VOTING RIGHTS ACT: BILINGUAL EDUCATION, EXPERT WITNESS FEES, AND PRESLEY pdf

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Voting Rights Act: Bilingual Education, Expert Witness Fees, and Presley. Hearings before the Subcommittee on Civil and Constitutional Rights of the Committee to the Judiciary. House of Representatives, One Hundred Second Congress, Second Session (April 1, 2, and 8,).

Committee on the Judiciary, Washington, DC. The Subcommittee met, pursuant to notice, at 2: The Committee will come to order. This is the Subcommittee on the Constitution. We welcome everyone here this afternoon. And as I mentioned, this is the Subcommittee on the Constitution. And I gave a longer opening statement this morning; therefore, I will keep my remarks relatively short this afternoon. In addition to these provisions we will discuss concerns expressed by many about what is required of jurisdictions covered by section , especially as interpreted, administered, and enforced by the Department of Justice. English has been, and continues to be, the force that unified this country, and speaking English should be a requirement which all citizens of this country meet. However, the record shows that many of our citizens experience barriers to the political process because of language impediments, which our witnesses will discuss further today. In reauthorizing section , the Committee seeks to ensure that all citizens continue to have the opportunity to participate in the political process, including those who are continuing their efforts to learn English. However, we must also ensure that we provide needed assistance to municipalities so that these obligations do not become overly burdensome. As I said, we look very much forward to the panel, the very distinguished panel that we have here before us this afternoon. And at this time I note that Mr. Nadler is coming shortly. Scott, you wanted to make an opening statement or if you wanted to wait until Mr. Nadler comes or if you would like to speak on your own. The gentleman is recognized for 5 minutes. Nadler as the Ranking Member when he appears. I want to thank you, as we mentioned this morning, for the hard work that you have done on a bipartisan basis with Representative Watt and others. Appreciate the hard work that you have put in to get us to the point where we are now. Chairman, in the 40 years since its passage, the Voting Rights Act has guaranteed millions of minority voters a chance to have their voices heard and their votes counted. The number of Black elected officials has increased from just nationwide in , the year before the Voting Rights Act, to more than 9, today. Poll taxes, literacy tests, and other discriminatory schemes that once effectively closed the ballot box have been dismantled. The process has also opened the political process for many of the nearly 6, Latinos who now hold public office, including more than that serve at the State or Federal level. Section was added to the Voting Rights Act in and requires certain jurisdictions to make language assistance available at polling locations for citizens with limited English proficiency. These provisions apply to four language groups: A community with one of those language groups will qualify for language assistance if more than 5 percent of the Voting Act citizens in the jurisdiction belong to a single language minority and have limited English proficiency, or more than 10, voting-age citizens in the jurisdiction belong to a single language minority and have limited English proficiency, and the illiteracy rate among citizens with the language minority is higher than the national average. Chairman, it is significant that these thresholds mean that there is a critical mass, possibly sufficient to vote somebody out of office, and therefore there would be an incentive to try to discourage those people from voting. This requirement requires that if you have that kind of critical mass, you have to provide the language assistance. Chairman, registration and voting materials for all elections must be provided to the minority group in the minority language as well as in English. Oral translation during all phases of the voting process, from registration to Election Day poll workers, is also required. Jurisdictions are permitted to target the language assistance to specific voting precincts or areas where they are needed. It is crucial that everyone in our democracy have a right to vote. Yet having a right legally is meaningless if certain groups of people, such as those with limited English proficiency or those who are disabled, are unable to accurately cast their ballot at the polls. Voters may well be informed of the issues and candidates but to make sure their vote is accurately cast, language assistance is necessary in certain

