

TESTIMONY OF REPRESENTATIVE BARBARA JORDAN

BEFORE THE

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

SENATE COMMITTEE ON THE JUDICIARY

**APRIL 22, 1975**

EXTENSION OF THE VOTING RIGHTS ACT

Mr. Chairman, members of the Subcommittee, I appreciate your granting me this opportunity to appear and testify in support of extension of the Voting Rights Act of 1965. Among all the civil rights legislation enacted in the 1960's, the Voting Rights Act epitomizes the black struggle for equality. In the South the Voting Rights Act has opened registration for eligible blacks. The Voting Rights Act has increased the possibility of free and equal participation by blacks as voters in the political process. But for many the promise is as yet unfulfilled. A few electoral victories should not mask reality: the Voting Rights Act may have overcome blatant discriminatory practices; it has yet to overcome subtle discriminatory practices. Although the means may be different the effect is the same. Blacks in the South continue to be excluded from meaningful participation in democratic institutions. Allowing the Voting Rights Act to lapse this year would vitiate the progress made in only the last four years. As a co-sponsor of H.R. 3343, which extends the Act for ten years and places a permanent ban on literacy tests, I would urge this subcommittee to do no less than report favorably S. 1279, the companion to H.R. 3343. That is the minimum which should be done.

In March, 1965, white and black citizens marched from Selma, Alabama, to Montgomery, dramatizing for all Americans the fact that blacks in the South were denied the fundamental right to vote. Also in March, 1965, President Johnson asked the Congress to overcome this invidious discrimination by enacting the Voting Rights Act and, thereby, enforcing the provisions of the Fifteenth Amendment to the U.S. Constitution. The Congress responded affirmatively. The result: blacks in the South have made substantial progress toward full enjoyment of their political rights.

Now, ten years later, the Congress must renew the Act. It automatically expires in August of this year unless the Congress passes a bill extending its life. Real gains have been made, but the promise of full participation has not been achieved. The Act works, but it is still needed. It would be difficult to imagine the plight of blacks in covered jurisdictions should the Act not be extended. Simple extension is my first priority -- and my second, and my third. Much of the debate today may be consumed by proposals to expand the Act, but we must not lose sight of our common goal: to extend the Act. Only if extension is assured should we allow ourselves to debate the luxury of expansion.

The Voting Rights Act empowers the U.S. Attorney General to send examiners and federal registrars into covered jurisdictions, principally in the South, to protect the rights of black citizens to register and to vote. In addition, covered jurisdictions must submit to the U.S. Attorney General proposed changes in voting laws for concurrence. If the changes are discriminatory, they may not go into effect. The Act is strong medicine. But when public officials continually trample the constitutional rights of citizens, the relief must fit the transgression.

My first attempts to become a member of the Texas House of Representatives were thwarted by the same type of discriminatory voting practices forbidden by the Voting Rights Act. In 1962, when I first ran for the Texas House, Harris County (Houston) was not divided into single member districts. I had to run at large -- against all other candidates. I lost. I lost again in 1964. I could not get elected in an at-large election. In 1966 the Texas legislature was forced to reapportion itself. In Reynolds v. Sims the United States Supreme Court had applied the "one man - one vote" rule of Baker v. Carr to state legislative districts. The reapportionment created a new, single-member State Senatorial District in which I lived. I ran and won. Absent the Supreme Court ruling, I would have lost again. The same reapportionment which created single member districts in Harris County created at-large districts in Bexar County (San Antonio) and Dallas County (Dallas). Another reapportionment in 1972 kept Bexar and Dallas at-large. Had the Voting Rights Act of 1965 applied to Texas, the state would have had to submit the 1966 and 1972 reapportionments to the Attorney General. He probably would have objected. But the Act did not apply to Texas. The Attorney General did not object. It was not until 1973 that the United States Supreme Court once again intervened. It held at-large elections in Bexar and Dallas counties had a discriminatory effect on blacks and browns and

and were thus unconstitutional. Only two months ago the State of Texas pleaded in Supreme Court chambers that at-large elections for the Texas House of Representatives in eight other Texas counties are not discriminatory. The minorities in Fort Worth, Lubbock, Midland, Odessa, El Paso and other Texas cities will have to wait for the Court to rescue their voting rights.

My political career was not assisted through passage of the Voting Rights Act. I know firsthand the difficulty minorities have in participating in the political process as equals.

