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# **Quiet Revolution** in the **South**

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**THE IMPACT OF THE  
VOTING RIGHTS ACT**

**1965-1990**

**Chandler Davidson and  
Bernard Grofman,**  
*editors*



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*CHANDLER DAVIDSON AND  
BERNARD GROFMAN, EDITORS*

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IN MEMORY OF

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***JUSTICE THURGOOD MARSHALL***

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"AND WE MUST TAKE THE CURRENT WHEN  
IT SERVES, OR LOSE OUR VENTURES"

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## Quiet Revolution in the South



## EDITORS' INTRODUCTION

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CHANDLER DAVIDSON AND BERNARD GROFMAN

PRESIDENT LYNDON B. JOHNSON signed the Voting Rights Act on 6 August 1965. Enacted to enforce the Fifteenth Amendment, the statute consists of both permanent features that apply to the United States as a whole and temporary features—special provisions—that largely apply to specific jurisdictions.<sup>1</sup> The initial duration of its nonpermanent parts was five years. However, Congress extended them in 1970, 1975, and 1982, in each case with some important amendments to the act. Initial passage and each subsequent extension occurred with substantial bipartisan support.

Extensions were necessary because many white officials continued to resist the full incorporation of blacks and certain language minorities into the polity. As direct disfranchising strategies were frustrated by the act, officials relied on more subtle mechanisms of vote restriction aimed primarily at preventing minority voters from electing the candidates of their choice. Widely employed throughout the South, these mechanisms included the submergence of minority voting strength in at-large or multimember districts and the gerrymandering of district lines. The story told in the chapters of this book is largely the story of the “quiet revolution” in voting rights that has occurred since 1965.<sup>2</sup>

Because the most frequent and the most severe discrimination against minorities in the United States has occurred against blacks in the South, the special provisions of the act have been targeted particularly toward that region. From 1965 to the present, seven of the eleven states of the former Confederacy, including all five Deep South states, have been continuously covered entirely or in large part by the act's special provisions: Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and forty of the hundred counties of North Carolina. Since 1975 Texas, an eighth former Confederate state with the largest black population of any southern state and the second largest Mexican-American population in the nation, has also been covered by the act's special provisions.<sup>3</sup>

Most of these states at one time or another employed a statewide literacy test, exclusive white primary elections, a poll tax, and a majority runoff requirement. These states were also more likely than others to employ at-large municipal election systems.<sup>4</sup> The use of such systems was much more widespread in these states than in the rest of the nation when the Voting Rights Act was passed, which Wolfinger and Field at the time attributed to the fact that in the South, “most municipal institutions seem to be corollaries of the region's traditional preoccupation with excluding Negroes from political power.”<sup>5</sup>

We have chosen to focus on the eight southern states covered by the act's special provisions because the Voting Rights Act has had its greatest impact in the South and because, almost without exception, it is in these states that the key conceptual

underpinnings of vote dilution have come to be defined through litigation challenging election practices.

### THE BASIC RESEARCH GOALS

In anticipation of the twenty-fifth anniversary of the act in 1990, with funding from the National Science Foundation's Law and Social Science Program, we commissioned comprehensive studies of several facets of southern black political participation. These studies included research on gains in black registration, systematic state-by-state investigations of the relationship between the act and the electoral success of racial minorities for municipal office in each of the eight states,<sup>6</sup> and a study of black representation in southern legislatures and congressional delegations.<sup>7</sup> Each state chapter was to be written by students of that state's electoral history, including at least one lawyer and one political scientist, sociologist, or historian. Many of the authors, as it turned out, had had direct experience with voting rights litigation as attorneys or as expert witnesses.<sup>8</sup>

The central aims of the project reflected the two major purposes of the act. We wanted to determine what effect it had in *enfranchising blacks* in the South. We also wanted to know its impact on black representation by *preventing the dilution of minority votes*. Regarding dilution, we were particularly interested in whether the act enabled blacks (and Mexican Americans in Texas) to win local office.

More specifically, the task we set for the authors of the state chapters had five components. First, we asked them to cover the main voting rights developments in their state from Reconstruction to modern times in a relatively brief compass but to give special attention to the post-World War II period. Without this prelude, the significance of the events from the 1960s on would be difficult to appreciate.

The second component stems from the fact that the Voting Rights Act is complex and open to different readings; there has consequently been a considerable development over the past two decades of case law devoted to its interpretation. Voting rights litigation in the states discussed in this book has been voluminous. We asked the authors of the eight chapters to review the major constitutional and statutory cases in their state related to the act and also to discuss section 5 enforcement issues in the state.

Third, we wished to address a long-standing controversy over the precise effects of at-large election systems on local minority representation. Unfortunately, no research design that could definitively resolve the issue had been used by any of the numerous scholars in the debate. To attack the problem, we required the authors to generate a comprehensive longitudinal data base for cities in their state that would enable them to distinguish—in large part, at least—the consequences of multimember-district elections from the impact of other factors.