jurisdictions with concentrated populations of limited English-proficient voters. It is important to note, Mr. Chairman, that those who are born in Puerto Rico are American citizens, and yet they may not be fluent in English. And even though most new citizens are required to speak English, they still may not be sufficiently fluent to participate fully in the voting process without much-needed assistance. Before language assistance provisions were added to the Voting Rights Act, many Spanish-speaking citizens just did not bother to register to vote because they could not read the election material and could not communicate with poll workers. The fact is that language assistance has encouraged these and other citizens of different language minority groups to register and vote and fully participate in the political process, which is healthy for our democracy. Chairman, the language assistance is not costly. And so, therefore, many of the so-called expenses involved are not expenses at all. Thank you very much, Mr. The gentleman from Florida is recognized if he would like to make an opening statement. That is not necessary, Mr. The gentleman from North Carolina, Mr. I want to ask unanimous consent to submit my entire statement for the record. But I feel like I need to address a couple of things. Without objection, so ordered. Number one, this morning one of the witnesses suggested that we had predetermined what would be in this bill before we had any hearings, and somehow contrived the process of what would be in the bill rather than using the hearings as a constructive means of informing us. And I, of course, denied that. I mean, if I were drawing these language provisions, I think they would be different. And while I stand behind the bill and understand that it is a product of bipartisan agreement, everybody needs to know that. Second, there is this notion that perhaps this ought to be part of the immigration debate or is connected in some way, and that when we talk about these language provisions, that it is about Mexicans or members of the Arab community. I would just point out that, really, the Hispanic community has been probably the least of the language minorities that has been aggressive about this, because in most places they already exceed the threshold that the statute provides for. So it is not something that, if they were advocating solely for themselves, would be as much of an issue. I would just conclude by saying that the bill before us today extends the current language assistance provisions of the Voting Rights Act and that is supported by the record, not something that was backed into or dealt with in some arbitrary fashion. It does not discourage or prohibit any State or political subdivision from doing more to open this process to more voices, thereby enhancing our democracy. I think the bill struck a good balance on this, and while if I were drawing the bill solely by myself I might have done differently, I certainly intend to support the provisions that are in the bill. And I yield back the balance of my time. The gentleman yields back. What our practice has been thus far in this is to allow those Members to have 5 minutes which they can choose to use either for an opening statement or questioning the witnesses. Or if they would like to, they can divide it up and take 2 minutes for an opening statement and 3 minutes for questioning. At your discretion, however you would like to do that. And we welcome you here, as always, very good friend of mine, Charlie. And we also are joined by the very distinguished gentleman from California, Mr. And we also have two Judiciary Members here: What did I say? Thank you for not calling me Loretta. We think that is the ultimate insult. Jackson Lee, do you want to use your time now or do you want to use your time for questioning? I will split my time and very briefly say that all eyes are on this Committee and on this Congress, on the reauthorization of the Voting Rights Act, primarily because of the pathway and the opportunity that was given through the original passage in I am very eager to hear the testimony of the witnesses and I associate with words that I will be supporting this legislation. And my only comment I think I came in on Mr. And that the fact that language interpretation or different language is necessary to exercise the right of a citizen, they should not be penalized nor should they be condemned. So I think any attempt to condemn, because language is needed to make sure that your right to vote is exercised, should be eliminated from our discussion and we should move forward. With that, I yield back. Thank you very much. The gentlewoman has 4 minutes remaining for questioning. The gentlewoman from California, Ms. I am going to reserve my time for questions. I also reserve my time for questioning. I will take a few minutes to make comments. Chairman, Ranking Member Nadler, and Members of the Subcommittee, I want to thank you for allowing me to make an opening statement at this important hearing on the reauthorization of

the Voting Rights Act. Just 2 days ago H. I am proud to be an original cosponsor of this historic measure. I would like to personally thank the Members of this Committee for their diligent work in conducting a thorough review of the VRA. As we all know, civil rights activists, led by Dr. King, took to the streets in a peaceful protest for voting rights for African Americans. They were met with clubs and violence. This dramatic event helped the Nation understand what was at stake. What makes the promise of this Nation a reality is the ability to vote. The VRA helps to ensure that everyone who is eligible to vote has that opportunity. Chinese Americans could not vote until Chinese Exclusion Acts of and were repealed in First-generation Japanese Americans could not vote until because of the racial restrictions contained in the naturalization law. More recently, language minority citizens were often denied needed assistance at the polls. And I know firsthand how important this was to the community. Their participation increased by 11 percent.

