59.2 percent of the voting age population actually voted. With regard to the white population, 68.4 percent of the voting age population was registered and 60.9 percent actually voted. By contrast, only 60.0 percent of the black voting age population was registered and only 50.5 percent of the black voting age population actually voted.

In the states studied, the number of blacks registered and voting was below that of the white voting age population except for South Carolina, where the percentage of the black voting age population registered exceeded the corresponding percentage for the white voting age population, nevertheless, the white voter turnout was slightly greater 51.7 percent to 51.3 percent. Similarly, only in Mississippi did the percentage of blacks registered and voting exceed the nationwide average for all races and the corresponding percentage for white registered voters. A slightly lower percentage of blacks in Mississippi voted than did the white voting age population nationwide. Even so, a greater percentage of whites both registered and voted in Mississippi than did the black population. Likewise, the percentage of voting age blacks registered and voting in Alabama and Georgia lagged far behind the corresponding percentage of voting age whites registered and voting. Specifically, in Alabama, 73.3 percentage of the white voting age population was registered and 59.2 percent voted, while in the black

population the corresponding percentages were only 62.2 percent and 48.9 percent, for a gap of 11.1 percent and 10.3 percent respectively. Yet the greatest disparity between the percentage of whites and blacks registered and voting in 1980 was found in Georgia, where 67.0 percent of the white voting age population was registered and 56.0 actually voted, while in the black population, the respective percentages were only 39.8 percent and 43.7 percent, thus producing a gap of 27.2 percent and 12.3 percent in each category.

Although the gap between the percentage of voting age blacks and whites, who are registered, is still substantial, the data appearing in Table 4.2 giving the estimated pre-1965 Voting Rights Act registration percentages show the gap is narrowing. That Table shows that in 1965 in the 4 states which are the focus of this study 69.3 percent of the white voting age population was registered compared with only 22.7 percent of the black population, producing a gap of 46.6 percent. The registration gap in 1980 stood at 8.6 percent. Specifically, with regard to registration, the gap in 1965 for Alabama, Georgia, Mississippi, and South Carolina was 49.9 percent, 35.2 percent, 63.2 percent, and 38.4 percent, while in 1980 the gap had been closed to 11.1 percent, 27.2 percent; and 13.0 percent, while in South Carolina 4.2 percent more of the black population was registered than the white population (See Table 4.1).

Table 4.1

Reporting Voting and Registration by Race of Voting
Age Population in Alabama, Georgia, Mississippi and
South Carolina, and Nationwide, 1980

	White	Black	GAP*	All Races
<u>Alabama</u>				
Reported Voting	59.2	48.9	-10.3	56.4
Reported Registered	73.3	62.2	-11.1	70.2
<u>Georgia</u>				
Reported Voting	56.0	43.7	-12.3	53.5
Reported Registered	67.0	39.8	-27.2	65.6
<u>Mississippi</u>				
Reported Voting	70.9	59.5	-11.4	67.3
Reported Registered	85.2	72.2	-13.0	81.1
<u>South Carolina</u>				
Reported Voting	51.7	51.3	- .4	51.4
Reported Registered	57.2	61.4	+4.2	58.2
<u>TOTAL</u>				
Reported Registered	70.7	58.9	-11.8	57.9
Reported Voting	59.4	50.8	- 8.6	68.7
<u>United States</u>				
Reported Voting	60.9	50.5	-10.4	59.2
Reported Registered	68.4	60.0	- 8.4	66.9

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

Source: U.S. Bureau of Census, Unpublished Data, (1981).

Table 4.2

Registration by Race and State of Voting Age
Population as of March 1965

	<u>White</u>	<u>Black</u>	<u>GAP</u>
Alabama	69.2%	19.3%	49.9%
Georgia	62.6	27.4	35.2
Mississippi	69.9	6.7	63.2
South Carolina	75.7	37.3	38.4
TOTAL	69.3	22.7	46.76

Source: The Voting Rights Act: Ten Years After,
U.S. Commission on Civil Rights p.43 (1975).

Chapter 5

BLACK ELECTED OFFICIALS

As reflected by the 1980 data appearing in Table 5.1 which shows the number of black elected officials by position in the states studied, the most likely position to be held by a black elected official would be a position on a municipal governing body which accounts for 478, or nearly 43 percent of elected positions held by blacks.

The greatest number of blacks elected to office is found in Mississippi, with 387, followed by Georgia with 249 and Alabama and South Carolina, each with 238. South Carolina and Georgia have witnessed the greatest increases in the number of elected blacks since 1968: 2,056 and 1,276 percent respectively, while Mississippi and Alabama black elected officials have increased 1,197 and 966 percent (See Table 5.1).

Despite the impressive gains which have been made in the number of black elected officials, there are many counties which have substantial black populations, but no black county representation. Table 5.2 shows data reflecting the number of counties having 20 percent and 50 percent, or more black population, without any black representation on the county level. There are a total of 249 counties in Alabama, Georgia, Mississippi, and South Carolina which have a black population of 20 percent or more, and 153, or 61.4 percent have no black county representation. In the 62 counties having a 50 percent or more black population, 17 or 27.4 percent, have no black county elected officials. In Georgia, alone, there are 107 counties with a black population of 20 percent or more, and 74.8 percent of those counties have no black county elected officials, while in the 19 Georgia counties having a majority black population, 9, or 47.4 percent, have no black county representation.

The impact of the growth of the number of black elected officials is further diminished when viewed in the context of the total number of elected positions and percentage of black population in the jurisdiction studied. Data in Table

5.3 show that out of a total of 19,307 elected positions, only 1,112, or 5.8 percent are occupied by blacks. In Alabama, Georgia, Mississippi, and South Carolina which have black populations of 25.6, 26.8, 35.2, and 30.4 percent, the corresponding percentages of black elected officials are 5.7, 3.7, 7.3 and 7.4 . Not only does the percentage of black elected officials merely fail to approximate their proportionate share of the population in each state, the disparities are enormous.

Black Elected Officials in Alabama, Georgia,
Mississippi and South Carolina, - July 1980

Table 5.1

State and Year	U. S. Congress Senate/House		State Legislature Senate/House		County Governing Body	Other Positions	Mayor	City Governing Body	Law Enforcement Officials	Local School Board Officials	Total 1968	% Black held 1968	Total 1980	% Black Elected Officials 1980	Percent Increase 1968-1980
<u>Alabama</u>															
1980	0	0	2	13	26	5	16	110	40	26	24	.59	238	5.7	966
<u>Georgia</u>															
1980	0	0	2	21	23	4	7	139	8	45	21	.29	249	3.7	1,276
<u>Mississippi</u>															
1980	0	0	2	15	54	4	17	143	78	74	29	.61	387	7.3	1,197
<u>South Carolina</u>															
1980	0	0	0	14	38	1	13	86	20	66	11	.36	238	7.4	2,056
TOTAL	0	0	6	63	141	14	53	478	146	211	85	.44*	1,112	5.8**	1,318

Source: National Roster of Black Elected Officials, Vol. 10 Tables 3 and 6 PP. 4-5,7. (1981), hereinafter National Roster.

* Total elected positions in 1968 - 19,125

** Total elected positions in 1980 - 19,307

Table 5.2

Black elected County Officials in Alabama, Georgia, Mississippi, and South Carolina in counties with a 20 percent and 50 percent or more black population.

Counties with no black county
elected officials with 20% or
more black population, July 1980.

	<u>Counties</u>	<u>Number</u>	<u>Percent</u>
Alabama	37	22	59.5
Georgia	107	80	74.8
Mississippi	65	37	56.9
South Carolina	40	14	35.0
TOTAL	249	153	61.4

Counties with no black county
elected officials with 50% or
more black population, July 1980.

<u>Counties</u>	<u>Number</u>	<u>Percent</u>
10	2	20.0
19	9	47.4
21	4	19.0
12	2	16.7
62	17	27.4

Source: The Voting Rights Act: Unfulfilled Goals, U.S. Commission on Civil Rights,
Table 2.5, 26, p. 17 (September 1981), hereinafter Unfulfilled Goals.

Table 5.3

Black Percentages of Population and Elected Officials in
Alabama, Georgia, Mississippi and South Carolina, July 1980.

<u>State</u>	<u>Percent Blacks, 1980</u>	<u>Total Officials</u>	<u>Elected Officials</u>	
			<u>Number</u>	<u>Black Officials Percent of Total</u>
Alabama	25.6	4,151	238	5.7
Georgia	26.8	6,660	249	3.7
Mississippi	35.2	5,271	387	7.3
South Carolina	30.4	3,225	238	7.4
TOTAL	29.5	19,307	1,112	5.8

Source: Unfulfilled Goals, Table 2.3, p. 15.

Chapter 6

COMPLIANCE WITH SECTION 5 PRECLEARANCE

The data appearing in Table 6.1 depict the number of voting changes submitted under Section 5 and reviewed by the Department of Justice, by state and year from 1975-80. Out of a total of 30,322 submissions, 5,288, or 17.4 percent originated from Alabama, Georgia, Mississippi and South Carolina. The number of changes submitted and reviewed by the Department of Justice, for Alabama, Georgia, Mississippi, and South Carolina were respectively, 1,384, 2,282, 161 and 1,461.

During the same time period, data contained in Table 6.2 showing the number of objection letters issued by the Department of Justice show that only 236 objections were filed, or .78 percent of the submitted changes were objected to, just over 39 per year.

Of the 4 states studied herein, the state having the most objection letters was Georgia with 41, followed by Mississippi (28), South Carolina (27), and Alabama (22). Although there were only 236 objection letters filed in the 6-year period between 1975-80, 118, or 50 percent, were filed in the 4 states studied in this report.

Of course, many objection letters contained objections to multiple changes, as the data in Table 6.3 reflect. In the 236 objection letters filed, 538 objections were interposed, 271 objections, or 50.4 percent were made in the studied states. Thus, on average, each letter contained 2.3 objections. The number of objections interposed in Alabama, Georgia, Mississippi, and South Carolina were 42, 152, 40 and 37 respectively.

Table 6.4 shows the number and percentage of the objections interposed by the Department of Justice according to the type of objection interposed for all jurisdictions subject to Section 5. By far the greatest percentage of objections

was made with respect to annexation changes, 30.3 percent, followed by at-large election changes, 10.4 percent, and majority vote requirement changes, 8.6 percent.

Unfortunately, a mere breakdown on the number and type of objections made by the Department of Justice does not give a complete picture on the effectiveness of the Section 5 compliance, or enforcement effort. Information gathered by the Southern Regional Council (SRC) and other civil rights organizations reflects that a number of covered jurisdictions either failed to submit Section 5 election law changes or failed to adhere to objections interposed by the Department of Justice. Unfortunately, at the time of this writing, data on Mississippi is not available, but a review of the number and scope of the non-submissions in Alabama, Georgia, and South Carolina are illustrative of the dimension of the problem of the non-compliance of covered jurisdictions with the requirements of Section 5.

Data appearing in Table 6.5 show the number of non-submissions on both a state and county basis since the inception of the Act. The data show that Alabama and Georgia each had 45 election law changes made on a state level which were required to be submitted to the Department of Justice, but were not forwarded. There were 2 such non-submissions in South Carolina. In terms of election law changes on a county level, 22 non-submissions were found in Alabama, 316 in Georgia, and 106 in South Carolina, for a total of 444 in 3 states. The SRC found that there were a total of 67 non-submitted changes in Alabama, 361 in Georgia and 108 in South Carolina, or 536 overall.

Not only do jurisdictions fail to submit election law changes as required by Section 5, but in some instances changes are implemented notwithstanding Department of Justice objection. Data obtained from the Department of Justice which appear in Table 6.6 show that from 1975 to 1980, it had been involved in 48 cases pertaining to non-compliance with an objection interposed by the Attorney General under Section 5.

A prime technique of shifting the requirement of the Voting Rights Act and depriving blacks of elected representation has been to change the form of election from districts to an at-large method, where the black population is significant. The impact of such a change is to dilute black voting strength by shifting black voters, who are concentrated in certain districts, into a countywide tabulation of votes, where the white majority can numerically overwhelm them and their candidates.

In Georgia, a study conducted by the Southern Regional Office of the American Civil Liberties Union (ACLU) in 1980, showed that of a total of 18 blacks elected to county office which amounted to 3% of all such office holders, 16 were elected in counties, or from districts which had a black majority.¹

It is most significant that on November 1, 1964, the date on which the preclearance requirements of Section 5 were due to become effective in most covered jurisdictions, the following counties in Georgia, among others, with black population percentages as indicated: Calhoun (63%), Clay (61%), Dooly (50%), Early (45%), Miller (28%), Morgan (45%), Newton (31%) and Seminole (35%) had district elections for their county governments. Despite the substantial black population found, none of the 8 cited counties had any blacks elected to county government. It was inevitable that with the advent of the Voting Rights Act, blacks would obtain a majority in at least some single member districts. However, by 1971, each county, excluding Seminole, changed to an at-large voting scheme and none complied with Section 5 preclearance submission.²

¹Laughlin McDonald, The Bolden Decision Stonewalls Black Aspirations, Southern Changes, p. 16, July August (1981).

²Laughlin McDonald, Unpublished Report, (1981)

Between 1976 and 1980, 6 of the 8 jurisdictions were sued (Calhoun,³ Clay,⁴ Dooly,⁵ Early,⁶ Miller⁷ and Morgan⁸). In each case listed, the Federal courts ordered the defendants to either obtain preclearance of their voting plans in force, or return to district elections. All of these jurisdictions now have district voting plans.

The data contained in this section reveal much in terms of the variety and number of means utilized to deprive blacks of representative elected officials. Furthermore, the ultimate impact of all proposed changes in election methods, had they been implemented, cannot be calculated. The proposed changes were subsequently objected to by the Department of Justice and acquiesced to by the submitting jurisdictions. Likewise, it is impossible to estimate the number of election changes which were contemplated by covered jurisdictions, but were never enacted, based upon the recognition that the change would not survive preclearance review by the Department of Justice. Thus, it might be said that Section 5 serves as a "chilling effect" to stymie impermissible changes in election methods or procedures. Nevertheless, as cited above, in just 3 states there have been implemented at least 536 changes which should have been precleared pursuant to Section 5. As there are 12 states which, in-part, or in-whole, are subject to the original special provisions of the Voting Rights Act, the true scope of non-compliance and non-enforcement is alarmingly high.