The fourth task concerned the direct effect of the Voting Rights Act on the election of minority candidates to local office. If, as we anticipated, our data revealed that the abolition of at-large election structures increased minority candi-

dates' chances of winning, we wanted to find out whether the act caused the adoption of district systems. To investigate the role of law—including the activities of voting rights organizations and attorneys—in promoting change, we required our authors to make an inventory of all litigation challenging at-large city council elections in the state over the previous twenty-five years. Our data include information on both the organizations and the individual attorneys involved in instigating such litigation.<sup>9</sup>

The fifth component allowed us to address a debate over how easy it is for minority candidates to win office in majority-white districts at the local level. The conventional view has been that minority success in these districts is difficult, especially when the white voters make up a substantial majority.<sup>10</sup> But recent claims to the contrary have raised a controversy on this point.<sup>11</sup> The authors of the state chapters have compiled evidence on the relationship between minority population in districts in a multidistrict system and the likelihood of minority electoral success, with an eye to determining what minority population proportion is sufficient to provide minority voters with a realistic opportunity to elect their candidates of choice at the local level.<sup>12</sup> The result is the most comprehensive data base extant with which to explore this question.

#### PREVIOUS RESEARCH ON THE VOTING RIGHTS ACT

A survey of research on the Voting Rights Act reveals that while a number of useful studies of one aspect or another have been reported, no attempt has been made to understand the broad contours of its effects. And even the limited efforts to gauge its impact have often suffered from shortcomings in conceptualization, method, or both. We are struck, for example, by the dearth of hard evidence on the extent to which the remarkable gains in black officeholding in the South, and in Mexican-American officeholding in Texas and other southwestern states, could be attributed directly to the Voting Rights Act.<sup>13</sup> Most of the best scholarship has addressed legal or constitutional issues and has appeared in law-related journals, or it has been written from a nonquantitative or a journalistic vantage point.<sup>14</sup>

With some important recent exceptions,<sup>15</sup> most empirical work on the act's effects on minority representation has been either anecdotal or of a relatively low level of methodological sophistication. While there is a very important body of research that has examined minority officeholding under different election methods, those articles do not systematically investigate when and how changes in election type came about.<sup>16</sup> Also, remarkably, even the most basic facts about the implementation of the act, such as the number and results of post-1982 section 2 cases brought under it, have never been compiled, perhaps because many of these cases did not result in published opinions or were settled out of court before trial.<sup>17</sup>

It is true that many informative statistics have been made available in the various reports on the act's enforcement, published by the U.S. Commission on Civil Rights, and in the reports of groups such as the Southern Regional Council and the

Lawyers' Committee for Civil Rights Under Law. But much data that are publicly available, such as those contained in a list of Justice Department preclearance objections, have never been systematically examined to see what the consequences of Justice Department intervention have been.<sup>18</sup> Moreover, there has been too little thought given, even when statistics are published, to the overarching question of how the act's several mechanisms have directly or indirectly influenced minority registration and voting, on the one hand, and minority officeholding, on the other.

Our book is an attempt to remedy this situation. It gathers data systematically on southern voter registration and officeholding, keeping firmly in mind the questions of whether the Voting Rights Act has been responsible for the remarkable upsurge in black participation and electoral success, and, if so, how. We believe that the findings of our project constitute the best answer so far to the question of the Voting Rights Act's effect on minority representation in the South at the local level.<sup>19</sup>

The act's effect on black enfranchisement is treated by Alt in chapter 12. Alt's work is an advance over that of scholars who considered black registration separately from that of whites. He recognizes that the two are bound together in a dynamic system in which whites' behavior depends on blacks' potential to form a majority of the electorate in a jurisdiction. Following in the footsteps of Key, Alt explores the hypothesis that white efforts to reduce black electoral participation have traditionally depended upon the size of the black population. He provides a careful longitudinal investigation of the changing black-white registration ratio, which is the single most accessible measure of potential black voter mobilization in comparison with that of whites, and provides a comparison of that ratio with what would be expected if whites and blacks registered at equal rates relative to their pool of eligible voters. Alt's multivariate modeling allows him to assess the relative short- and long-run effects of several factors on changes in black and white registration, including the use of literacy tests, poll taxes, and the sending of federal registrars to various southern counties as authorized by the Voting Rights Act.

A different analytical framework allows us to examine systematically, using a quasi-experimental design, the impact of election type on changes in local minority officeholding. This framework is applied in the eight individual state chapters. In addition, chapter 11 presents data on the relation between black population concentration and black officeholding in the legislatures and congressional delegations of all eleven states of the former Confederacy, including the three states not covered by section 5 of the act.

#### THE CONTROVERSY OVER BARRIERS TO MINORITY REPRESENTATION

A major purpose of the chapters on representation is to resolve an issue that since the 1970s has been sharply debated in academic journals and courtrooms. The refusal of the controversy to subside is undoubtedly tied to its continuing practical importance. The question goes to the heart of the meaning of racial and ethnic

representation in a democratic polity and how that representation is best achieved under the constraints imposed by considerations of fairness, constitutional norms, and statutory mandates. Chapter 1, which provides a brief introduction to voting rights case law, illuminates the importance of this question, and chapter 10 discusses the question in detail. But a brief description of it now is useful as well.