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**The same discriminatory practices which moved the Congress to pass the Voting Rights Act in 1965, and renew it in 1970, are practiced in Texas today.**

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**In 1965 the Congress heard of instances in which** citizens were denied the right to register, and the right to vote once registered. Today in Texas duly registered citizens have been denied absentee ballots even though their names appeared on the registration rolls. In one particular town, the city officials refused to honor absentee ballot applications filed by Spanish surname voters for a school board election which occurred last **April 1, 1975.**

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**In 1965 this Congress heard testimony that school teachers** lose their jobs if they try to register. Today Mexican-Americans in Texas have lost their teaching jobs as the **result of filing as a candidate.**

**In 1965 this Congress heard of Mary Thomas of Humphreys County, Mississippi.** She tried to register. It happens that she also ran a small store which she used to support herself and six children. Fifteen minutes after trying to register she was arrested on a business technicality, thrown in jail overnight and fined \$300. Today in at least three Texas towns that we know of the white majority have boycotted Mexican-American owned businesses supporting minority candidates. The boycotts effectively ruined their businesses because they could not support themselves on the economy of the **minority population alone.**

**In 1965 this Congress heard of a registrar disqualifying** registration forms if a voter could not put down the exact year, month and date of their birth. Today registration forms in Texas have been discarded if an individual made an **error, crossed it out, and provided the correct information.**

Voting Procedures in Texas are used to discourage voting participation. In some communities where paper ballots are used voters are not provided voting booths in which to cast secret ballots. They are forced to vote on large tables where everybody can see. There have been instances where the clerk handling absentee ballots will fill out the ballot for anglos over the phone but will not provide assistance to minority voters. Under state law, officials can open ballot boxes after only ten voters have deposited their ballots. Votes of minorities who need to vote early in the day because of their job situation are easily correlated with individuals.

Far more subject to abuse is the numbered stub system for paper ballots. After voting, an individual must sign the stub which is numbered to correspond with the ballot. The ballot is deposited in one box and the stub in another. The stub box is delivered to the District Court Clerk at the end of the voting day. Although the box is sealed and may only be opened in the presence of the District Court judge, there have been instances where the boxes have been delivered with the seal broken. Even in the larger metropolitan areas where voting machines are used, absentee voters must sign a numbered stub attached to their ballots.

**In many Texas cities and towns, the voting rights** of Black citizens are as effectively negated as the voting rights of Mexican-Americans. I have made available for the Committee's record the following material:

First, the findings of fact in Robinson v. Commissioners Court, Anderson County and the attached map of the city of Palestine showing how the Commissioner precinct lines effectively divided the Black community between three separate Commissioner precincts. The decision in the Robinson case has now been affirmed by the Fifth Circuit. Second, the findings of fact in Weaver v. Muskleroy which details the changing method of election of the City Council in the City of Nacogdoches in response to the threat of Black candidacy. Third, the testimony of State Representative Pike Powers before the three judge court in the Register case in which he describes the proposal he makes, as sponsored

by the Governor of Texas, for redistricting the legislative districts in Jefferson County. You will note that the effect of the State's proposal would be to divide the Black population in Jefferson County evenly between four legislative districts.

Much has been said of the voter registration system in Texas. It is often mentioned as one of the most liberal voter registration systems in the country. The registration form itself is simple. It may be mailed to a registrar. Parents may register their children. Registrars in many metropolitan areas regularly publish the registration form in the local newspapers. Potential registrants may fill out the form in the newspaper and send it in. Last year I devoted two pages of my newsletter to my constituents in Houston to a reprint of the voter registration form. I reprinted 182,000 registration forms in this manner. In subsequent discussions I have had with Harris County election officials, they have told me the response was overwhelming. I have provided for the Committee's record a copy of the registration form used in Harris County, Texas.

The registration procedures may be simple now, but the state was forced to adopt such a system only after the federal courts intervened and struck down "the most restrictive registration system in the country", which existed up to 1971. In addition, Waller County now employs a lengthy questionnaire which is used to keep college students off the rolls. The Waller County questionnaire asks the following:

1. Are you a college student?
2. If so, where do you attend school?
3. How long have you been a student at such school?

4. Where do you live while in college?
5. How long have you lived in Texas? In Waller County?
6. Do you intend to reside in Waller County indefinitely?
7. How long have you considered yourself to be a bona fide resident of Waller County?
8. What do you plan to do when you finish your college education?
9. Do you have a job or position in Waller County?
10. Own any home or other property in Waller County?
11. Have an automobile registered in Waller County?
12. Have a telephone listing in Waller County?
13. Belong to a church, club or some Waller County organization other than college related?
14. If so, please name them.
15. Where do you live when the college is not in session?
16. What address is listed as your home address with the College?
17. Give any other information which might be helpful.