³James v. Cowart, Civ. No. 79-79 (M.D. Ga. 1980).

⁴Davenport v. Isler, Civ. No. 80-42 (M.D. Ga. 1980);
Richardson v. Craiser, Civ. No. 33-80 and Ricks v. McKemie,
 Civ. No. 34-80 (Superior Court of Clay County, 1980).

⁵McKenzie v. Giles, Civ. No. 79-43 (M.D. Ga. 1980)

⁶Brown v. Scarborough, Civ. No. 80-27 (M.D. Ga. 1980)

⁷Thompson v. Mock Civ. No. 80-13 (M.D. Ga. 1980)

⁸Butler v. Underwood Civ. No. 76-53 (M.D. Ga. 1978).

Table

Table 6.1

Changes submitted under Section 5 and reviewed by the Department
of Justice, by State and Year 1975-80.

State	1975	1976	1977	1978	1979	1980	Total	
							Number	Percent
Alabama~	299	349	153	146	142	295	1,384	
Alaska	0	3	0	25	1	8	37	
Arizona	52	228	180	311	163	655	1,589	
California *	0	382	99	105	8	89	683	
Colorado*	0	12	4	34	147	36	233	
Connecticut**	0	0	0	0	0	0	0	
Florida*	1	57	8	46	28	28	168	
Georgia~	284	252	242	444	371	689	2,282	
Hawaii*	0	6	0	0	0	3	9	
Idaho*	0	0	0	0	0	1	1	
Louisiana	255	303	460	254	336	356	1,964	
Maine **	0	3	-	-	-	-	3	
Massachusetts**	0	11	0	6	0	0	17	
Michigan**	0	3	0	0	0	0	3	
Mississippi~	107	152	114	123	112	153	761	
New Hampshire**	0	0	0	0	0	0	0	
New Mexico*	0	65	-	-	-	-	65	
New York*	78	106	96	72	27	25	404	
Oklahoma*	0	1	0	0	-	-	1	
North Carolina *	293	125	183	156	89	158	1,004	
South Carolina~	201	419	299	212	138	192	1,461	
South Dakota*	0	0	0	2	4	0	6	
Texas	249	4,694	1,735	2,425	2,917	4,188	16,208	
Virginia	259	301	434	314	267	464	2,039	
Wyoming*	0	0	0	0	0	0	0	
States Studied	891	1,172	808	925	763	1,329	5,888	
TOTAL	2,078	7,472	4,007	4,675	4,750	7,340	30,322	

* Selected county (counties) subject to preclearance rather than entire state.

** Selected town (towns) subject to preclearance rather than entire state.

~ States studied.

- Not covered.

Note: Column does not total 100 percent due to rounding.

Source: U.S. Commission on Civil Rights, The Voting Rights Act: (1981) hereinafter referred to as Unfulfilled Goals.

Table 6.2

Objection Letters from the Department of Justice
by State and Year, 1975-80

State	1975	1976	1977	1978	1979	1980	Total	
							Number	Percent
Alabama~	5	10	1	2	1	3	22	9.3
Alaska							0	0.0
Arizona	2	1				1	4	1.7
California*		1	1				2	0.8
Colorado*							0	0.0
Connecticut**							0	0.0
Florida*							0	0.0
Georgia~	13	7	8	5	3	5	41	17.4
Hawaii*							0	0.0
Idaho*							0	0.0
Louisiana	3	2	1	3		2	11	4.7
Maine**							0	0.0
Massachusetts**							0	0.0
Michigan**							0	0.0
Mississippi~	9	5	6	2	3	3	28	11.9
New Hampshire**							0	0.0
New Mexico*							0	0.0
New York*	1						1	0.4
Oklahoma*							0	0.0
North Carolina*	3		2	2	1	2	10	4.2
South Carolina~	2	8	6	7	4		27	11.4
South Dakota*				1	1		2	0.8
Texas	1	29	12	18	12	13	85	36.0
Virginia					1	1	3	1.3
Wyoming*							0	0.0
States Studied	28	30	21	16	11	11	118	5.0
TOTAL	40	63	37	40	26	30	236	99.9

* Selected county (counties) covered rather than entire state.

** Selected town (towns) covered rather than entire state.

~ States studied.

Note: The above figures do not include objections subsequently withdrawn. Column does not total 100 percent due to roundings.

Source: Unfulfilled Goals

Table 6.3

Objections interposed by the Department of Justice
by State, 1975-80.

<u>State</u>	<u>Objections 1975-80</u>	
	<u>Number</u>	<u>Percent</u>
Alabama~	42	7.8
Alaska	0	0.0
Arizona	7	1.3
California*	5	0.9
Colorado*	0	0.0
Connecticut**	0	0.0
Florida*	0	0.0
Georgia~	152	28.3
Hawaii*	0	0.0
Idaho*	0	0.0
Louisiana	69	12.8
Maine**	0	0
Massachusetts**	0	0.0
Michigan**	0	0.0
Mississippi~	40	7.4
New Hampshire**	0	0.0
New Mexico*	0	0.0
New York	1	0.2
Oklahoma*	0	0.0
North Carolina*	52	9.7
South Carolina~	37	6.9
South Dakota*	2	0.4
Texas	128	23.8
Virginia	3	0.6
Wyoming*	0	0.0
States Studied	271	50.4
 TOTAL	 538	 100.1

* Selected county (counties) subject to preclearance rather than entire State.

States Studied

** Selected town (towns) subject to preclearance rather than entire State.

~ States studied.

Note: The above figures do not include objections subsequently withdrawn

Source: Unfulfilled Goals

Justice

Table 6.4

Changes submitted under Section 5 to which objections by Department of Justice were interposed, by type of change, 1975-80

Type of Change	Objections	
	Number	Percent
Annexations	235	30.5
At-large elections	80	10.4
Majority vote	66	8.6
Numbered Posts	60	7.8
Redistricting/boundary changes	56	7.3
Polling place changes	55	7.1
Residency requirements	42	5.5
Staggered terms	36	4.7
Single-member districts	26	3.4
Change in number of positions	15	1.9
Multimember districts	13	1.7
Registration and voting procedures	13	1.7
Requirements for candidacy	12	1.6
Election date change	11	1.4
Change in terms of office	8	1.0
Bilingual procedures	8	1.0
New voting precinct	6	0.8
Consolidation and incorporation	6	0.8
Change from appointive to elective/ elective to appointive	3	0.4
Miscellaneous	19	2.5
TOTAL	770	100.1

Note: The above figures count each element of an objection separately. For instance, if the Department of Justice objected to a proposed change of six polling places, this was counted as six proposed changes, but the Department of Justice data counted it as one objection. The total number of proposed changes in this Table is therefore larger than the total number of objections from the Department of Justice data above. The above figures do not include objections subsequently withdrawn. Column does not total 100 percent due to rounding.

Source: Unfulfilled Goals

Table 6.5

Number of Non-Submissions both on a State and County level

	<u>State</u>	<u>County</u>	<u>Total</u>
Alabama	45	22	67
Georgia	45	316	361
Mississippi	N/A	N/A	
South Carolina	2	106	108
TOTAL	92	444	536

Source: Unpublished Data, Southern Regional Council,
Atlanta, Georgia (1981)

Table 6.6

Cases involving noncompliance with an objection by the Attorney General in which the Department of Justice was the Plaintiff, Defendant, or Amicus, 1975-80.

State of Jurisdiction Involved	1975	1976	1977	1978	1979	1980
Alabama		3		1	1	2
Alaska						
Arizona						
California						
Colorado						
Connecticut						
Florida						
Georgia		2				2
Hawaii						
Idaho						
Louisiana		2				
Maine						
Massachusetts						
Michigan						
Mississippi	5		1			
New Hampshire						
New Mexico						
New York						
Oklahoma						
North Carolina						
South Carolina		1	1	4	1	
South Dakota				1	1	
Texas		3	7	5	1	4
Virginia						
Wyoming						
States Studied		6	2	2	2	4
TOTAL	5	11	9	11	4	8

Source: Unfulfilled Goals

~ States studied

Chapter 7

PROFILE ON CONECUH COUNTY, AND EVERGREEN, ALABAMA

Background

Rural Conecuh County spans 850 square miles and is located in southern Alabama nearly equidistant between Montgomery and Mobile.¹ According to Frank Chavers, Chair, Conecuh County Board of Education, Conecuh is one of the 16th poorest counties in the United States.² According to the 1970 Census 60.7 percent of all black families lived below the poverty level with a mean family income of \$2,177 compared with 35.5 percent and \$6,000 overall.³

The great bulk of Conecuh's land is held by a very few people, with 67 percent being held by an outside timber company which is a substantial industry in Conecuh. Another 15 percent of the land area is held by 10 other persons⁴. The largest single employer in Conecuh is the Steven Roberts Company, a textile company which employs about 350 persons. Other employers include: Lady Arrow, a clothing manufacturing plant employing about 250 workers and the Knud Nielsen Company, Inc. a manufacturer of natural decorations.⁵

Conecuh has a population of 15,884, 6,534 (41.1%) of whom are black. Overall, Conecuh's population has increased by

¹State of Alabama, Highway Department, Bureau of Planning and Programming, Surveying and Mapping Division in cooperation with U.S. Department of Transportation, Federal Highway Administration, General Highway Map, Conecuh County, Alabama, 1978.

²Frank Chavers, Chair, County Board of Education, Interview, Evergreen, Alabama, March 26, 1981, hereinafter referred to as Chavers Interview.

³General Social and Economic Characteristics, U.S. Department of Commerce, Bureau of the Census, PC(1)-C-2 (1970).

⁴Chavers Interview

⁵Larry Fluker, President, Evergreen Branch NAACP, Interview, Evergreen Alabama, March 23, 1981, hereinafter referred to as Fluker Interview.

only 239 persons since the 1970 census. Evergreen the largest of 3 incorporated towns in Conecuh and its county seat, has a population of 4,171, 2,470 (59.2%) white and 1,681 (40.8%) black. The remaining two towns in Conecuh are Castleberry with a total population of 847, 543 (64.1%) white and 302 (35.7%) black, and Repton, with a total population of 313, 199 (63.6%) white and 114 (36.4%) black.⁶

The county employs 74 persons, 17 or 23 percent of whom are black. Forty one percent of the black employees serve as janitors or laborers.⁷

The county commission makes only a limited number of local appointments. One appointment is made to the Library Board, 3 appointments to the Mental Health Board and 1 appointment to the Planning Commission. There are also appointments made to the Merit Board, Regional Library Board, Department of Pensions and Securities Board, and Alabama Tombigbee River's Planning and Development Board. The only black appointee is a member of the Mental Health Board.⁸

The Conecuh County Commission

The Conecuh County Commission created by 1945 Alabama Act No. 177, is the local governing body of the county possessing broad governing powers granted by the state including the control of property, levying of general and special taxes, the expenditure of tax monies, the payment of all accounts and claims against the county, construction and maintenance of public roads, the purchase of equipment, the improvement of sanitary conditions and the promotion and enforcement of health and quarantine laws.⁹

Since 1971 there have been four commissioners, who run and are elected, 2 each from 2 numbered districts on a staggered basis for 4 year terms. Commissioners must be electors and

⁶Census of Population and Housing, U.S. Department of Commerce, Bureau of the Census, PHC 80-V-2 (1980).

⁷Letter from Wayne E. Johnston, Clerk of Conecuh County to U.S. Commission on Civil Rights, Southern Regional Office, June 24, 1981; (hereinafter referred to as Johnston Letter).

⁸Id.

⁹Ala. Code tit. 11, Sec. 3-11.

residents of the districts from which they run. The chair of the county commission is elected at-large and also serves a 4 year term of office.¹⁰ No black person has ever been elected as a county commissioner, although one ran for a seat in 1978.

Prior to 1971 the county was divided into 4 separate election districts and 1 commissioner was elected from each district¹¹. On February 20, 1970, however, T.O. Langham, white, filed suit in District Court alleging that Conecuh's apportionment of its election districts into 4 unequal districts, each represented by a single commissioner resulted in unconstitutional malapportionment in violation of the rule of one person one vote. The plaintiff sought both injunctive and declaratory relief and prayed in the alternative, that nominations and elections be held either on an at-large basis, or that nominees come from separate districts with the election being held at-large.¹² Data appearing in Table 7.1 below reflect the population and racial composition of the pre-1971 election districts and reflect the large population differences which existed between each district.

Table 7.1
Race and Population of Pre-1971
Election Districts

District	White	Black	Percent	
			Total	Black
1	932	1,406	2,338	60.1
2	3,304	2,552	5,856	43.7
3	2,560	1,781	4,341	41.0
4	1,926	1,184	3,110	38.1
TOTAL	8,722	6,923	15,645	44.3 ¹³

¹⁰1971 Ala. Act No. 2284.

¹¹1945 Ala. Act No. 177

¹²Langham v. McNeil, C.A. No. 5883-70T (S.D. Ala. filed February 12, 1970).

¹³Data supplied by Richard Rabb, Chair Conecuh County Democratic Conference, hereinafter referred to as Rabb Data.

Significantly, the law suit was filed only after a massive voter registration drive in 1966 pursuant to which blacks gained a numerical majority in District 1, thus making it more realistic that blacks could elect a black representative.

The present election districting scheme was implemented in 1971 out of a desire to settle the Langham suit which resulted in the creation of two districts whose profiles are depicted in Table 7.2 below. ¹⁴

Table 7.2

Race and Population of Post 1971
Election Districts

Districts	White	Black	Total	Percent Black
1	4,236	3,958	8,194	48.3
2	4,486	2,965	7,451	39.8
TOTAL	8,722	6,923	15,645	44.3

Since the two commissioners from each district are elected by all voters in that district for 4 year terms on a staggered basis, the likelihood of a black candidate always having white opposition is enhanced. When this fact is combined with the reality that blacks constitute a minority in each of the two districts, the likelihood of a black mounting a successful campaign is decreased. On February 28, 1972, following the implementation of Conecuh's new method of election the Langham suit was dismissed pursuant to the plaintiff's motion.