Most American local and state election schemes are basically of three kinds: at-large, single-member district, and *mixed* systems—the latter combining features of the first two. In an at-large system, all the contested seats on a governmental body, such as a city council, county commission, or school board, are filled by voters in the jurisdiction at large. If there are eight seats to be filled, all voters have eight votes and theoretically have a chance to influence who gets elected to all eight seats. In a single-member-district system, by contrast, the city is divided into geographical districts, and voters in each district, like voters in congressional elections, are limited to a vote for a single candidate running to represent their district. In a mixed system, some of the seats are voted on at large, and some by district.

In the nation and in the South, single-member districts or wards were widely used in the late nineteenth century. The Progressive movement (1896–1920) introduced the at-large election as a substitute for voting by ward, ostensibly to foster “good government,” a notoriously vague idea.<sup>20</sup> In the North the imposition of such election procedures made it much less likely that European ethnics—many of them impoverished immigrants recently arrived from Ireland and from southern and eastern Europe—would be elected from the heavily ethnic wards. In the South, at-large elections were often seen as a way to make it harder for blacks, and sometimes poor whites as well, to win office. From the Progressive Era to the 1970s, the proportion of at-large elections in the nation's local election systems increased. They became especially common in the South.<sup>21</sup>

Students of local government structure have long known that at-large elections, whatever their benefits might be, disadvantage ethnic minorities, especially when there is strong resistance by the majority to minority officeholding.<sup>22</sup> In particular, scholars of southern politics have pointed to dramatic instances where district election structures in majority-white jurisdictions were changed to at-large ones in anticipation of minority officeholding.<sup>23</sup> In the 1970s social scientists conducted research that corroborated this commonsense idea. About the same time, expert witnesses for minority plaintiffs challenging at-large elections were citing this research in arguing that at-large elections, when whites were in the majority and voted overwhelmingly against minority candidates, prevented the election of those candidates even when they had strong and cohesive support in their own communities. District elections, by contrast, often enabled minority candidates to win.

An article written in 1981 reviewed fourteen studies of the effects of at-large elections on minority representation between 1969 and 1981 and found that eleven supported the conventional view that at-large and other multimember-district elections, *ceteris paribus*, reduced the representation of black officeholders.<sup>24</sup> An unpublished study that same year found that eighteen of twenty-three published



and unpublished studies also supported the conventional view.<sup>25</sup> The occasional study that did not find at-large elections to disadvantage minority candidates could usually be accounted for by small sample size or flawed methods, such as inclusion in the data base of cities with very small minority populations.<sup>26</sup> A text on political participation summed up the scholarly consensus in 1991 by observing that while some authors had denied the impact of at-large elections on minority officeholding, "there is persuasive evidence that the electoral structure has a significant, perhaps even dominant, impact on the extent of [minority officeholding]."<sup>27</sup>

Until 1981, the only approach to the question had been to examine samples of at-large, mixed, and single-member-district cities at a single point to see whether there were fewer minority officials on council, proportionally, in cities using one election type instead of another. The results were typically presented in a contingency table or a regression equation. This cross-sectional method, however, has serious shortcomings even when used correctly, which it sometimes was not.

One problem is that several other factors besides the election system can affect minority officeholding. Some factors can be measured without difficulty and with their effects controlled in a cross-sectional design. Among these are the size of the city's minority population and the socioeconomic differences between blacks and whites. Another factor, whose effects are more difficult to control, is minority residential segregation; it has typically not been measured in cross-sectional studies because segregation data are difficult to obtain for sizable samples of cities.<sup>28</sup> Other variables are also difficult to gauge. One is the existence of racially gerrymandered district boundaries in ward-based or mixed-system cities, which can lead to an underestimation of the differences in minority representation between at-large and district cities.

To resolve these and other problems of the cross-sectional research design, Davidson and Korbel conducted a longitudinal study of jurisdictions before and after a change from an at-large to a district or mixed system to determine what kind of election rules provided the most equitable minority representation. The advantage of this approach—especially when effects are measured immediately before and after the change in election rules—is that very little change takes place in the cities aside from the change in election structure. Thus the effects of other factors that could influence minority officeholding are held constant.

Davidson and Korbel examined the forty-one cases of political jurisdictions, including cities, they could identify as having changed from at-large plans in Texas during the 1970s. The proportion of minority officeholders in the forty-one units increased from 10 to 29 percent after the change occurred: from 6 to 17 percent for blacks and from 5 to 12 percent for Mexican Americans.<sup>29</sup> As a result, both minority groups were represented in rough proportion to their percentage in the population in the forty-one units as a whole; before the change, they had been underrepresented, roughly speaking, by a factor of three. The findings in this longitudinal research, combined with those of corroborating studies using the cross-sectional method, seemed to vindicate the conventional view, at least so far