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Voting Rights Act: Bilingual education, expert witness fees, and Presley: hearings before the Subcommittee on Civil and Constitutional Rights of the second session, April 1, 2, and 8, Paperback -

Authority of the Court 1. To be "present" implies more than being physically present. It assumes that a defendant will be informed about the proceedings so he can assist in his own defense. State of New York, F. Effective assistance of counsel is impossible unless the client can provide his or her lawyer with intelligent and informed input. Counsel, however expert, is still just an "aid to a willing defendantnot an organ of the State interposed between an unwilling defendant and his right to defend himself personally. The confrontation clause requires that "the accused See also State v. Vasquez, Utah , P. The due process clause also prohibits trying the criminal defendant who lacks capacity to understand the proceedings, to consult with counsel or to assist in the preparation of his defense. This prohibition refers not only to mental incompetents, but also to those who are hampered by their inability to communicate in the English language. United States ex rel. See also Augustin v. Lee Kun, 1 K. As the court of appeals for this circuit put the matter: Particularly inappropriate in this nation where many languages are spoken is a callousness to the crippling language handicap of a newcomer to this shores, whose life and freedom the state by its criminal processes chooses to put in jeopardy. The Court of Appeals has noted that the law does not "insist upon requiring a state to provide indigent defendants with every convenience that it or a wealthier defendant can afford. Translations of critical documents are much more than a convenience. It requires supplying interpreters on motion of the party or the court when a criminal defendant does not understand English. The Act states in relevant part: So long as the purposes of the Act are met, the use of interpreters is a matter in the sound discretion of the trial court. It is up to the trial court to decide on the extent and nature of translation services needed by the defendant. United States, U. United States, F. See United States v. The Act does not specifically address the right to translated documents. Its legislative history indicates that it was "not intended to supersede other non conflicting, statutory rights regarding appointment of interpreters. Power to require interpretation of testimony or writings is also provided by the CJA. The court is authorized to furnish "investigative, expert and other services necessary for adequate representation. These "other" supportive services are often essential to an adequate defense. Rule Federal Rule of Criminal Procedure 28 authorizes the court to "appoint an interpreter The Rules of Criminal Procedure, particularly in complex criminal cases, must be "construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. See also United States v. The judge is "guided by considerations of justice. The court "has the responsibility to supervise the administration of criminal justice in order to ensure fundamental fairness. Courts must ensure that "every defendant stand[s] equal before the law. Providing for the orderly administration of justice to assure equality is vital. The court need not limit itself to "merely enforcing the minimal standards of conduct and procedure derived from the Constitution. Due process demands that criminal defendants be given the means to understand the charges lodged against them as soon and as fully as practicable. It is fundamental that a defendant must be told what he has been accused of in a language he or she can understand. This is the responsibility of the government, which brought the charges, not of the defendant. For a non-English speaking defendant to stand equal with others before the court requires translation. Non-English speaking criminal defendants currently are at a substantial disadvantage. A criminal defendant cannot aid in his own defense without meaningful access to relevant documents he or she can understand. As one commentator has observed: In a country which was settled by alien immigrants and which continues to receive hundreds of thousands of immigrants and foreign travelers annually, the problem of protecting the rights of the non-English speaking accused cannot continue to be ignored by our judicial system Each English-speaking "citizen" of the United States is outraged and belligerent when he reads of the problems encountered by a fellow citizen involved, innocently or otherwise, in a crime in a foreign country in which that same person is