Notwithstanding the fact that Act No. 2284 created two new election districts in Conecuh and was therefore subject to Section 5 preclearance, no such submission was made by the

¹⁴1971 Ala. Act No. 2284.

county until July 1980, and only then after federal election observers visited Conecuh. The submission was not completed until July 16, 1981 and on September 14, 1981 the Attorney General objected to the change stating:

We have given careful consideration to the information you have provided as well as to comments from interested parties. Our review shows that, at the time the change was enacted, minorities who were becoming active politically as a result of increased voter registration following the enactment of the Voting Rights Act of 1965 constituted a majority in one of the single-member districts. In addition, our analysis has revealed nothing to indicate that the change was made to alter in any way the administrative functions of the board members. Further, it does not appear that the change to multi-member districts was based on, nor does it appear to have addressed, any significant governmental interest except the need to comply with the one-person, one-vote principle, a need that could have been responded to in other ways, such as a realignment of the previously existing single-member districts.

The change has submerged into larger multi-member districts sizeable black concentrations so as to dilute the minority voting strength that those voters would have enjoyed under a continued single-member district plan. These circumstances in the context of the racially polarized voting patterns that seem to exist in Conecuh County, raise at least an inference of a proscribed racially discriminatory purpose in the adoption and implementation of such a system and clearly results in a prohibited effect under the Act. See Wilkes County, Georgia v. United States, 450 F. Supp. 1171 (D.D.C. 1978), aff'd, 439 U.S. 999.¹⁵

¹⁵Letter from William Bradford Reynolds, Assistant Attorney General, Civil Rights Division Department of Justice to J.B. Nix, Conecuh County Attorney, September 14, 1981.

Evergreen City Council

Evergreen has a mayor-council form of government which is elected at-large. There are 5 members of the city council, who serve for 4 year terms and the mayor serves for a 4 year term. Both council members and the mayor may succeed themselves. All city council members as well as the mayor, Lee Smith, are white males.¹⁶

A key post in city government is that of the city clerk; an appointee who serves at the pleasure of the mayor and city council. The present clerk, Miller Sellers, who is white, has served continuously in this position since 1956, and serves as custodian of all city records, treasurer of city funds, office staff supervisor, advisor to the mayor and council and also supervises city elections and acts as the absentee voting officer.¹⁷

Few blacks have ever sought office in Evergreen. Alex Johnson was the first and only black to ever serve on the the city council when he was elected in 1976. Johnson lost his re-election bid by a vote tally of 656-652 in 1980.¹⁸ Other unsuccessful black candidates for the city council include Oran Frazier, a retired public school principal, who at the time he ran for election in 1976, was the only black on the Conecuh County Democratic Executive Committee and Larry Fluker, Evergreen NAACP President, who lost his 1980 city council bid to his white opponent by 200 votes.¹⁹

Conecuh County School Board

The Conecuh County School Board is composed of 5 members who are elected at-large to a term of 6 years each. No more than 2 seats can be filled in a given election year and no 2

¹⁶Tommy Chapman, City Attorney, Interview, Evergreen, Alabama, March 26, 1981, hereinafter referred to as Chapman Interview.

¹⁷Chapman Interview

¹⁸City of Evergreen, Resolution, July 9, 1980, Certification of election results, hereinafter referred to as Resolution, 1980.

¹⁹Oran Fraizer, member Conecuh County Democratic Committee, Evergreen, Alabama, March 24, 1981 hereinafter referred to as Fraizer Interview and Fluker Interview.

board members being elected can come from the same residential district. Presently, all board members are white males.²⁰

Registration

The Secretary of State is generally referred to as the chief elections officer for the state and is responsible for the form and content of the ballot, supplies, forms, notice and certification of nominees and the official canvass of results.²¹ Registration is conducted in each county by a board of 3 persons, who must be qualified electors and residents in the county and not hold elective office. They are appointed either by the governor, auditor or Commissioner of Agriculture and Industries, either acting individually or as a board of appointment. One registration board appointee is designated as chair. ²² The Secretary of State furnishes supplies, forms, and notices to the boards and receives registration data from the boards on a periodic basis.²³

Most blacks in Conecuh expressed the view that there were no serious problems remaining with respect to registration which was attributed primarily to the appointment of a black woman, Alice Pressley, as chair of the board of registrars by Governors George Wallace and Fob James. In addition, 9 black deputy registrars have been appointed to register voters throughout the county as the need requires.

It was not until the 1980 elections, however, that black deputy registrars were available. Because whites have not complained that they have been denied the right to register to vote, there is no need for white deputy registrars.²⁴ Subsequent to the appointment of the black deputy regis-

²⁰Ray Owens, Conecuh County Board of Education, Supervisor of Instruction, Telephone Interview, June 30, 1981.

²¹Don Seigelman, Secretary of State, State of Alabama, Statement Regarding Extension of the Voting Rights Act before the House Judiciary Sub-Committee, Montgomery, Alabama, June 12, 1981 on Civil and Constitutional Rights, hereinafter referred to as Seigelman Statement.

²²Ala. Code Tit. 17 S 4-150.

²³Seigelman Statement.

²⁴Frances Floyd, Deputy Registrar, Interview, Evergreen, Alabama, March 26, 1981.

trars, nearly 200 persons were registered in a 2 month period.²⁵ Prior to the advent of the Voting Rights Act there were roughly only 1,000 black registered voters in Conecuh.²⁶ Presently, there are some 11,218 registered voters in Conecuh, 7,404 (66%) white and 3,814 (34%) black.²⁷

The purging of registered voters is conducted by the board of registrars in Alabama whenever it receives information and confirms that a person registered has died, become a non-resident of the state or county, been declared mentally incompetent, or has been convicted of a disqualifying crime. Notice of the names of all those proposed to be stricken from the voter rolls for each county must be published in a newspaper of that county. Any person whose name is purged may appeal the board's decision to the circuit court, where a jury trial may be had.²⁸

Voting

In every Alabama county each political party furnishes a list of not less than 3 qualified electors from each voting place from which an inspector and clerk are appointed as election officers.²⁹ The actual appointments from the designated lists are made by a board, composed of the county probate judge, sheriff, and clerk of the circuit court, who for each voting place must appoint 3 inspectors and 2 clerks.³⁰

There were 20 poll workers who worked Evergreen's elections in 1980, and 7 of this number were black. There are 5 boxes (polling places) located within the city and each box had 4 election workers: an inspection and return officer, chief

²⁵Testimony of Larry Fluker before the House Judiciary Subcommittee on Civil and Constitutional Rights, Montgomery, Alabama, June 12, 1981, hereinafter referred to as Fluker Testimony.

²⁶Id.

²⁷1980 Voter Registration Data, Legal Services Corporation of Alabama, Mobile, Alabama.

²⁸Ala. Code tit. 17, Sec. 4-132.

²⁹Ala. Code tit. 17, Sec. 6-6.

³⁰Ala. Code tit. 17 Sec. 6-1.

clerk, first assistant clerk and second assistant clerk. Among the 7 black poll workers, 3 were first assistant clerks and 4 were second assistant clerks.³¹

With regard to the 1980 county elections, there were approximately 150 poll workers, less than 15 of whom were black, thus prompting Richard Rabb, Chair of the Conecuh County Democratic Conference to note:

A blind man can see the selection process is not fair and that blacks are apparently being discriminated against as poll-workers. However, young people and women are being discriminated against also. All one has to do is be in the courthouse on election night and see that the vast majority of poll workers are used over and over again. And new poll workers are rarely given an opportunity to serve.³²

According to Larry Fluker there is only one box in the southern part of the county which has a majority of black poll workers, the district in which Harold Carter, the lone black member of the Democratic Executive Committee, resides.³³ There are 10 of 37 boxes in Conecuh County which serve predominantly black voters.³⁴

While in Evergreen conducting field interviews Commission staff heard general criticism as to the inadequacy of poll worker training materials.³⁵ Furthermore, many blacks in Evergreen maintain that Alex Johnson, the black unsuccessful 1980 city council candidate, lost due to errors on the part of the Evergreen city clerk's office in omitting the names of between 200 and 300 qualified black electors from

³¹City of Evergreen, Alabama, Poll Workers of Evergreen, Alabama, July 8, 1980, submitted by Miller Sellers, City Clerk.

³²The Evergreen Courant, August 11, 1980.

³³Fluker Interview.

³⁴Fluker, telephone interview, June 2, 1981, hereinafter referred to as Fluker Telephone Interview.

³⁵John Law Robinson, Chairman, Conecuh Republican Party, and Bernice Whittle, Poll Worker, Interviews in Evergreen, Alabama, March 25, 1981, hereinafter referred to as Robinson Interview and Whittle Interview.

the official voter registration lists.³⁶ At one polling place, persons whose names were left off the voter list, were told to get a note from the probate judge, or the city clerk indicating their eligibility to vote. Rather than go through the cumbersome procedure, many black voters simply failed to return to the polls.³⁷ Under Alabama law the proper procedure to be followed where a name is left off the voting list is to vote a challenged ballot.³⁸

Due to the irregularities in the 1980 voting procedure federal election observers were requested by the NAACP to observe the September 1980 school board elections which had 2 black candidates. The U.S. Department of Justice provided 70 observers for the primary election and 25 observers were sent to monitor the primary run-off due to irregularities which were observed while monitoring the primary.³⁹

According to poll worker Bernice Whittle, Evergreen limits the number of illiterate voters that can be assisted in the voting booth by the same person and allows voters to remain in a booth for 3 only minutes.⁴⁰ This practice contravenes Alabama law which permits voters to have the assistance "of any person he selects" and allows an elector to remain in the booth for 5 minutes⁴¹. In Ms. Whittle's opinion the arbitrary shortening of the length of time allocated for voting hampers voters who are either illiterate or have difficulty reading, particularly where lengthy ballots are involved.

John Law Robinson, Chairman of the Republican Party in Conecuh, expressed concern as to the accuracy of vote tabulations in the county emphasizing that although 5 to 7 copies of vote tallies are made by the voting machines, Alabama law does not require that the returning officer submit the printout to the election committee. Instead,

³⁶Richard Rabb Interview

³⁷Whittle Interview and Clarence Edward Carrier, Poll Worker, Interview, Evergreen, Alabama, March 24, 1981, hereinafter referred to as Carrier Interview.

³⁸Ala. Code tit. 17, Sec. 12-3.

³⁹Fluker Interview.

⁴⁰Whittle Interview.

⁴¹Alabama Code tit. 17, Sec. 8-29.

totals are read off of the machines and written on a handwritten tally sheet enhancing the opportunity for error. Finally, after the handwritten sheets are tallied at the polling place, the voting machine is locked and the computerized total cannot be retrieved absent an election challenge.⁴²

Members of the Evergreen Branch of the NAACP and the Conecuh County Democratic Conference met with the county commission on April 7, 1980, requesting that a new polling place be placed in the predominantly black Johnsonville community, located in the southeast end of the county. The meeting took place pursuant to concerns expressed by some 200 voters of the Johnsonville community prior to the March 11th presidential primary.⁴³

The gist of the citizens' complaint was that voters in the Johnsonville area had to travel at least 6 miles to reach the closest polling place, located at Brooklyn even though they comprised a majority of the voters utilizing that precinct box. Only some 75 voters from the Brooklyn area regularly used that box.⁴⁴

In addition to the request for a voting box at Johnsonville, the NAACP president and neighborhood citizens addressed other priority needs. They requested an increase in the number of voting boxes in Belleville from 1 to 2, noting that more people voted at the 1 box in Belleville than at 2 boxes in Repton in 1978, despite having a more dispersed population. Further, they also requested the shifting of 1 or 2 boxes located at the Evergreen City Hall Health Center to the Magnolia Avenue National Guard Armory to decrease congestion and enhance accessibility.⁴⁵

The commission agreed to add a polling place in Johnsonville and to shift 1 box from the Evergreen City Hall Health Center to the National Guard Armory.⁴⁶

⁴²Robinson Interview.

⁴³Letter from Larry Fluker to Sheila Delaney, Assistant Attorney General, Voting Rights Section, U.S. Department of Justice, April 25, 1980.

⁴⁴Id.

⁴⁵Id.

⁴⁶Fluker Telephone Interview.

Chapter 8

PROFILE ON THOMAS COUNTY AND THOMASVILLE, GEORGIA

Background

Thomas County and its county seat, Thomasville, are located in southwest Georgia, 230 miles south of Atlanta and 35 miles northeast of Tallahassee, Florida. Thomasville is nationally known for its stately mansions and surrounding farms and has been proudly named as the "Original Winter Resort of the South" and the "City of Roses".¹

Thomas County is an agricultural and marketing center, which is the home of the state's second largest fresh vegetable farmers' market, as well as a daily market place for hogs and cattle. Its growing season of 260 days makes Thomas County one of the leading vegetable producing centers in the nation. A county-wide labor force analysis reflects that manufacturing provides employment for approximately 6,000 workers (32.7%), non-manufacturing, 11,000 workers (60%), and agriculture 1320 workers (7.2%).²

Major industries in the area include lumber, textiles, baking, plastics, mobile homes and meat packing.³ According to Lloyd Eckberg, Executive Director of the Thomasville Chamber of Commerce, Thomasville's major employers are Sunnyland Foods, Inc., Davis Water and Waste Industries, Archbold Hospital, and the Southwestern State Hospital.⁴ Although officially Thomasville's unemployment is stated to be 5.5 percent, in Mr. Eckberg's opinion it is actually somewhat lower, in the vicinity of 2.5 percent.⁵

¹Thomasville - Thomas County Chamber of Commerce, "Market Data" (1981), hereinafter referred to as Market Data.

²Id.

³Id.

⁴Letter from Lloyd E. Eckberg, Executive Vice President, Thomasville - Thomas County Chamber of Commerce to Bobby D. Doctor, Southern Regional Office, U.S. Commission on Civil Rights, February 23, 1982.

⁵Lloyd Eckberg, Executive Director, Thomasville Chamber of Commerce, Interview, Thomasville, Georgia, March 25, 1981.

