

The Voting Rights Act

THE CORE OF the 1957 Civil Rights Act gave the US Department of Justice (DOJ) the authority to sue jurisdictions (cities or towns) that blocked citizens from voting based on the color of their skin. Sounds good—but the lawsuit mechanism had a number of problems.

First, DOJ lawsuits would be a reaction to voting rights violations, not a preventative. In other words, the “crime” had to occur before the DOJ stepped in. This meant that skewed election results, where a racist candidate assumed office because black citizens had been systematically disenfranchised, could affect years of policy and lawmaking while the long, drawn-out court process slowly unfolded.

After investigation, these DOJ lawsuits would take, on average, an additional 17.8 months between the trial and ruling, and then another year for the appeal if the ruling went against the plaintiff.

And there was another “if.”

If the registrar who was the named defendant in the lawsuit left office at any point during this process (a common ploy), then the case was thrown out.

Added to all this: DOJ attorneys often faced white judges and all-white juries hostile to black people. The kicker—the DOJ was reluctant to pursue these cases with any

true vigor in the first place.

On May 6, 1960, President Eisenhower signed another civil rights act designed to strengthen the 1957 one. Among other things, it removed the two-year limit of the Commission on Civil Rights and established penalties for people interfering with someone’s attempt to register to vote. But this was still not enough. The unrelenting pressure of the Civil Rights Movement, however, meant that America’s weak response to disenfranchisement would not go unchallenged. In Alabama’s Marion, Lowndes, and Dallas Counties, years of nonviolent protest led to a cinematic explosion on Sunday, March 7, 1965, on the Edmund Pettus Bridge in Selma.

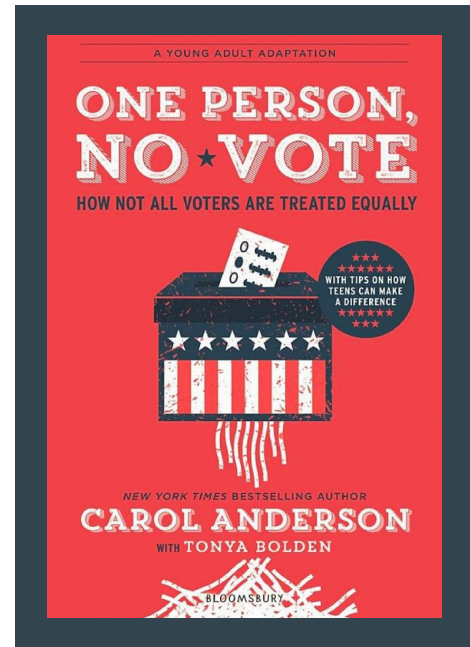
As peaceful marchers ran into the hailstorm of Alabama state troopers and sheriff Jim Clark’s deputies, news cameras captured the horror of tear gas, barbed-wire bullwhips, and police on horseback trampling people. Millions around the nation and the world sat in stunned silence, almost traumatized by the spectacle, a sickening scene that would become known as Bloody Sunday.

Two days later came the bludgeoning in Selma of a white minister, James Reeb. He was targeted because he had the audacity to believe that black citizens had

the right to vote. Reverend Reeb subsequently died of his injuries.

Congress and the White House had seen enough. President Lyndon Johnson demanded that the attorney general craft a voting rights bill with teeth. The result was the Voting Rights Act of 1965, the VRA.

The VRA passed with overwhelming majorities in the House of Representatives (328-74) and the Senate (79-18). Johnson signed the bill into law on August 6, 1965. This was almost a year after the president signed into law the landmark Civil Rights Act of 1964, which outlawed discrimination on the job front and in public places (such as in restaurants and on buses and trains) solely because of a person’s race, color, sex, religion, or because of where a person was born.



These acts were passed at a time when Democrats had a supermajority in both the House of Representatives and the Senate, though many Republicans supported the acts, too. The majority of opponents came from states that were members of the old Confederacy. Based on federal rights that extended to all, the Civil Rights Act of 1964 outlawed many of the discriminatory practices buttressed by the claim of states' rights, which extended protections and opportunities only to those favored by state law.

And like its sister act in 1964, the 1965 VRA was truly landmark. Rather than waiting for locales to violate voting rights and for people to make formal complaints, the VRA put the responsibility for obeying the Constitution onto state and local governments. The Voting Rights Act, as Michael Waldman so aptly put it in *The Fight to Vote*, “thrust the federal government into the role of supervising voting in large parts of the country to protect African Americans’ right to vote, a duty it had not assumed since Reconstruction.”

The VRA identified places that had a long, documented history of racial discrimination in voting. Its Section 5 required that the DOJ or the federal court in Washington, DC, approve any change to the voting laws or requirements that those districts wanted to make. This was known as “preclearance.”

Alabama civil rights attorney Hank Sanders recognized the revolutionary, transformative impact that the preclearance provision could have. Said Sanders: Section 5 of the VRA “can complete something this country started 200 years ago. That something is not complete, it is called Democracy.”

But would it hold?



KEY COMPONENTS OF THE VOTING RIGHTS ACT OF 1965

- ➔ **SECTION 2**
prohibited impediments created to keep people from voting because of their race or color.
- ➔ **SECTION 3**
opened the door to the appointment of federal examiners to oversee voter registration in places where voting rights were violated.
- ➔ **SECTION 4**
authorized the federal government to intervene in elections in states and political subdivisions (such as cities and counties) where discrimination was flagrant. Those states and political subdivisions would be determined based on a formula laid out in 4(b). It would apply to places where the US attorney general found that a literacy test, for example, had been in use on November 1, 1964, and where on November 1, 1964, less than 50 percent of eligible voters were registered or if in the presidential election of 1964 less than 50 percent of eligible voters cast a ballot.

When the math was done, authorities determined that the places that needed to be watched were six states of the old Confederacy (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia) and 39 counties of another state: North Carolina (which has a total of 100 counties).

The covered jurisdictions would be subject to section 5 of the Voting Rights Act of 1965. Section 4 also had a bail-out provision: places could be released from federal scrutiny if, after five years, they proved that they had not engaged in any dirty tricks when it came to voting and voting registration.

- ➔ **SECTION 5**
stated that jurisdictions covered in section 4 were forbidden to make changes to voting procedures without “preclearance,” that is, without permission from the Department of Justice or the US District Court for the District of Columbia.

(Note that US federal court is structured into three levels. The district courts are the lowest level and are where most federal cases originate. The circuit courts are the intermediate level. The US Supreme Court is the highest level of federal court. Cases often move between levels as verdicts are issued and lawyers appeal decisions or judges determine that a case is outside of their jurisdiction.)