tried and sentenced in the "foreign" country according to the "foreign" legal system. Each person can empathize and imagine himself in an alien society confronted by a strange legal system, with his future hanging in the balance of justice, and not able to understand any of the testimony being offered against him His only contact with the proceeding would be the points his court-appointed counsel thought important enough to be communicated to him. Just as summaries of testimony were inadequate in United States ex rel. Oral interpretations and written translations serve different purposes. While an oral interpretation can provide momentary understanding of representations contained in a document, a criminal defendant may need and want to review the document alone and with others to achieve a full understanding. Defendants are often incarcerated in widely scattered facilities. They may want to consult with friends and family, or prepare questions for their attorneys. Without written translations, they would have to rely on their memory of an oral interpretation that occurred under circumstances where they might feel ill-at-ease and have difficulty concentrating. Defense counsel loses a valuable resource if his or her client cannot understand the charge and supporting facts. Significance of detailed factual representations may escape the lawyer, but not the client who is familiar with the circumstances surrounding his case. Ultimate success in court may depend on careful pre-trial investigation based on hints from the client. Inadequate input from the client who has failed to understand the evidence to be relied upon by the government cannot be cured by the presence of an official court interpreter at a hearing or at trial. The suggestion that non-English speaking defendants can rely on inmates who speak their language to facilitate their understanding of documents is unacceptable. Informants may be present. The difficulty in interpreting Chinese presents a special problem different in detail from that of the instant Spanish-speaking defendants, yet revelatory of the general issues. The many Chinese dialects have different oral pronunciation greatly affected by pitch and tone. The written language is essentially uniform. Given that there are only a handful of reliable Chinese interpreters to serve all of New York City, orders such as the present one will help alleviate a burden rather than create one. This court is constantly faced with analogous subtle differences in meaning based on pronunciation and vocabulary involving differences in the Spanish spoken in many countries and regions. Burden on the Government Costs alone do not override constitutional rights. If the government cannot afford to provide due process to those it prosecutes, it must forego prosecution. In response to similar arguments against the appointment of interpreters, Professor Wigmore astutely observed: Injustice is doubtless being done from time to time in communities thronged with aliens, through failure of the judges to insist on a supply of competent interpreters. The subject is one upon the profession are in general too callous, for no situation is more full of anguish than that of an innocent accused who cannot understand what is being testified against him. Assuredly, the court must be realistic about budgets and bureaucracy. The Department of Justice itself does require the use of interpreters to interview non-English speaking witnesses, interpret overheard conversations in foreign languages and translate documents in other languages which may be useful as evidence. Undoubtedly it has provided for such necessary interpreters within its budget. This court has been urged to forego ordering expenses that will deplete CJA funds. The courts must recognize that the large increase in criminal jurisdiction of federal courts, the use of long minimum sentencing and guideline sentencing, and the rapid expansion of prosecutorial staffs has put a strain on all aspects of the federal criminal system. The price for the publicity in "tough on crime" slogans must now be paid. Presumably, Congress and the President will now review the laws and appropriations to increase congruence between pretention and reality. A court mandated sudden shift of major costs from one budget to another must, however, require consideration by Congress. When a defendant in the present case is not fluent in English: The United States Attorney shall supply a copy of the indictment and relevant statutory provisions referred to in the indictment with a written translation at or before the time of pleading. Since most indictments are boilerplate, the cost of supplying translations given the availability of computers will be almost de minimis. Once CJA counsel is appointed the burden of supplying translation during pre-trial and trial shall be on CJA staff or authorized CJA experts, except as provided in 3 and 4. Defendants who have private counsel shall pay for their own translations and out-of-court interpreters unless

the court orders otherwise. Interpretations of written plea agreements shall be supplied by the United States Attorney to any defendant whether or not represented by CJA counsel. These agreements are also generally largely boilerplate. Counsel may waive this requirement and supply the defendant with a translation by a CJA staff or an expert approved by the court for payment under CJA. Interpretations of the presentence report shall be supplied by Probation. It is this obligation that may create the most difficult initial budgetary problem. That it is, however, essential is clear from the blank stares that the court often gets from a non-English speaking defendant when asked if he or she understands the document and counsel indicates the document was, in fact, orally interpreted. Until new budgetary arrangements are made, counsel should waive this requirement and supply the defendant with a written translation by CJA staff or expert approved by the court for payment under CJA. Upon application, the court may modify or change these guidelines. It is recommended that, subject to action by the United States Judicial Conference or Congress, the United States Department of Justice, the Administrative Office and the Judicial Center jointly consider use of present and future technology in reducing the costs of interpretations and translations. Computers may be programmed to read and translate. Given available technology, the total cost of interpreters to the taxpayer can be possibly substantially reduced. Cooperation between state and federal courts in a district such as the Eastern District of New York to share computers and technical staff is desirable. Based on suggestions made at the hearing of March 3, , it would be useful to provide for those not familiar with the American legal system a short primer in the federal criminal legal system. Such a pamphlet could indicate briefly such matters as how our criminal justice system operates and what it means to waive an indictment or plead guilty; what are the elements of a trial; and what are the roles of grand and petty juries, attorneys, judges and magistrate judges. It would not be a comprehensive statement of rights.

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3: The Voting Rights Act of , As Amended: Its History and Current Issues

ERIC ED Voting Rights Act: Bilingual Education, Expert Witness Fees, and Presley. Hearings before the Subcommittee on Civil and Constitutional Rights of the Committee to the Judiciary. House of Representatives, One Hundred Second Congress, Second Session (April 1, 2, and 8,).