According to the preliminary 1980 census the population of Thomas County is 38,098 as compared with 34,562 in 1970. Approximately 67 percent of Thomas County's population is white, while 33 percent is black; other minorities constitute only a miniscule part of the total population.⁶ The 1980 Census data show an overall decrease in the percentage of blacks in the population of Thomas County from the 1970 level of 39.7 percent.⁷ The City of Thomasville recorded a population of 26,986 in 1980, with a white population of 16,339 (60.5%) and a black population of 10,545 (39.1%).⁸ Likewise, this represents a decrease in the overall percentage of the black population of the city from its 1970 level of 44.8 percent.⁹

In addition to Thomasville, Thomas County contains the towns of Boston (total population 2,896 with a black population of 1,579 (54.5%)); Coolidge (total population 2,169 with a black population of 1,311 (60.4%)); Meigs (total population 1,673 with a black population of 712 (42.5%)); Ochlocknee (total population 2,232 with a black population of 317 (14.2%)); and Pavo-Barwick (total population 2,152 with a black population of 642 (29.8%).¹⁰

Although 1980 population characteristics are not yet available, 1970 data show that there were 2,764 black families in Thomas County having a median income of \$3,775 and a mean income of \$4,533. Almost half of the black families in 1970 had an income below the Federal poverty level and over one-third (35.8%) of all black families had incomes of less than 75 percent of the poverty level. The median and mean income for all families in 1970 were \$6,368 and \$7,712 respectively.¹¹

⁶U.S. Bureau of Census, (Unpublished data).

⁷U.S. Department of Commerce, General Population Characteristics, 1970 Census of the Population, No. P.C. 1-13.

⁸U.S. Bureau of Census (Unpublished data).

⁹U.S. Department of Commerce, General Population Characteristics, 1970 Census of the Population, No. P.C. 1-12.

¹⁰U.S. Bureau of Census, (Unpublished data).

¹¹U.S. Department of Commerce, Bureau of the Census, General Social and Economic Characteristics, 1970 Census of Population, No. PC(1)-C12.

Thomas County has three high schools, two junior high schools, two middle schools and nine elementary schools with a total student population of 6,241 which is 36.7 percent black.¹² There are 846 students overall in private schools in the county: all are white.¹³

Thomas County, Georgia employs a total of 123 persons full-time, 90 (73.2%) of whom are white and 33 (26.8%) of whom are black. The sheriff's department employs 17 persons and 6 are black males. Sixty-one percent of all blacks males are employed in Streets and Highways and Corrections departments (See Table 8.1)

The city employs 337 persons full-time, 128 (38%) of whom are black. An examination of employment data appearing in Table 8.2 reveals that over half (53.9%) of all black employees are found in the Utilities and Transportation and Sanitation and Sewage departments.

Thomas County Commission

The County Commission of Thomas County was originally formed in 1898 and has only experienced relatively slight change over the ensuing years¹⁴ relating to the number of commissioners and the drawing of residential districts.¹⁵ The commission is responsible for managing the business affairs of the county and is empowered to levy taxes for county use and has general supervisory powers over road and bridge maintenance as well as other county property. The position of county manager was created in 1980 and was filled by the county commission in 1981 with the appointment of William Donovan. Mr. Donovan was originally a member of the search committee which was unsuccessful in locating a qualified person for the position. Prior to the filling of the county manager position, the business of county government was run by the county commissioners on a part-time basis.¹⁶

¹²State of Georgia, Department of Education, Office of State Schools and Special Services, OCR Form 101-10 (1980).

¹³Market Data.

¹⁴Ga. Laws of 1898, p. 378.

¹⁵Ga. Laws of 1911, p. 501; 1917, p. 394.

¹⁶William Donovan, County Manager, Interview, Thomasville, Ga. March 27, 1981, hereinafter cited as Donovan Interview.

able 8.1

Thomas County Employment Profile

Departments	White Male	Black Male	White Male	Black Female
Financial Administration	3	1	19	4
County Commissioner's Office				
Tax Assessors				
Co. House Maintenance				
Bd. of Registrars				
Probate Office				
Tax Commissioner				
Clerk of Court				
Streets & Highways	24	8	1	
Public Works				
Vehicle Shop				
Police Protection	8	6	3	
Sheriff's Dept.				
Extension Service				1
Health	13	3	1	1
Emergency Medical Service				
Health Department Maintenance				
Corrections	13	8	2	1
Corrections Inst.				
Jail				
C.I. Bldg. Maintenance				
Sanitation	3			
Total (123)	64 (52%)	26 (21%)	26 (21%)	7 (6%)

Source: Letter from F.W. Donovan, Jr., County Administrator,
Thomas County to Bobby D. Doctor, Regional Director, Southern
Regional Office, U.S. Commission on Civil Rights, March 19,
1982.

The city employs 337 persons full-time, 129 (38.1%) of whom are black and examination of employment data appearing in Table 8.2 below reveals that over-half (52.5%) of all black employees are found in the Utilities and Transportation and Sanitation and Sewage Departments.

Table 8.2

City of Thomasville Employment Profile

<u>Departments</u>	<u>White Male</u>	<u>Black Male</u>	<u>White Female</u>	<u>Black Female</u>
1. Administration City Manager's Office Non-Departmental Treasurer's Office Recorder's Office	3	1	6	1
2. Streets and Highways Street Department	13	9	1	0
3. Fire Protection Fire Department	32	9	0	0
4. Police Protection Police Department	22	9	4	5
5. Natural Resources Recreation and Parks Landscape	9	10	1	1
6. Housing Building-Inspection Dept.	4	0	2	0
7. Community Development Engineering Dept. of Community Dev.	8	0	2	2

		49		
			15	4
8. Utilities & Transportation	53	22		
Water, Light, Gas Dept.				
Airport				
			3	0
9. Sanitation & Sewage	26	43		
Sanitation Dept.				
Sanitary Landfield				
Sewer Maintenance				
Sewer Construction			0	0
Disposal Plant				
	5	12		
10. Other				
City Shop				
Cemeteries				
Council on Aging				
			34 (10.%)	13 (3.9%)
TOTAL (337)	175 (52%)	115 (34.1%)		

SOURCE: EEO-4 Form, City of Thomasville, September 24, 1980

There are eight commissioners who serve terms of four years each.¹⁷ Candidates are nominated and elected on an at-large staggered basis in each of Georgia's biennial primary and general elections and must receive a majority vote to gain a primary nomination and subsequent election in the general election, while running for specific seats.¹⁸ Although candidates run at-large, there are residency requirements for commissioners to the extent that two must be residents of the Thomasville General Militia District (GMD), two commissioners must be residents of the Boston-Metcalf GMD, and there must be one each from Ochlocknee, Pavo-Ways-Barwick GMD, Coolidge-Merriville-Ellabelle, and Meigs GMD.¹⁹

One of the principle ways in which the county commission effects life in Thomas County is through the power of appointment to various boards and commissions. Of the 25 appointments made from April 1976 to March 1979 only 3 were black.²⁰ No black has ever been elected to county office in Thomas County.

Thomasville City Commission

The City of Thomasville has a city commission/city manager form of government that has been in effect since January 1, 1944. The city commission is expressly empowered to pass all ordinances and resolutions necessary for proper governing of the city and conduct of its affairs and has authority to investigate city departments, officials and employees.²¹ Commissioners are elected at-large on a plurality basis with numbered posts. The implementation of a numbered post system with a majority vote requirement decreases the possibility of electing minority candidates by making head-on contests between white and minority candidates more probable.

¹⁷Id.

¹⁸34 Ga. Code Ann. Secs. 1015, 1513.

¹⁹Ruth Hunt, Member, Board of Registrars, Interview, Thomasville, Georgia, March 25, 1981, hereinafter cited as R. Hunt Interview.

²⁰Thomasville Branch of NAACP v. Thomas County, Civ. No. 75-34 Thom. (M.D. Ga. 1980).

²¹Thomasville Code, Secs. 16, 20.

The commission is composed of five members who are elected on staggered terms to two two-year posts and three four-year posts. The commissioners elect a mayor from among themselves who serves as the presiding officer and performs other administrative duties for a four year term. The city manager is hired by the city commission and serves at its pleasure and is responsible for the day-to-day handling of city affairs.²²

Like its county counterpart, the city commission is able to make appointments to various boards and commissions. Currently, there are 76 appointed positions, but only 14 or 18 percent are held by blacks, despite 1980 Census figures which indicate that Thomasville has a black population of 39 percent.²³

At-Large Elections

In 1975, the Thomasville chapter of the NAACP filed suit on behalf of the black citizens of Thomas County challenging the legality of the at-large election system used to elect the County Commission of Thomas County. This action was premised constitutionally on the Fourteenth and Fifteenth Amendments and upon the statutory grounds of 42 U.S.C. Secs. 1971(a)(1), 1973. Generally, the plaintiffs alleged that purposeful discrimination denied blacks access to the political system by virtue of an at-large election system which was further augmented by the state's long history of discrimination. The plaintiffs sought a realignment of the county into single member districts, with direction that each district elect one resident of that district to the county commission together with the requirement that only voters of each particular district be allowed to vote for candidates from that district.²⁴

²²Julius Ariail, City Clerk, Telephone Interview, April 23, 1981, hereinafter referred to as Ariail Interview. Thomasville Code, Sec. 20 (as amended).

²³Ariail Telephone Interview, April 28, 1981.

²⁴Thomasville Branch of NAACP v. Thomas County, Civ. No. 75-34 Thom. (M.D. Ga. 1976)

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District Court Judge J. Robert Elliott ruled in favor of the county holding that there had been no evidence presented which would justify a conclusion that the commission was established in 1898 with a discriminatory purpose.²⁵ The court's opinion was appealed to the Fifth Circuit Court of Appeals which remanded the case to the District Court in 1978 for reconsideration. In 1980 Judge Elliot again ruled in favor of the county, relying heavily upon the Supreme Court case of Bolden v. City of Mobile²⁶ finding that although the aggregate of factors demonstrate that the at-large system creates a disproportionate adverse impact on the black community, Bolden²⁷ precluded the finding of a discriminatory purpose based upon the aggregation of factors which supported a conclusion of discriminatory effect. The case was again appealed to the Fifth Circuit and was once again remanded for consideration and whether "depressed socio-economic conditions" might require the election of the Thomas County Commission from single member districts. In the meantime the 1898 method of election is still in effect.²⁸

Registration

The 3 member Board of Registrars is appointed by the Chief Judge of the Southern Judicial Circuit, and serves for a four year term without compensation and is responsible for dealing with registration issues, including registration appeals, in Thomas County. The board meets once each month with \$10.00 in expense money being provided to each member.²⁹

The voter registration office, located in the county courthouse, is staffed by one full-time employee, Nita Hunt, who is white. Ms. Hunt holds the title of Deputy Registrar and is responsible for the daily operation of the registration office. However, Ms. Ruth Hunt, a black board member, worked

²⁵Id.

²⁶446 U.S. 55, (1980)

²⁷Id.

²⁸Thomasville Branch of NAACP v. Thomas County, 639 F. 2d. 1384 (5th Cir. 1981).

²⁹R. Hunt Interview

in the registration office on a part-time and full-time basis (in April 1976) but left the office in October 1980 because of health reasons. ³⁰

The registration office's business hours are from 8 a.m. to 5 p.m. daily, Monday through Friday, but upon special request, the registration office has opened on Saturday mornings. Each registrant is provided a registration card designating the appropriate polling location. Registration lists can be obtained by anyone at a cost of one-quarter of a cent per name to cover copying costs. ³¹ Prior to 1975, the city and county maintained dual voter registration offices and rolls. However, in 1975 with the approval of the U.S. Department of Justice, a single registration system was implemented for both city and county elections. ³²

The purging of voter registration lists takes place every three years. The registration list is compared with a list of voters who actually cast their votes. If no vote has been cast by the registered voter during this three year period, the voter is notified by mail that he or she is subject to being removed from the registration rolls, and is requested to return a signed re-registration card in a postage paid envelope. When this re-registration form is received, the individual remains registered. If no response is received to the re-registration request within 30 days, or if the notice is returned undelivered, the voter is purged from the registration rolls. ³³

Judge Elliott in his 1980 opinion stated:

It is thus obvious that blacks have not registered to vote in proportion to the eligible black population, but there is no evidence that the failure of blacks to register is brought about by any impediment in their freedom to do so.

³⁰Id.

³¹N. Hunt, Deputy Registrar, Interview, Thomasville, Georgia, March 25, 1981, hereinafter referred to as N. Hunt Interview.

³²Ariail Interview.

³³N. Hunt Interview.

Despite Judge Elliott's findings and the ease of the registration process, voter registration among blacks in Thomas County is relatively low. The Thomas County registration list compiled as of October 20, 1980 shows that of 14,977 registered voters, only 4,032 blacks or 26.9 percent are registered.

The relatively low number of registered blacks was explained by Curtis Thomas, the former president of the Thomasville Branch of the NAACP, by stating that "approximately 82 percent of Thomas County's black registered voters reside within the City of Thomasville with the remainder primarily being found in the rural areas of the county." Thomas attributed this registration pattern to the absence of a vigorous registration effort in the rural areas, historical discriminatory and economic intimidation of rural blacks, and the pessimistic belief that blacks simply cannot be elected under the present at-large election method. ³⁴

Rudolph Elzy, the current president of the Thomasville Branch of the NAACP, agreed with Mr. Thomas that current registration efforts in rural Thomas County were insufficient. In his opinion, door-to-door registration of rural blacks should be permitted, as poverty and the lack of transportation prevents rural blacks from coming into the city to register. ³⁵

Voter registration data for the six rural districts appearing in Table 8.3 in Thomas County support the view that blacks in those areas do not register in substantial numbers. As noted previously 26.9 percent of all voters in Thomas County are black. However in the rural areas, only Boston exceeds the 17 percent registration level.

³⁴Curtis Thomas, Past-President, Thomasville Branch NAACP, Interview, Thomasville, Ga., March 24, 1981.

³⁵Rudolph Elzy, President, Thomasville Branch NAACP, Interview, Thomasville, Ga., March 24, 1981. It should be noted, however, that Georgia law does not permit the door-to-door registration of voters. Telephone Interview, Mark Cohen, Assistant Attorney General, State of Georgia, April 6, 1982.

Table 8.3
Voter Registration by District ³⁶

	White Registered Voters	Black Registered Voters	Black Percentage of Registration
Boston	873	222	20.3
Meigs	480	60	11.1
Ocklocknee	514	69	11.8
Collidge-Merriville Ellabelle	775	152	16.4
PAVO-Ways Barwick	797	102	11.4
Metcalf	161	24	13.0

Deputy Registrar Nita Hunt offered a contrary view to that of Messrs. Thomas and Elzy, stating that voter education workshops have been held in various areas throughout the county and that whenever black ministers or interested groups have requested assistance, the registration office has always responded affirmatively. ³⁷ She further stated that rural blacks register, but do not vote, and hence are purged. Mr. Thomas H. Vans, President of the Thomas County Board of Registrars stated that the League of Women Voters periodically conducts registration drives and further revealed that school principals are also authorized to register eligible voters.