Since the Waller County questionnaire has been sanctioned by the Fifth Circuit Court of Appeals, other Texas counties in which there is a substantial number of college students may also begin to use similar questionnaires, thus negating the regular registration system.

Having been a member of the Texas legislature for six years I know that in the case of voting rights, the legislature only responds to outside forces. For Texans aggrieved by voting violations, the federal courts have been their legislature. The entire history of voting legislation in Texas has been one of reluctant acquiescence to federal court orders. Of late, the Texas Legislature has been responding to action in the Congress. It has considered a bill to provide bilingual ballots for the Spanish speaking. The bill has passed the Senate and yesterday passed the House. Passage of this bill in the Texas Legislature is probably the direct result of my introducing a bill in the Congress to expand the Voting Rights Act to cover Texas.

Passage of a bill providing for bilingual elections in Texas is an action I fully endorse. Last March 7 I wrote Senator Ogg, chief sponsor of the bill, and encouraged him to work for passage of the bill. I hasten to point out to this Committee that should the Congress approve extension of the Voting Rights Act to jurisdictions in which Mexican-Americans reside, Texas would be required to provide bilingual ballots. Passage of a bilingual elections bill in Texas this year only anticipates Congressional action, it does not negate the need for Congressional action.

The bilingual elections bill has deficiencies which I have previously brought to the attention of state officials. First, the bill exempts 102 counties from the requirement that bilingual ballots be printed. 32,000 voters of Spanish origin in the state are not helped. Second, the bill exempts from its requirements countless precincts within the remaining counties if the precinct contains less than five percent of persons of Spanish origin. Nobody knows how many Mexican-Americans are passed over by this exclusion. But more importantly, by excluding precincts within counties from coverage, local officials are provided an incentive to gerrymander precinct lines, putting Anglos in normally Chicano precincts in order to dilute the percentage of Chicanos in the precinct and thereby escape the requirement that bilingual ballots be provided.

No individual has come forward and alleged that the primary voting problem among Mexican-Americans is related to language. Language is, however, characteristic of the voting problems faced by Mexican-Americans. Just as the Congress seized upon literacy tests as characteristic of the voting problems facing blacks in the South, so too are English-only ballots among a substantial Spanish speaking population. Printing of Spanish registration forms and Spanish ballots will not cure voting discrimination in the Southwest. The use of English-only ballots has been included within the

definition of a "test or device" because it is a readily identifiable, objective criterion the Justice Department can easily apply nationally. Do not equate the employment of the English-only ballot, or, alternatively, the readiness of a jurisdiction to employ a bilingual ballot, with the severity of the voting discrimination problem. The Congress has the responsibility to give clear guidance to the Justice Department as to the jurisdictions to be covered by the Voting Rights Act. I can think of no clearer alternative criterion which is both characteristic of Mexican-American voting problems and provides clearer direction to the Executive Branch than the inclusion of an English-only ballot as a test or device.

To contend that the mere printing of bilingual registration forms and ballots negates the need for expansion of the Voting Rights Act to Mexican-American jurisdictions, is to stand logic on its head. Bilingual ballots will not prevent gerrymandering. Bilingual ballots will not prevent barriers to candidacy. Bilingual ballots will not prevent local election officials from employing a myriad of ingenious devices to prevent or dilute the votes of Mexican-Americans.

I am here today because I believe the voting rights of Mexican-Americans and Blacks in Texas are consistently violated because they are a minority race. They are discriminated against on racial grounds, not because their

their language is different. If language were the problem I would be testifying before the Education Committees of Congress, not the Committee with jurisdiction over civil rights legislation.

To provide a remedy for these discriminatory voting practices perpetrated upon Blacks and Mexican-Americans, I have introduced legislation, along with Congressmen Badillo and Roybal. Similar legislation, amendment # 312 to S.1279 is before this Subcommittee. The bill would guarantee to Mexican-Americans and Blacks residing in the newly covered jurisdictions the same special attention to their voting rights now afforded Blacks in the South. The bill, in an amended form has been unanimously approved by the House Subcommittee on Civil and Constitutional Rights. My hope is that after hearing the testimony, this Subcommittee will also act to report the bill with unanimity.