Its History and Current Issues Summary Several bills have been introduced in the th Congress concerning the Voting Rights Act of VRA that would rename the short title of the act, and address its bilingual provisions and issues of deceptive practices and voter intimidation during elections. Chavez and Barbara C. Jordan to the act; while S. The Senate passed S. Among other provisions, these bills would prohibit such practices and penalize violators. The House passed H. The Senate Judiciary Committee reported S. Congress passed the VRA in in response to widespread evidence of disfranchisement of black citizens in several southern states. Since passage of the VRA, Congress has amended and extended coverage of the act in , , , and Most recently, Congress amended the VRA in to, among other provisions, reauthorize its temporary provisions for 25 years and to allow reasonable expert fees and other litigation expenses. It also modified provisions of the act relating to the assignment of election observers and examiners. District Court for the District of Columbia or to the U. Attorney General for preclearance; establishing conditions by which a state or political subdivision may be released from preclearance of election law changes; authorizing the appointment of election observers in covered jurisdictions during federal elections; allowing a private citizen to challenge in court discriminatory practices and elections procedures; requiring bilingual assistance for certain voters whose language is other than English; and prohibiting intimidation of any qualified person from voting. This report also addresses allegations of voting irregularities and of violations of the VRA during the presidential election of This report will be updated when legislative activity occurs. The bill would amend Section of the Voting Rights Act which requires covered jurisdictions to provide election language assistance for certain limited-English citizens to require covered jurisdictions to provide election language assistance only for American Indians or Alaskan Natives. Introduction Right to Vote 13th Amendment. Prior to the Civil War, the franchise was denied to nearly everyone except white male property owners who were over 21 years of age. After the War, the 38th Congress proposed the 13th Amendment to the state legislatures; it became a part of the Constitution in December The 13th Amendment prohibits slavery in the United States and gives Congress power to enforce this article. The 39th Congress sought to expand suffrage to citizens in the United States. With passage of the First Reconstruction Act of , it required former confederate states to write new constitutions that guaranteed the right of all males to vote, irrespective of race. To insulate its efforts from partisan politics and presidential vetoes, Congress turned to constitutional amendments. In June , it proposed the 14th Amendment to the state legislatures. The 14th Amendment contains five sections. Section 1 prohibits the states from denying citizens of the United States equality before the law. Section 2 was devised to prevent the southern states from using literacy and property tests to keep African Americans from voting while retaining their full populationbased representation in the House of Representatives. The exception for Section 2 is if the voter has been guilty of rebellion or other crime. Section 3 bars persons who voluntarily participated in the rebellion against the United States from election to any federal office, civil or military, until Congress, by a vote of two-thirds CRS-2 majority in each House, removes such disability. Section 4 prohibits payment of the Confederate debt. In Section 5, Congress is empowered to enforce provisions of this article through appropriate legislation. On July 28, , the 14th Amendment became a part of the Constitution. The 40th Congress proposed the 15th Amendment to the state legislatures in In March , the 15th Amendment became a part of the Constitution. From to , Congress passed election laws that guaranteed the right to vote in national and state elections and established federal supervision of election and voter registration. To protect the political, legal and social equality of all Americans, Congress passed civil rights legislation that contained provisions for the imposition of fines and criminal penalties on those convicted of conspiring to deprive