All residents of the City of Thomasville who are registered to vote in Thomas County are eligible to vote in city elections. Other cities in Thomas County also adopt the Thomas County voter registration list as their city voter

³⁶Proposed Findings of Facts Thomasville Branch of the NAACP v. Thomas County, supra.

³⁷N. Hunt Interview.

registration list.³⁸ The Thomasville city clerk is designated as the official city registrar, who is authorized to receive the list of voters residing within the corporate limits of the city. These voters are registered or eligible to vote in state and county elections at polling places within the city.³⁹ The responsibility for actually conducting city elections resides with the municipal superintendent of elections.⁴⁰

Political Party Structure

The chief executive officer of each political party operating within Georgia must file a registration statement with the Secretary of State.⁴¹ Each party's statewide affairs are directed by the respective State Executive Committees, while party affairs on a county basis are controlled by a county executive committee. The membership of the various party committees is controlled by the State Executive Committee of each party.⁴² Generally, candidates for an elective office may qualify by nomination in a party primary, filing a nomination petition, or by convention.⁴³

According to Curtis Thomas, both the Democratic and Republican parties are accessible to Thomas County's blacks. Members of the County Executive Committee for the Democratic Party are elected from their respective militia districts. The county Democratic Executive Committee has approximately 23 persons. There are 6 blacks: 4 men and 2 women. Although blacks have been active in the Democratic Party since 1965, the Republican Party has not been successful in attracting black support despite efforts to do so.⁴⁴

³⁸Letter from Thomas H. Vann, President of Board Registrars, Thomas County to Bobby D. Doctor, Director, Southern Regional Office, U.S. Commission on Civil Rights, March 2, 1982.

³⁹Thomasville Code, Sec. 42.

⁴⁰34A Ga. Code Ann. Sec. 301.

⁴¹34 Ga. Code Ann. Sec. 901.

⁴²34 Ga. Code Ann. Sec. 902.

⁴³34 Ga. Code Ann. Sec. 1001.

⁴⁴John Robinson, Chair, Thomas County Republican Party, Telephone Interview, July 22, 1981.

Section 5 and the Thomasville City School Board

The only instance in which Section 5 of the Voting Rights Act has arisen as an issue in Thomas County or Thomasville developed regarding the method of the election of the Thomasville City School Board which is composed of seven members, who are elected on a staggered basis for four year terms. Prior to the effective date of Section 5 of the Voting Rights Act, board members were elected on a "single shot" basis, without numbered post or a majority vote requirement. Those candidates receiving the most votes were declared the winners. ⁴⁵

In 1968, the Georgia General Assembly attempted to implement a numbered post, majority vote requirement for school board elections in Thomasville. ⁴⁶ Only after the change was in fact implemented, was there a submission made to the Attorney General pursuant to Section 5. In rejecting the submitted changes on August 24, 1972 the Attorney General stated:

The effect of changing from the plurality system previously in effect for election to the Board of Education to a system requiring candidates to run for numbered posts and to obtain a majority of votes cast may well be to eliminate the potential for a political or racial minority to elect a representative which existed under prior law.

The objection letter further noted that election results furnished with the submission held under the new procedure "would seem to confirm the dilution of black voting strength." ⁴⁷

⁴⁵Ariail Interview.

⁴⁶1968 Ga. Laws, Act 765.

⁴⁷Letter from David L. Norman, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice to City Clerk J.R. Ariail, August 24, 1972.

A similar change in the method of the school board election was attempted by the General Assembly in 1973 by substituting a residency requirement for the numbered post requirement in three of seven board of education positions.⁴⁸ The Section 5 submission was objected to by Assistant Attorney General Stanley Pottinger on August 27, 1973 in a letter which found little difference between the numbered post requirement and Act 765 submitted the previous year. Mr. Pottinger stated in his letter that "the dilutive effect on minority voting would be the same".⁴⁹

In both 1969 and 1971 school board elections were conducted in accord with the majority vote, numbered post method enacted by the legislature in 1969. Elijah Hill, Jr., black, and an unsuccessful school board candidate for Post 1 in the 1969 general election attributed his defeat to the fact that an election was held in violation of the Voting Rights Act. Further he stated that he was the leading candidate for the office but was defeated in a head-on race with the white candidate when he was unable to obtain a majority vote in the election. Had Mr. Hill won a seat on the board, he would have been the first black ever to be elected to office in Thomas County in modern times.⁵⁰

Vincent Earle, Thomasville City Attorney, informed the City Clerk by letter dated October 19, 1973 that because the numbered post, majority vote method of electing school board members had been objected to by the Department of Justice, the only alternative to litigating the issue would be to revert to the method used prior to 1965 which had not been challenged, i.e. the election of members of the board according to the candidates receiving the highest number of votes without any reference to designated posts.⁵¹ Since the 1973 school board election, all board elections have been conducted under the pre-1965 scheme.⁵²

⁴⁸1973 Ga. Law, Act 418.

⁴⁹Letter from J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, August 27, 1973.

⁵⁰Elijah Hill, Jr., Interview, Thomasville, Georgia, March 24, 1981.

⁵¹Letter from B. Vincent Earle, Jr., Thomasville City Attorney, to Julius Ariail, City Clerk, October 1973.

⁵²Ariail Interview.

As a note of historical significance, William Morris won election to the Thomasville School Board in 1975, becoming the first black to gain election in the county since reconstruction.⁵³

Mr. Morris had been the only black to ever hold elected office in either the city or county in modern times until December 1, 1981 when Earl Williams, Jr. was elected to the city commission.⁵⁴ Since Mr. Hill ran for the school board in 1969, there have been three black candidates for the county commission, six black candidates for the school board, and one candidate each for the city council and the office of Probate Judge.⁵⁵

⁵³Mr. Earl Williams, Jr. was elected to the city commission on December 1, 1981. (Atlanta Constitution December 2, 1981).

⁵⁴Atlanta Constitution December 2, 1981.

⁵⁵Thomas Telephone Interview.

Chapter 9

PROFILE ON WARREN COUNTY AND VICKSBURG, MISSISSIPPIBackground

Warren County and its county seat, Vicksburg, the "Red Carpet City of the South", are located in western Mississippi overlooking the Mississippi River and the Yazoo River diversion canal, 45 miles west of the capital, Jackson.¹ Warren County was organized as part of the Mississippi Territory in 1809 and 8 years later was admitted to the Union. The City of Vicksburg had its origin as a frontier settlement on the Vick family plantation in 1811 and was incorporated by an act of the state legislature on January 29, 1825.²

Vicksburg was able to grow and prosper on account of its location on the Mississippi River and soon became a leading town on the lower Mississippi River serving as a major fuel and supply point for trade with the rest of the country. Vicksburg due to its strategic location overlooking the Mississippi river became the focal point for what was later to be viewed as one of the key battles leading to the end of the Civil War. Confederate forces in the city surrendered to General Grant on July 4, 1863.³

Warren County has a total population of 51,627, 31,878 (61.7%) of whom are white, and 19,301 (37.4%) black. Vicksburg has a total population of 25,434, over half of whom, 13,331 (52.4%) are black. Whites comprise 11,956 (47%) of Vicksburg's inhabitants.⁴

¹Industrial Data Book, Vicksburg - Warren County
Economic Development Foundation.

²Id.

³Id.

⁴U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, Mississippi, PHC 80-P-26, (1980).

Vicksburg and Warren County population figures between 1940 and 1970 have been relatively constant but during the same time period, the black population has decreased. In 1940, 1950, 1960, and 1970, Warren County's blacks constituted 56, 50, 47, and 41 percent of the population. The basic reason for the decline in the black population has been attributed to the shortage of suitable low cost housing and the elimination of a large number of substandard housing units.⁵ It has been projected that the main growth in Vicksburg would occur in the fringe areas, outside of the corporate limits.⁶

In 1978, the per capita income for Warren County was \$6,577, as compared with \$5,582 statewide.⁷ The primary industries in the area are manufacturing, agriculture and mining. The largest single employer in Warren County is the Federal government with most of its workers being employed by the U.S. Corp of Engineers.⁸

Annexation in Vicksburg

Between 1960 and 1976, the year after annexation occurred in Vicksburg, the city's black population was approaching a majority (see Table 9.1 below). However, in 1975 the city annexed an area which was 95.8 percent white, thus reducing the city's black population to 45.1 percent.⁹

⁵Population and Economic Study of Vicksburg and Warren County, Mississippi, McGregor, Wade and Cruthirds, pp. 11,15 (August 1970).

⁶Id.

⁷Vicksburg City Planning Department, (unpublished data).

⁸Id.

⁹Voting in Mississippi: A Right Still Denied, Lawyers' Committee for Civil Rights Under Law, p. 83 (May 1981) hereinafter referred to as Voting in Mississippi.

Table 9.1

Percentage of Population by Race in Vicksburg

Year	White	Non-White	Total
1960	15,516	13,627 (46.8%)	29,143
1970	12,824	12,654 (45.1%)	25,478
1976	15,458	12,685 (45.1%)	28,143

(Post Annexation)

Source: Voting in Mississippi, p. 83 G.

Pursuant to Section 5 of the Voting Rights Act, the changes were submitted to the Department of Justice for approval, and in 1976 an objection was made.¹⁰ The objection letter stated that under the city's election method a mayor and two council members were elected at-large, with an anti single shot voting law. The objection letter further noted that black candidates had never been elected under this system. In response to the objection, the city modified its election scheme by dividing the city into two wards for the election of council members, with one district being predominantly black. In 1977, the first election held under the new ward system resulted in the election of a black candidate.¹¹

Warren County Redistricting

The crucial role Section 5 of the Voting Rights Act has in ensuring full participation of blacks in the political process is exemplified by the redistricting efforts undertaken by the all white Warren County Board of Supervisors to prevent blacks from obtaining elective representation through racial gerrymandering of district lines and disregard of the requirements of Section 5.

¹⁰Id.

¹¹Id.

The county governing board is the Board of Supervisors and each of its 5 members is elected from 1 of 5 districts to 4 year terms of office. These districts, originally drawn in 1929, serve as election districts for justice court judges, constables, and members of the county board of election commissioners. ¹²

Prior to redistricting in 1970, there were 3 majority black districts in Warren County, all located within Vicksburg having a non-white population of 64.0, 55.9 and 50.7 percent respectively. Two of the districts (2 and 4) had non-white voting age majorities of 60.2 percent and 50.5 percent. (See Table 9.2 below). In 1970 the board adopted a redistricting plan which split the 3 majority non-white districts among all 5 new districts, and substantially reduced the black majority in the other 2 districts, effectively precluding the possibility of the election of a black candidate. ¹³

Table 9.2

Voting Age Population Prior to Redistricting 14

District	White	Nonwhite	Total	Percent	Percent
				White	Non White
1	3,691	2,112	5,803	63.6	36.4
2	1,958	2,958	4,916	39.8	60.2
3	2,318	1,965	4,283	54.1	45.9
4	2,353	2,396	4,749	49.5	50.5
5	6,676	1,292	7,968	83.8	16.2
TOTAL	16,996	10,723	27,719	61.3	38.7

¹²Brief for Appellee at 3, Donnell v. United States, 100 S.Ct. 1000 (1980) hereinafter Brief.

¹³Voting in Mississippi at 51.

¹⁴Stokes v. Warren County Election Commission, J79-0425 (S.D.Miss. September 20, 1979).

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In November 1970, pursuant to Section 5 requirements, the county redistricting plan was submitted to the Attorney General. The Attorney General entered an objection to the plan on April 4, 1971 based on discrepancies in population data submitted by the county and 1970 census data, which made it impossible to determine whether or not the plan would have a discriminatory effect¹⁵. The board subsequently submitted supplementary information, but the Department of Justice found that the new data was subject to "the same infirmities" present in the original data, and refused to withdraw the objection¹⁶.

Despite the objections which were interposed, the county held elections pursuant to the objected-to plan in 1971, resulting in the election of whites to all 5 board seats and the defeat of 2 black candidates. ¹⁷

Again, the board submitted additional information to the Department of Justice in 1973, and on February 13, 1973 the Attorney General again refused to withdraw his objection stating:

the effect of the proposed district boundary lines is to fragment areas of black population concentrations, thereby minimizing the total number of black persons residing in each of the districts and diluting black voting strength in Warren County.

Moreover, it does not appear that the district lines are drawn as they are because of any compelling governmental need and they do not reflect population concentrations in the county or considerations of

¹⁵Letter from Jerris Leonard, Asst. Attorney General, Civil Rights Division, U.S. Department of Justice to Landman Teller, Attorney for the Warren County Board of Supervisors, April 4, 1971).

¹⁶Letter from David Norman, Asst. Attorney General, Civil Rights Division, U.S. Department of Justice to Teller, August 23, 1971.

¹⁷Brief at 5.

district compactness or regularity of shape. Under these circumstances, we find no basis for withdrawing the objections to the implementation of this redistricting plan interposed by our letter of April 4, 1971.¹⁸

The Department of Justice restated its objection to the 1970 plan on March 7, 1973 indicating that "because the objectionable redistricting plan was legally unenforceable at the time the 1971 county supervisor elections were held, those elections were unlawful."¹⁹

The board refused to set aside the results of the unlawful 1971 elections, and consequently the Department of Justice filed suit alleging that the Attorney General's objection to the 1970 redistricting plan rendered that plan unenforceable under Section 5, and that the election districts in effect prior to the 1970 redistricting were malapportioned. On June 19, 1975, a 3-judge District Court granted the government's motion for summary judgment and enjoined the use of the 1971 plan, and on May 13, 1976 enjoined the holding of the 1975 county district elections.²⁰ Furthermore, when the Attorney General failed to approve the board's 1976 plan due to dilution of black voting strength, the court itself approved and ordered the plan into effect and established a schedule for holding the elections which had been postponed.²¹

The Supreme Court reversed the District Court holding that the Court had exceeded its jurisdiction which was "limited to the determination whether a [voting] requirement is covered by Section 5, but has not been subject to the re-

¹⁸Letter from J. Stanley Pottinger, Asst. Attorney General, Civil Rights Division, U.S. Department of Justice to John W. Prewitt, attorney for the Warren County Board of Supervisors, February 13, 1973.

¹⁹Letter from Pottinger, March 7, 1973.

²⁰United States v. Board of Supervisors Civ. No. 73w-48(n) (S.D. Miss., Orders of June 19, 1975 and May 13, 1976).

²¹Id.

quired Federal scrutiny. ²² In fact, however, the 1975 elections were never held and the all-white board elected in 1971 remained in office until 1980.

Following the reversal by the Supreme Court, the county instructed a private consulting firm to devise a new redistricting plan. Instead of submitting this plan to the Department of Justice, the board filed suit in the District Court for the District of Columbia seeking a declaratory judgment pursuant to Section 5 that the plan was not discriminatory in purpose or effect. ²³

Under the proposed plan, Warren County's heaviest concentration of blacks, located in central and north Vicksburg, and north into the rural area, was divided into 4 of the 5 proposed districts. A one block black residential area under the proposed plan was actually divided into 3 districts. All 5 districts, unlike the existing plan, included both urban and rural areas and divided the City of Vicksburg among 5 districts. The plan called for districts that were not compact and followed irregular boundaries through the city and a portion of one district was noncontiguous with the rest of the district. ²⁴

The District Court for the District of Columbia rejected the plan, holding that the board had failed to meet its burden under Section 5 of proving that the redistricting plan was not racially discriminatory in purpose or effect, and specifically stated that the county had

offered no valid nonracial justification for the district lines within the City of Vicksburg which result in irregular shaped districts, fragment the black community and caused a diminution of black voting strength.²⁵

²²United States v. Board of Supervisors, 429 U.S. 642, 645-646, (1977).

²³Donnell v. United States, (Civ. Case No. 78-0392 (D.D.C. 1979), aff'd mem., 100 S.Ct. 1000 (1980)).

²⁴Brief at 8.

²⁵Donnell v. United States, supra at 24 (order granting summary judgment).

The decision of the District Court was affirmed by the Supreme Court.²⁶ Following the District Court's rejection of the plan submitted by the board, the District Court for the Southern District of Mississippi implemented a redistricting plan which avoided the unnecessary fragmentation of black voting strength in Vicksburg.²⁷ The court ordered plan established one district entirely within Vicksburg, and created two majority black districts which had black voting age populations of 64.55 percent and 62.74 percent.²⁸ In the 1979 county elections, one black county supervisor, one black justice of the peace and two black constables were elected, becoming the first black county elected officials in Warren County since Reconstruction.²⁹

²⁶Id.

²⁷Stokes v. Warren County Election Commission, supra.

²⁸Due to Warren County's history of racial bloc voting and past racial discrimination, it is generally conceded that a district should contain a black population of at least 65 percent, or a black voting age population of 60 percent to provide black voters with an opportunity to elect a candidate of their choice. Donnell v. United States, supra, at footnote 26.

²⁹Voting in Mississippi at 56

Chapter 10

PROFILE ON EDGEFIELD COUNTY
AND EDGEFIELD, SOUTH CAROLINABackground

Edgefield County, South Carolina is located along the Southeast border of Georgia with its county seat of Edgefield situated 26 miles northeast of Augusta, Georgia. It is a small rural county of 17,478 with nearly half (49.9%) of its population comprised of blacks.¹ Three incorporated towns are found in Edgefield County: Edgefield, Johnston, and Trenton. Edgefield is the largest with a population of 2,713, 47.5% of whom are black.² The town of Edgefield's present population reflects a 1.3 percent decrease from the 1970 census data which showed Edgefield with a majority black population.³

In 1970, of the 5,627 employed workers in the county, only 64 percent found employment within the county's boundaries.⁴ Employment within the county is divided nearly equally between manufacturing and service industries. There has been a steady decline in agricultural employment which amounted to only 14.5 percent of the total employment in 1969, as compared with 18 percent in 1966. Manufacturing employment is concentrated in textiles with the primary employers being the Kendall Company, Excelsior Worsted Mills and the Riegel Textile Corporation. Peaches are Edgefield's

¹Nancy Olson, Regional Office, Bureau of the Census, Telephone Interview, April 14, 1981, hereinafter referred to as Olson Interview.

²U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing, Advance Reports, PHC80-V-42 (March 1981).

³Id.

⁴U.S. Department of Commerce, Bureau of Census, General Social and Economic Characteristics, Table 119, PC(1) C-42 S.C.(1970); hereinafter referred to as General Social and Economic Characteristics.

principal cash crop and although farms are providing fewer and fewer jobs, the average size of each farm is actually increasing.⁵

Income, education and housing data from Edgefield reflect the limited economic opportunities which are available to its citizens. In 1979 the average industrial wage in Edgefield was only \$3.35 per hour while in the nearby Georgia counties of Richmond and Columbia the average was \$6.81 per hour.⁶ In 1970 the median income for all persons in Edgefield County was \$6,267 with 29.2 percent of all households living below the poverty level. For blacks the statistics were \$4,581 and 42.6 percent respectively. The median level of education for all persons 25 years old and above, was 9.4 years while the level of education for blacks was only 7.4 years.⁷ According to the 1970 Census one-half of all housing for blacks had no piped water, toilet, bathtub or shower facilities.⁸ It is noteworthy that 19.5 percent of all rented dwelling units are listed as "no cash rent", reflecting that there is still a significant segment of the population whose housing is paid for by in-kind services to the owner of the property, such as in the case of domestic workers, tenant farmers and migratory workers.⁹

The City of Edgefield employs 16 persons on a full-time basis 6 of whom are white males, 1 is a white female and 9 are black males. In the 7 person police department there are 4 white males and 3 are black males (the Assistant Chief of

⁵South Carolina, Office of the Governor, Division of Administration, Land Use Survey and Analysis, Edgefield County, South Carolina p. 20 (1972); hereinafter cited as Land Use Survey.

⁶Vicki Allen, Augusta Chamber of Commerce, Augusta, Georgia, Telephone Interview, May 19, 1981.

⁷General Social and Economic Characteristics, Tables 120, 124, 125, 128.

⁸U.S. Department of Commerce, Bureau of Census, Detailed Housing Characteristics, HC (1) B42 S.C. Table 69 (1970).

⁹Housing Demand Study, Edgefield County, South Carolina, Wilbur Smith and Associates, p. 8, 1973.

Police is black). There are 9 black city employees 6 of whom are sanitation workers.¹⁰

The county employs 61 persons 48 of whom are white and 13 are black. The greatest concentration of black employees (4) serve as drivers. There are 5 deputy sheriffs employed by the county 3 of whom are white and 2 of whom are black. There is a total of 6 jailers/dispatchers employed by the county. There are 3 white males, 2 white females and 1 black female who serve in this category.¹¹

Edgefield was settled in 1748, and by the time of Reconstruction blacks in Edgefield county outnumbered whites 25,417 to 17,040. By 1867, black registered voters outnumbered white voters 4,367 to 2,507. With the advent of black enfranchisement however, white landowners used economic reprisals and terrorism to regain political control. Whites were not permitted to sell or rent land to blacks or Republicans and blacks were prevented from voting at the courthouse. As stated by Ben Tillman, an eventual South Carolina Governor, "...[the] doctrine of voting early and often changed the Republican majority of 2,300 in Edgefield to a Democratic majority of 2,900."¹²

Statewide, blacks remained in public office in South Carolina until the turn of the century when an all-white Democratic primary was adopted. However, in Edgefield, blacks were forced from public office as early as 1876. By 1900, not a single black remained on Edgefield County's voter registration rolls and none were to reappear for nearly half a century.¹³

¹⁰Charlotte Coleman, City of Edgefield Administrator, Telephone Interview, June 17, 1981.

¹¹H.O. Carter, Edgefield County Administrator, Telephone Interview, June 4, 1981.

¹²Vernon Burton, "Race and Reconstruction: Edgefield County, South Carolina," Journal of Social History, Vol. 12, pp. 32-44 (1978).

¹³Laughlin McDonald, Voting Rights on the Chopping Block, Southern Exposure, Vol. 9, p. 90 (Spring 1981), hereinafter McDonald Article.

Method of Election

The Edgefield County Council and Board of Education, as well as the Edgefield City Council, elect their members at-large with residential requirements. Under this method, election districts are created for each body with candidates residing in the district from which they run. However, all voters registered in the county vote for candidates from every district notwithstanding location of residence. Thus, each candidate for public office runs county-wide and can be elected even if he or she is unable to carry his or her "home" district.¹⁴

County Council

Edgefield's at-large method of election, when combined with its residential and majority vote requirements and its history of racial bloc voting, has served to keep blacks from ever gaining representation on the council. In 1974, blacks filed a federal suit challenging the constitutionality of Edgefield's method of electing its officials.¹⁵

The Edgefield County Council was created by an Act of the legislature on June 1, 1966 and was composed of three members elected at-large from each of the county's voting districts.¹⁶ Under the enacted legislation, the powers of the council included the right to: exercise the powers of eminent domain; make appointments and levy taxes; incur debt; issue bonds; order the levy and execution of ad valorem taxes; and, to supervise and regulate various county departments. The council is also empowered to hire a county administrator to serve as the chief administrator for the county.

Prior to 1966, the county governing authority was placed with a three-person Board of Commissioners. The county supervisor was elected at-large where as his two fellow commissioners were appointed by the governor on the recommendation of the county legislative delegation. Most executive powers actually resided with the delegation.

¹⁴1966 S.C. Acts No. 1104.

¹⁵McCain v. Lybrand, C.A. No. 74-281 (D.C. S.C. April 17, 1980) vacated (August 8, 1980).

¹⁶1966 S.C. Acts No. 1104.

By legislative Act 521 in 1971, the number of council members was expanded to five. Council members are elected for two year terms and in turn elect their own chair.¹⁷ Under Section 5 of the Voting Rights Act, the U.S. Attorney General approved this change on November 24, 1971.

The present council is composed of 5 white males. Although there have been attempts by blacks to gain seats on the county council, none have been successful. Tom McCain, a black, who has spearheaded efforts to increase the participation of blacks in the electoral process ran for the council both in 1974 and in 1976. In 1976 he was joined by two other black candidates. In both races in which McCain participated he obtained the most votes in the precinct from which he ran only to be defeated by the county at-large totals.¹⁸

In 1976, the South Carolina legislature adopted the Home Rule Act creating a local option as to what method of election could be used and thereby afforded local voters the opportunity of expressing their preference through a referendum. However, no referendum was ever held. ¹⁹ Blacks were unsuccessful in achieving a referendum on the method of election in Edgefield when some 400 names of blacks were excluded from a petition calling for a referendum due to misspellings. ²⁰ The Act further provided that "the county concerned shall, beginning on July 1, 1976 have the form of government, including the method of election, number, composition and terms of governing bodies most nearly corresponding to the form in effect in the county immediately prior to that date."²¹

¹⁷Charles Coleman, County Attorney, Telephone Interview, March 16, 1982.

¹⁸Tom McCain, Telephone Interview, April 7, 1981; hereinafter referred to as McCain Interview.

¹⁹S.C. Code Secs. 4-9-10 et seq.

²⁰Norm Dorn, former member of General Election Commission, Interview, Edgefield, South Carolina, March 11, 1981.

²¹S.C. Code Secs. 4-9-10 et seq.

During the pendency of McCain v. Lybrand, supra challenging Edgefield's at-large method of election, the county council adopted an ordinance implementing home rule and provided for at-large elections.²² Although the ordinance was a change in voting subject to Section 5 preclearance submission, elections were held in both 1976 and 1978 ²³ without preclearance. Eventually, on December 10, 1976, Edgefield's implementation of the Home Rule Act was submitted to the Attorney General for Section 5 review, and on February 8, 1979 an objection was interposed. The pertinent part of the objection letter stated:

Even though the formal structure of the council remains the same, the changes resulting from compliance with the Home Rule Act alter the council as the organ for the governance of the electorate and, accordingly, form the basis for evaluating the system under which the more responsible form of government ordained by the Home Rule Act is to be elected. That form of government requires at-large elections with residency districts.

Our analysis further reveals that bloc voting along racial lines exists in Edgefield County. With racial bloc voting present and under the at-large elections blacks have not elected candidates of their choice to the county council. Under a system of fairly drawn single-member districts, blacks would be afforded access to the political process in Edgefield County.

Our review discloses that there has been substantial support for a referendum in Edgefield County, particularly among the black voters. According to our information black citizens of Edgefield County filed petitions in May 1976 requesting such a referendum, a request that was denied by the county and which is now pending before the State Supreme Court. It is our

²²Edgefield, South Carolina, Resolution Adopting Council Administrator Form of Government (June 21, 1976).

²³McDonald Article, p. 93

further information that black citizens in Edgefield strongly favor the adoption of single-member district elections. However, because the county has rejected the effort of the black community to petition for a referendum and since the county also has chosen not to call for such a referendum on its own motion, the apparent sentiment for a change to single-member districts has not been brought to a vote. Accordingly, the promise of public participation in the selection of the form of government and method of election under home rule has simply not been realized in Edgefield County.

The Justice Department letter concluded by stating that should the county adopt an election system more accurately representative of minority voting strength, such as single-member districts, a reconsideration of the South Carolina Home Rule Act would be possible. ²⁴

A biracial Citizens' Advisory Committee was appointed on April 9, 1979 under instructions from the county council by the respective chairs of the Democratic and Republican parties in Edgefield for the purpose of effectuating a single-member district plan. On May 3, 1979, Bobby M. Bowers, Chief of Demographic Statistics, Division of Research and Statistical Services of the State of South Carolina and Ex-Officio Chairman of the Citizens' Advisory Committee reported to Charles E. Lybrand, Chair of the Edgefield County Council, that the Committee had unanimously agreed to a plan which would have created five single member districts, two of which would have a substantial black majority.²⁵ Prior to adoption of the single-member district plan proposed by the committee, however, the council determined that the Attorney General's opinion rejecting the at-large election method was not binding on the county. ²⁶

²⁴Letter from Drew S. Days, III, Assistant Attorney General, Civil Rights Division, Department of Justice to H.O. Carter, Edgefield County Administrator, February 8, 1979.

²⁵Letter from Bobby Bowers to Charles E. Lybrand, May 3, 1979.

²⁶McDonald article.