citizens of their civil rights. As a consequence of these laws, black participation in the political process rose dramatically. Besides electing blacks to office, black voters heavily influenced the outcome of local, state, and national elections throughout the South. Some resorted to a number of tactics to discourage or stop blacks from participating in the political process, such as fraud, violence including murder , and economic blackmail. The Compromise of essentially ended Reconstruction, as withdrawal of federal troops from the South allowed those who supported the disfranchisement of blacks to assume control of most state governments. These legislatures used creative measures to make voting difficult. They passed bills to reduce the numbers of black voters by requiring them to travel great distances to voting precincts and designed complex balloting procedures that amounted to literacy tests. Challenges to registration rulings were heard by local officials who were unlikely to be sympathetic. No one was allowed to speak to a voter, and U. GPO, , pp. Report, at head of title: GPO, , p. McGraw-Hill, , pp. For a fuller discussion of the Reconstruction Period, see also: CRS-3 if he failed to find the correct box, his vote was thrown out. But some southern whites were uncomfortable with the resort to fraud, murder, bribery, and theft to disfranchise most blacks. They sought a permanent legal way to limit black voting. Although delegates at these conventions favored repeal of the 15th Amendment, they feared the reaction of the rest of the nation. They need not have though, for the political climate of the country, both north and south, seemed to favor limiting black participation in the political process though for different reasons. Federal enforcement of election laws and protection of citizens were being withdrawn. The Supreme Court, in , narrowly interpreted provisions of civil rights laws passed during Reconstruction or declared them unconstitutional. Congress repealed many sections of the Enforcement Act. These rulings effectively removed the federal government from the business of protecting the civil rights of all Americans for decades. Because delegates at the convention feared voters would reject the new constitution, they did not submit it for popular approval; instead the convention, itself, approved, promulgated and declared the constitution to be in effect. The Mississippi constitution of differed from its predecessor in that it replaced the six months residency requirement with a two-year one; imposed a literacy test for prospective voters, as well as a property requirement of three-hundred dollars; introduced an annual poll tax of two dollars; and disqualified convicts. This was an extremely confusing arrangement for barely literate and illiterate voters. Voters had a maximum of two-and-a-half minutes to vote, if others were waiting in line. As a consequence of this code many black and white illiterate residents were disfranchised. CRS-4 January 1, Since blacks were denied the franchise in , none of them qualified under this provision. But the impact of these laws was devastating for blacks. In Louisiana, in , , blacks were registered to vote, by , only 5, Alabama in had , black males of voting age, but after the new constitution was adopted only 3, registered. In an address on the right of suffrage before Congress in , Senator Cole Blease of South Carolina reflected the political climate for African Americans in his state. He boldly admitted that the purpose of the South Carolina constitution was to disfranchise African Americans. I do not know where he got them. I was astonished to know they were cast and shocked to know they were counted. In Florida, payment of the poll tax automatically carried registration with it, but other methods were used to keep African Americans from voting. In the s, an African American who attempted to vote might discover that his name was not on the voters list, that the name or address on his certificate differed from that on the voters list, or that his name through oversight had been placed on the white list -- all of which were technicalities that could disqualify him from voting. His only recourse was the courts, the expense of which he would have to bear, and even if a court ruled in his favor which was unlikely the ruling would not be timely. Columbia University Press, , p. Russell Sage Foundation, , p. CRS-5 United States; if the individual were African American, the registrars would declare that his answer was incorrect. Since the winner of the primary in a one-party state, was in essence elected to office, African Americans were eliminated from the electoral process. Allwright,15 challenging the constitutionality of the white primary; in , the Supreme Court declared the white primary unconstitutional. In July , the Alabama legislature, with Act No. As a consequence, thousands of black residents and nearly all blacks who were registered to vote could no longer participate in Tuskegee municipal elections. A resident, Charles G. Gomillion, in Gomillion v. Lightfoot16 charged that the

act violated both the 14th Amendment the equal protection clause and the 15th Amendment. This was an important case because two issues were involved -- voting rights for blacks and redistricting by state legislatures. In , as the Court began to dismantle barriers to black political participation, it considered the redistricting issue inherent in Gomillion v. Dissenting Judge John Brown wrote that the fact that act No. Simon and Schuster , p. Bass, Unlikely Heroes, pp. Since most eligible whites were already registered, they had no real need for a registrar. But thousands of blacks were not registered and were unable to register in Tuskegee for lack of a board of registrars. Therefore, the traditional method of correcting political abuse at the polls was denied blacks. Consequently, Judge Brown found the law unconstitutional. By provisions of the act, the Attorney General was authorized to bring lawsuits to protect equal voting rights, and persons who disobeyed court orders prohibiting discrimination in voting could be held in criminal contempt. It provided that special three-judge federal district courts be convened, with jurisdiction to hear civil rights cases taken out of state courts by the Department of Justice. A six-member Commission on Civil Rights was created to gather information on discrimination in voting and to issue annual reports. Because of the length of legal hearings and the delaying but legal tactics employed during lawsuits, the Civil Rights Act of was mostly ineffective. After three years only four cases were heard and decided.