On April 17, 1980, U.S. District Court Judge Robert F. Chapman entered an order which enjoined the holding of elections for the county council until a new and constitutional method of election had been adopted.²⁷ What appeared to be the death knell of at-large elections in Edgefield was effectively forestalled however by the U.S. Supreme Court's decision in City of Mobile v. Bolden, which ruled that in vote dilution cases plaintiffs must prove intentional discrimination as opposed to a mere accumulation of circumstantial evidence denoting discrimination. Following the Bolden decision, Judge Chapman, on August 8, 1980 withdrew his earlier opinion and reopened the case to permit the plaintiffs to present evidence that Edgefield's method of election was either adopted or being maintained, to intentionally exclude blacks.²⁸ Subsequently, the McCain complaint was amended seeking a court order that Edgefield comply with the Section 5 preclearance requirements, both with respect to the adoption of at-large elections in 1966, and in implementing statewide home rule in 1976. Although council elections could have been held after Judge Chapman's April opinion was withdrawn, the council elected not to do so.²⁹ The trial of the issues raised in McCain was tried in August of 1981 and as of January 29, 1982 a decision had not been rendered by the court.³⁰

School Board

The Edgefield County School Board is composed of seven members who are elected for 6 year staggered terms from residential areas on an at-large basis. Members of the elected board select their own chair. Prior to 1969, there was only an election of the Superintendent of Education, whose 7 member board was appointed by the governor upon the recommendations of the county's state legislative delegation, after they received advice on the appointments from members of the county council. Currently, interim vacancies on the

²⁷McCain v. Lybrand, supra.

²⁸Id.

²⁹Laughlin McDonald, Director, Southern Regional Office (Atlanta), American Civil Liberties Union, Telephone Interview, June 23, 1981.

³⁰McDonald, Telephone Interview, January 29, 1982

board are filled by the state legislative delegation, upon the recommendation of members of the the board, by-passing the county council entirely. 31

The present all male board consists of 6 whites and 1 black. No black had sought county wide office in Edgefield since Reconstruction until Max Cooper and Willie Nicholson unsuccessfully ran for the school board in 1968. Black candidates also sought school board seats in 1970 when Hoover Lanham and Edward Senior ran but were defeated. 32

The first black to gain a seat on the board was Mark Adams, an Edgefield resident who taught in an adjacent county. Mr. Adams was selected at a 1970 board meeting attended by members of the county council and the state representative. The meeting was held to fill the seat vacated by Lewis Bryan. Mr. Adam's selection was based upon the consensus that there "should be some black representation on the board of education". 33 His appointment to the school board immediately preceded the integration of Edgefield's schools which occurred in September 1970.

Mr. Adams successfully sought election to the unexpired school board seat in the next scheduled election in 1972 and was re-elected without opposition to a full 6 year term in 1974. Mr. Adams resigned from the board in July, 1977 and another black, Willie Lewis, a retired 6th grade teacher with 35 years of teaching experience in Edgefield, was selected to complete the unexpired term on November 3, 1977. Mr. Lewis ran successfully in 1978 for the unexpired term and again in 1980 for a full 6 year term and was elected in both instances without white opposition. 34

31Mrs. Lou Lewis, Administrative Secretary, Edgefield Board of Education, Interview April 9, 1981.

32McCain Interview.

33Edgefield County School Board Minutes, p. 2 July 8, 1970.

34Mrs. Lou Lewis, Telephone Interview, May 22, 1981; Mr. Willie Lewis, Member, Edgefield County School Board, Interview, Edgefield, South Carolina, March 12, 1981, hereinafter referred to as Willie Lewis Interview.

White officials tend to regard the election of Mr. Adams and Mr. Lewis to the school board, after having completed unexpired terms, as positive proof that blacks can win elections county-wide under the present method of elections in Edgefield.³⁵ Blacks however, observe that the black elected board members were chosen by the "power structure" and have been the only black candidates for public office to have no white opposition.³⁶

The concern and frustration experienced by Edgefield's blacks with reference to what is perceived as a lack of adequate representation on the school board is augmented by the disproportionate number of blacks in professional positions in the school system. In March 1981, blacks accounted for 2 of 6 principalships and 69 of 216 teaching positions (32%) while the total black enrollment for the school system was 2,344 of 3,490 students (67%).³⁷ According to some local black leaders the conclusion is inescapable that in a school system in which black students outnumber white students by more than 2 to 1, whites control both policy making and delivery of services.

Edgefield City Council

The all-white Edgefield City Council consists of six members who are elected for 4 year terms on a staggered basis. Candidates for the city council run from residential districts and are elected at-large by a majority vote in a non-partisan election. No filing fee is required to run,

³⁵Charles Coleman, County Attorney and Charles Lybrand, Chair County Council, Interview, Edgefield, South Carolina, March 10, 1981

³⁶Norm Dorm, Interview, March 11, 1981; J.R. Cooper, Candidate, Edgefield County Council, Interview, Edgefield, South Carolina, March 12, 1981; Fab Burt, Candidate Edgefield County Council, Interview, March 12, 1981.

In McCain v. Lybrand, *supra*, Judge Chapman, in his subsequently withdrawn opinion, made a finding of fact that "the blacks serving on the school board obviously serve as a token and at the pleasure of the white power structure."

³⁷Howard E. Moody, Administrator, Edgefield County Department of Education, Interview, Edgefield, South Carolina, March 12, 1981.

but prospective candidates must obtain signatures of 5 percent of the registered voters to get on the ballot. The mayor is elected citywide for a 4 year term.

Perceptions of At-Large Voting

Opinions as to the efficacy of at-large elections, as well as the existence of bloc voting, are sharply divided along racial lines. White officials, who were interviewed in Edgefield, support at-large elections because in their view it provides the fairest form of government and most responsive representation. And with one exception they denied the existence of racial bloc voting in Edgefield. ³⁸

Blacks, however, are of the opinion that no black candidate who runs on a platform responsive to blacks can gain election under the at-large method. There was unanimity of opinion among the blacks interviewed in Edgefield that racial bloc voting is the norm in elections contested by both white and black candidates and that the at-large system was established and perpetuated so whites could maintain

³⁸John Edwards, Chair, General Election Commission, Interview, Edgefield, South Carolina, March 12, 1981; Olin Kemp, Chair, City Election Commission, Interview, Edgefield, South Carolina, March 13, 1981; Roland Windham, Edgefield City Administrator, Interview, Edgefield, South Carolina, March 11, 1981; Henry Herlong, Jr., Edgefield, City Attorney, Interview, Edgefield, South Carolina, March 11, 1981; Whit Gilliam, Member, County Planning Board, Interview, Edgefield, South Carolina, March 11, 1981; and Lybrand, Coleman, Carter, Floyd, and Pettigrew Interviews.

control of governmental services. ³⁹ It was also noted that black candidates often find it financially burdensome to mount countywide campaigns for office. ⁴⁰

Views as to whether the county council has been responsive to the needs of black citizens are dichotomized along racial lines. White officials assert that the council is sensitive to the needs of blacks. ⁴¹ Blacks, on the other hand, are critical of the lack of sensitivity of the council to the needs of blacks with some blacks qualifying their criticism somewhat by stating that the council was responsive to minor issues but not larger ones. ⁴²

Specific issues upon which blacks offered criticism included: the delapidated bridge on Brook Street in Edgefield which will not support the weight of school busses or fire trucks; ⁴³ the lack of paved roads and the absence of fire hydrants over a 4 mile section of Highway 25 in the predominantly black Trenton area; ⁴⁴ and, the failure to select sensitive blacks to appointive positions ⁴⁵ or to hire blacks in general. ⁴⁶

Judge Robert Chapman opined in the McCain case that... "The County Council has not been responsive to the needs of black citizens, even though they make up a majority of the population of this county..."

³⁹Virgil Scott, Member, General Election Commission, Interview, Edgefield, South Carolina, March 11, 1981, hereinafter referred to as Scott Interview; Marie Adams, Deputy Registrar, Interview, Edgefield, South Carolina, March 12, 1981, hereinafter referred to as Adams Interview; Cooper, McCain, Dorn, Bright, Burt, Willie Lewis Interviews.

⁴⁰Willie Bright Community Leader, Edgefield, South Carolina, Interview March 11, 1981, hereinafter referred to as Bright Interview; Tom McCain Interview.

⁴¹R.J. Floyd, Republican County Executive Committeeman, Interview, Edgefield, South Carolina, March 10, 1981.

⁴²Rev. Ernest Gordon, Interview, Edgefield, South Carolina, March 9, 1981, McCain Interview.

⁴³Dorn Interview.

⁴⁴Bright Interview.

⁴⁵McCain Interview.

⁴⁶Burt Interview

Insofar as data on racial bloc voting in Edgefield is concerned, the evidence adduced in McCain v. Lybrand, is most illustrative. Dr. John E. Suich, an expert witness in statistical analysis, presented overwhelming evidence that when presented with a contest between black and white candidates, voters in Edgefield vote on the basis of race. Data was presented on votes received by two black candidates running for the school board in 1970, one for county council in 1974 and one for the state House of Representatives in 1974 which resulted in a runoff. Votes received by black candidates in virtually all white precincts appearing below in Table 10.1 are particularly noteworthy:

Table 10.1

1970 School Board Election

Precincts	1970 Number of Registered Blacks	Votes Received by Black(s) and White(s) Candidates			
		W		B	
		W	B	W	B
Colliers	8	66	2	68	0
Long Branch	10	30	5	30	5
Red Hill	1	92	0	92	0

1974 House of Representatives and County Council Elections

Precincts	1974 Number of Registered Blacks	House		County Council		House Runoff	
		W		W		W	
		W	B	W	B	W	B
Cleveland	5	45	0	37	4	49	4
Colliers	4	81	2	78	6	87	4
Long Branch	12	45	3	43	7	51	5
Red Hill	1	66	0	53	9	61	5

Dr. Suich testified that the correlation between the race of the voter and that of the candidate was extraordinarily high, in the range of 0.90 (on a scale of -1.00 to +1.00) for each election in which a black has run.

A similar analysis of voting patterns with respect to Edgefield's June 8, 1976 Democratic Primary for County Council, as well as the June 22, 1976 runoff, has also been completed by Dr. Suich who found a correlation of roughly .97 between the race of the candidate and race of the voter. Thus, as one proceeds from analyzing predominantly black to predominantly white precincts, all but approximately 3% of the variation in election results is attributable to race. In summarizing his findings, Dr. Suich stated:

The conclusion seems inescapable: Edgefield County voters, where the racial composition of their precinct yields identification of race, engage in racial bloc voting; where racial composition of their precinct is mixed, Edgefield County voters may be presumed to be racial bloc voting, the contrary is permitted only to the extent that blacks crossover, and whites do not. On balance, an impartial mathematical assessment indicates very strong evidence that bloc voting is the rule in Edgefield elections with racially mixed candidates.⁴⁷

Registration

The registration of voters in South Carolina is supervised by the State Election Commission which is composed of 5 members appointed by the governor for 4 year terms and must in-

⁴⁷Letter from Dr. John E. Suich to Laughlin McDonald, Director Southern Regional Office, American Civil Liberties Union, January 20, 1981.

clude at least 1 member each from both the majority and minority party of the General Assembly.⁴⁸ The executive Director serves as the chief administrative officer of the Commission and serves at its pleasure.⁴⁹ The executive director is responsible for maintaining a complete roster of qualified electors by county and precinct and furnishes master lists of qualified voters to county registration boards. In addition, he is responsible for leasing or purchasing equipment for elections and excluding the names of unqualified voters.⁵⁰

The board of registrars in each county determines the legal qualifications of each applicant for registration.⁵¹ Blacks were not included on Edgefield's registration board until 1974, when the board's membership was increased from 3 to 5 members by the appointment of 2 blacks at the insistence of state representative Butler Derrick. One black deputy registrar was also appointed.⁵²

The county registration office is located in the Edgefield County Courthouse and is open Monday through Friday, 8:30 a.m. to 4:30 p.m. The office is opened on Saturdays, when an election is scheduled. Registration board members and deputy registrars are authorized to take the registration books to satellite locations in the county, but are not taken door-to-door in neighborhoods.⁵³ Duplicates of all registration certificates are sent to the State Election Commission. The registration office is kept open during elections in order to verify challenged voters.⁵⁴

Generally, the registrars in Edgefield were described as being accessible and friendly. It was noted, however, that blacks living on large farms and those paying no cash rent were particularly vulnerable to intimidation or harassment

⁴⁸S.C. Code Sec. 7-3-10.

⁴⁹S.C. Code Sec. 7-3-20.

⁵⁰Id.

⁵¹S.C. Code Secs. 7-5-10.

⁵²Adams Interview.

⁵³Mary Ellen Painter, Chair Registration Board, Interview, March 10, 1981.

⁵⁴Mary Ellen Painter, Telephone Interview, July 1, 1981.

from white owners for voting, or even registering. In addition to these obstacles, there is also a lack of appreciation on the part of some rural blacks as to the value of voting.⁵⁵

The history of black voter participation in South Carolina is a depressing one and particularly so in Edgefield. Until 1947, when federal Judge Waties Waring declared that the segregated Democratic primary was unconstitutional, blacks were effectively excluded from participation in South Carolina's elections. Immediately preceeding the advent of the Voting Rights Act, only 650 blacks were registered in Edgefield, representing only 17 percent of the voter eligible population as contrasted with nearly 100 percent registration by eligible whites.⁵⁶ Ten years following the implementation of the Voting Rights Act, registration of eligible black voters had risen to 61 percent (See Table 10.2). Furthermore, the black percentage of total registration while amounting to only 14.1 percent in 1960, had risen to nearly 44 percent in 1980.

Aside from dramatic increases in the number of blacks registered to vote in Edgefield County, the percentage of blacks actually casting their votes has steadily risen. Since 1970 the percentage of registered blacks voting in general elections has increased from 56 percent in 1970 to nearly 70 percent in 1980, while during the same period the percentage of whites voting has ranged between 68 and 79 percent. Despite the predominantly rural nature of Edgefield, voter participation for both blacks and whites in Edgefield approximates that of the statewide voting pattern.⁵⁷

Despite the gains which have been made by blacks in the area of registration, recent events suggest that their gains are nevertheless subject to erosion. In 1980, Republicans, who polled only 15 votes in the 1980 county Republican primary,⁵⁸ requested representation on the registration board. To afford this representation, the names of the 2 black board members were placed in a hat along with of 1 of the 3 white members. The name of a black board member was drawn from the hat and replaced with a white Republican, leaving 1 black

⁵⁵Bright and Gordon Interviews.

⁵⁶McDonald article.

⁵⁷James F. Hendrix, Telephone Interview, April 14, 1981.

⁵⁸South Carolina Election Commission Statistics

Table 10.2

Population and Registration in
Edgefield County

	<u>Pop. (1960)</u>	<u>Percentage</u>	<u>VAP*</u>	<u>Total Registration 1964**</u>	<u>Percent VAP</u>
White	6,581	41.8	4,103 (52.2)	3,950 (85.9)	96.3
Black	9,154	58.2	3,764 (47.8)	650 (14.1)	17.3

	<u>Pop. (1970)</u>			<u>1974***</u>	
White	7,586	48.3	5,195 (55.5)	3,773 (59.8)	72.6
Black	8,104	51.7	4,167 (44.5)	2,539 (40.2)	60.9

	<u>Pop. (1980)****</u>			<u>1980*****</u>	
White	8,753	50.1	N/A	4,500 (56.2)	N/A
Black	8,725	49.9	N/A	3,507 (43.8)	N/A

* Voting Age Population

** U.S. Commission on Civil Rights, Political Participation, May, 1968.

*** U.S. Commission on Civil Rights, The Voting Rights Act, Ten Years After, January, 1975, Table 1-C.

**** Olson Interview

***** James Hendrix, Assistant Director, South Carolina Election Commission, Telephone Interview, April 13, 1981.

board member to represent the interests of Edgefield's nearly 50% black population.⁵⁹ Likewise, out of 5 deputy registrars selected only 1 was black.⁶⁰

The purging of voter registration lists is conducted by the State Election Commission and may occur for any of the following reasons: removal from precinct where registered; conviction of a disqualifying crime; failure to vote in two consecutive general elections or intervening local elections; and death.⁶¹ Voters who are purged are placed on an inactive list and are notified that they can return to active status upon notifying the registrars that they wish to do so.⁶² The list of purged voters is cumulative, and as of March 13, 1981 amounted to 3,671 names.⁶³

Party Organization and Voting

Every political party in South Carolina must apply for certification to the State Election Commission.⁶⁴ One party club may be established in each voting precinct for general elections and each club elects a president, one or more vice-presidents, secretary, treasurer, a precinct or club secretary and a district executive committeeman. The names of all officers of party clubs must be reported to the clerk of the court of the county.⁶⁵ Political clubs in each county operate under the control of a county committee consisting of one member from each club in the county as well as the state executive committeeman for the county.⁶⁶ Clubs are re-organized every 2 years.⁶⁷

⁵⁹William A. Reel Jr., former State Representative, Interview, Edgefield, South Carolina, March 13, 1981.

⁶⁰Painter Interview.

⁶¹S.C. Code Sec. 7-3-30.

⁶²Id.

⁶³Ms. Elizabeth Green, Deputy Registrar, Interview, Edgefield, South Carolina, March 13, 1981.

⁶⁴S.C. Code Secs. 7-9-10.

⁶⁵S.C. Code Secs. 7-9-30.

⁶⁶S.C. Code Sec. 7-9-60.

⁶⁷S.C. Code Sec. 7-9-50.

County conventions are held in each year of a general election and delegates to the convention are elected by each club. One delegate may be elected for every 25 members, or major fraction thereof.⁶⁸ Each party may also form a state committee comprised of one person from each county. State conventions are likewise held each year of a general election.⁶⁹

For the Republican Party the actual number of delegates to the county convention allocated to each precinct is based on the number of Republican ballots cast in the precinct for the last Presidential election. With regard to the state convention, one delegate is allowed for each 6,000 persons, as well as 2 at-large delegates. To date there has never been a county Republican primary in Edgefield due to a lack of participation.⁷⁰

The number of delegates to the state convention for the Democratic Party is determined on the basis of population and voter participation.⁷¹

Primary election workers in Edgefield are appointed by the County Democratic Executive Committee. General election workers are appointed by the County General Election Commission. Until 1970 blacks were virtually excluded from positions as election workers and from 1970 through 1974 there were 8 of 17 precincts having no black election workers. From 1970 through 1974 only 9.6 percent of all precinct election officials were black.⁷²

Since 1974, however, blacks have used party organizational machinery to effectuate change. Blacks have attended precinct meetings and, due to poor participation by whites, have successfully elected delegates to the Democratic County Convention. County party officers are in turn elected by delegates to the convention. In 1974, Tom McCain became the first black to be elected to Edgefield's Democratic

68S.C. Code Sec. 7-9-70.

69S.C. Code Sec. 7-9-100.

70G.W. Fleurett, Republican County Committeeman, Telephone Interview, June 17, 1981.

71Bill Carrick, Executive Secretary, State Democratic Party, Telephone Interview, June 18, 1981.

72McCain v. Lybrand, supra.

Executive Committee, and in 1976 he became its chair. In addition, by 1980, 8 of the 11 Democratic County Executive Committeemen, and 3 of the 4 delegates to the state Democratic convention were black.⁷³ Ironically, since blacks have assumed influential roles as party officers they have experienced some difficulty in recruiting white poll workers.⁷⁴ Of the 50 poll workers in the 1980 Democratic primary, 28 were black and 22 were white.⁷⁵

The General Election Commission, responsible for conducting general elections, has been identified as a barrier to full participation by blacks in the electoral process. The 3 member commission is appointed by the governor upon the recommendation of Edgefield's state representative. In 1972, then state representative Butler Derrick nominated Norm Dorn, a black political activist to a position on the Commission. Dorn was replaced in effect by state representative William A. Reel, Jr. in 1977 with his nomination of Virgil Scott, a black businessman who was not active in registration activities and whose business was dependent upon whites for 50 percent of its support. Dorn was allegedly replaced because he served as a Democratic Party officer (Treasurer) which was prohibited by commission rules.⁷⁶ The displacement of Dorn was cited by some blacks as confirmation of the belief that black activists can gain neither appointive nor elective office in Edgefield.⁷⁷ It is felt by many blacks that the reconstitution of the General Election Commission produced a change in the trend of primary poll workers also working the general election. This change in 1980 produced only 20 of 68 black poll workers. In addition, three of 11 precincts had no black poll workers and only 2 of 11 clerks in charge of precinct polling places were black.⁷⁸

⁷³Adams Interview.

⁷⁴Painter and Bright Interviews.

⁷⁵Adams Interview.

⁷⁶Scott Interview.

⁷⁷Dorn, Bright, McCain Interviews.

⁷⁸Painter Interview.

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City elections in Edgefield are supervised by a 3 member (1 black) Municipal Election Commission.⁷⁹ There are no additional registration requirements for voting in municipal elections in South Carolina.⁸⁰ The city is divided into 3 precincts for municipal elections and each precinct is staffed by a clerk and 2 poll workers. During the most recent mayoral race held on May 5, 1981, none of the 3 precinct clerks were black, but there was one black poll worker in both Precincts 1 and 2.⁸¹

⁷⁹Willie Lewis, Edgefield Election Commissioner, Telephone Interview, July 1, 1981; hereinafter, Lewis Telephone Interview.

⁸⁰S.C. Code, Sec. 7-5-630.

⁸¹Charlotte Coleman, Telephone Interview, July 1, 1981.

Chapter 11

In Summary

Voting Rights in the 8 representative jurisdictions (one county and its county seat) in Alabama, Georgia, Mississippi and South Carolina continue to be plagued by official efforts which result in a dilution of minority voting strength. Questionable annexations and redistricting, at-large elections and racial bloc voting, inconvenient registration hours and non-compliance with Section 5 preclearance provisions, along with an increasing lack of cooperation and hostility based on racial intolerance, tend to be the rule rather than the exception in the jurisdictions reviewed. Further, it should be noted that members of the Advisory Committees view conditions in these jurisdictions to be representative of the conditions in the majority of the jurisdictions in Alabama, Georgia, Mississippi and South Carolina.

The right to vote is essential to the full participation of all citizens in the electoral process. Even though this right provides all citizens with the power to elect persons who make key decisions which effect their political and socio-economic lives, it has not been exercised freely by minorities in Alabama, Georgia, Mississippi and South Carolina. These states have long histories of denying minorities, particularly blacks, full participation in the electoral process. And while there has been some progress made because of the Voting Rights Act, continued resistance and failure to comply with the spirit and the letter of the Act by officials in most jurisdictions suggest a need for more stringent oversight by the Federal Government.

Chapter 12

FINDINGS AND RECOMMENDATIONS

Finding 1:

The very real and substantial gains made by blacks and other minorities in the South in most phases of the electoral process, from dramatic increases in registration to significant increases in the numbers of elected officials, are well documented in this report and others. Nevertheless, in most jurisdictions in Alabama, Georgia, Mississippi and South Carolina blacks and other minorities have not obtained parity with whites with respect to any indicia of political participation.

Recommendation 1:

The Alabama, Georgia, Mississippi and South Carolina Advisory Committees therefore recommend that the U.S. Commission on Civil Rights advise the President to support and urge the Senate to pass Senate Bill 1992. Senate Bill 1992 is the Senate version of House Bill 3112 which the House of Representatives passed on October 4, 1981 by a vote of 389 to 24. Senate Bill 1992 had been endorsed by 62 Senators as of January 1982.

Senate Bill 1992 and House Bill 3112 would extend the Voting Rights Act which is scheduled to expire on August 6, 1982. Both bills include the following provisions:

- (1) Section 5 "special provisions" would be extended continuously rather than for a prescribed period of time. These provisions require covered jurisdictions to submit all proposed changes in voting and election procedures to the U.S. Department of Justice for preclearance prior to implementation.
- (2) Section 4 provides for less stringent requirements for a jurisdiction to "bail out" or cease to be covered by the special provisions. The "bail out" provision allows a

jurisdiction to demonstrate that for the preceding 10 years neither the jurisdiction nor governmental units under it had a record of voting discrimination and also that positive steps had been taken to increase minority political participation.

- (3) Section 2 prohibits any voting practice which results in the denial or abridgement of the right to vote. Under the provisions, the effect rather than the intent of the practice is the deciding factor as to whether the challenged practice constitutes a violation of the Voting Rights Act.
- (4) The bilingual provisions which do not expire until 1985 are now extended until 1992.
- (5) An amendment that was adopted prohibits assistance in the voting booth unless the voter is blind or physically incapacitated.

Appendix A gives a summary of the provisions of House Bill 3112 and Senate Bill 1992.

Finding 2:

Evidence supports the fact that significant noncompliance with Section 5 preclearance provisions persist on the part of officials of many jurisdictions in Alabama, Georgia, Mississippi and South Carolina.

Recommendation 2:

The Alabama, Georgia, Mississippi and South Carolina Advisory Committees recommend that the Commission urge the U.S. Department of Justice to conduct Department initiated compliance reviews periodically to insure a higher degree of compliance with current Section 5 preclearance provisions and/or any future preclearance provisions.

What Does H.R. 3112 Provide?

The House bill HR 3112, passed on October 5, extends continuously the special provisions of the Voting Rights Act and changes others. In essence, the bill extends Section 4 to permit jurisdictions to meet a new standard of exemption from the obligations of preparing voting changes under Section 5; amends the standard of proof in Section 2 voting discrimination court cases; and extends the bilingual language assistance provisions until 1985.

Preclearance

Currently Section Five requires local jurisdictions in seven Southern states and parts of others across the country to submit all their voting and election changes to the U.S. Department of Justice or the federal district court in Washington, D.C. These changes may include annexations, changes in polling places, reapportionment plans, or other election schemes. If a change is found to be racially discriminatory, an objection is issued and the change cannot be executed. H.R. 3112 continues this section.

Bailout

The Voting Rights Act presently provides for a "bailout" which allows jurisdictions to end the requirements of preclearance under Section 5 if they can show in a lawsuit in federal district court in Washington that they have not used a discriminatory test or device during the last several years. HR 3112 provides a new bailout procedure in Section 4 which is less stringent than the current bailout. The new standard would not go into effect until August 6, 1984.

Thereafter, a jurisdiction would have to show for itself and for all governmental units within its territory that for the preceding ten years it has a record of no voting discrimination and

has taken steps to increase minority political participation and to remove obstacles to fair representation for minorities.

Some of the standards set up to determine if the jurisdiction has a clean record on voting discrimination include existence of a test or device used for the purpose or effect of racial discrimination, a court judgment of voting discrimination, the assignment of federal examiners for the area, compliance with Section 5, and the absence of objections rendered by the Attorney General under Section 5.

The standards set up to determine if a jurisdiction has eliminated voting practices and barriers to minority voters include a showing that voting procedures and methods are non-discriminatory, the absence of intimidation and harassment of voters, and local efforts to expand registration through the appointment of deputy registrars, offering evening or weekend registration, or providing postcard registration. The appointment of minorities as registrars, poll workers and others involved in running elections would also be a sign of an affirmative effort to expand minority citizens' voting rights.

Under current law if an entire state is covered by Section 4 and 5 its counties and cities may not bailout independently. The new bailout permits counties within fully covered states an opportunity to bailout if they can meet the new standards of Section 4. The House bill continues current law requiring bailout suits to be brought in the federal district court of the District of Columbia. The bill also permits any person to participate in the lawsuit if their voting rights might be endangered if the state or county bailed out.

Bilingual Ballots

The provisions for the bilingual assistance in voting do not expire un-

til 1985. However, the bill extends for an additional seven years the life of this section.

Discriminatory Results

The House bill amends Section 2 of the Act to prohibit any voting qualification, standard or practice carried out "in a manner which results in a denial or abridgement" of the right to vote of minorities. Section 2 also adds the following sentence: "The fact that members of a minority group have not been elected in numbers equal to the group's proportion of the population shall not, in and of itself, constitute a violation of this section."

No Assistance to Voters in Booth

The only amendment adopted in the floor debate was proposed by Rep. Millicent Fenwick of New Jersey. The amendment adds the following section to the Act: "Nothing in this Act shall be construed in such a way as to permit voting assistance to be given within the voting booth, unless the voter is blind or physically incapacitated."

Summary of Changes

While the effects of the Fenwick amendment remain foreboding but unclear for minority voters, the changes in Section 4 will probably permit approximately 25 percent of the counties in the Deep South to bailout from Section 5. Staff members of the House Subcommittee on Civil and Constitutional rights predict that most of these counties will be in rural areas of Southern states where few blacks reside. The changes in Section 2 are aimed at permitting courts to hold unlawful practices and electoral schemes that result in discrimination. Under the Supreme Court decision handed down in the *Balden* case, the courts presently interpret Section 2 to require a showing of both discriminatory purpose and effect.