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attempting to eliminate languages , or restrictive conditioning benefits or other social goods on knowledge, proficiency, or use of a language. In the United States, during the nineteenth century, language policies attempted to prohibit non-English languages as a response to nativist politics, but this was found to be unconstitutional â€" the state did not have a good reason to override the use of languages by its citizens. In response, nativists successfully lobbied the government to adopt laws requiring the knowledge of, and ability to use, English for different purposes e. Immediately following the successful adoption of these language policies, they were amended, or new ones were made requiring English ability and use exclusively for these purposes i. These English-only policies reigned for most of the twentieth century. In the s and s, several national laws were adopted that directly or indirectly changed these English-only laws e. Court cases involving language issues also increased during this period. Several of these court cases involved English-only language policies in the workplace, forcing the adoption of English language policy guidelines for businesses by the Equal Employment Opportunities Commission in EEOC Very briefly, these guidelines which had the force of law stated that language issues and discrimination were part of national-origin discrimination. Absent this relationship to national origin, one could not litigate language issues per se. Also, English-only language policies were permissi- ble only if they were justified by a business necessity. Even so, these policies could not be so broad and sweeping as to cover informal conver- sations between employees during break time or other personal, non- work-related time. The use of different languages in the US workplace has become an increasingly complicated, if not contentious, issue during the last quarter of the twentieth century. One of the more important examples of this Bilingual workers 55 contentiousness is in health and medical worksites, where services involve life-and-death decisions and physical and psychological health care, such as in emergency services, hospitals, and fire and police services cf. Macias ; Piatt for a survey of the issues. The debates rage over the desirability and the efficacy of different language policies in these settings, including: This article reviews one case, that of the University of St. Francis Hospital, which encompasses the first and second types of these policies, in order to ascertain the impact of a new language policy designed to be nondiscriminatory. The new policy was agreed on by the parties in mid The focus of this article is the development and impact of the new policy on job performance and patient care, especially the unique role of the training in providing a nondiscriminatory working environment; in other words, the way in which the right to be free from language discrimination was addressed in this case for the workers and in relationship to the purpose of their work â€" to provide health and medical services. In order to answer these questions, it is useful to describe some of the language policies, issues and conditions that prevailed before the agreement, how the agreement was constructed, and subsequent activities. Preagreement conditions The preagreement conditions for employees, supervisors, and recipients of care varied from department to department in the hospital. The relationships between employees was reported to be strained because of the various perceptions about language use in the hospital. Representatives from the hospital and the union representing the workers reported that 1. English monolingual employees were jittery and anxious over the use of non-English language speech by other employees C.. English monolinguals often confused non- English language speech with poor English language proficiency C.. Monolingual English speakers felt bilinguals were "talking about me" B.. E Macias Supervisory roles were specifically identified in describing the tensions felt at the hospital over these issues, including that The supervisors were inadequately trained to supervise bilingual employees hired for their non-English language abilities in perfor- mance of their jobs C. Supervisors nonverbally communicated frustration and the message that the bilingualism was an "imposition" C.. Some supervisors felt they had to "police" the speech of employees W. There seemed to be little disagreement between the parties in describing the situation before the agreement. The English-only rule There were several departments in the hospital that had such a rule: Nutrition and Dietetics, Personnel, and the laboratories B. The rationale for the rule was that a common language was needed to maintain a safe working environment for employees B. The rule basically prohibited the use of non-English languages in the workplace and mandated the exclusive use of English EEOC a: The rule had been in existence at least since in the

Nutrition and Dietetics department K. Between the establishment of the rule in and the complaints in , the hospital hiring policies and practices did not include an English basic skills test as a condition of employment, although some job descriptions did ask for proficiency in English, communication skills, or a specific non-English language A. Language-minority personnel were concentrated in the Accounting and Food Service depart- ments, and some worked in Physical Plant and the Mailing Room. There was a significant concentration of language-minority employees, especi- ally Filipinos, among nurses, with a rising number of Latinos. The complaints According to his statement. He was later Bilingual workers 57 verbally reprimanded by another supervisor, in another department, for speaking Spanish on the job with an older, Spanish-dominant house- keeper. The union representative within Nutrition and Dietetics took exception to the rule reaffirmation. About nine or ten complaints were registered with the department K. The discrimination charge was brought on racial and national-origin grounds and filed with the EEOC on June 21, The agreement The case was resolved between the parties, after discussions clarifying the issues â€" the difficulties between workers and management over use of non-English languages â€" and after negotiations over the various remedies that could be used to correct the working conditions. Negotiating the agreement Several issues came up after the complaint was filed. The Department of Labor Relations took jurisdiction of the complaint away from the Nutrition and Dietetics department. They justified the English-only rule as part of the rights of supervisors to set work rules and on the grounds of worker safety e. The Nutrition and Dietetics department initially felt they were cut out of the 58 R. Macias process by the Labor Relations department. Some of the supervisors expressed "feeling betrayed" K. The departments of Nutrition and Dietetics and Labor Relations met over the issue, depersonalized the complaints over which had jurisdiction, and then focused on the language- policy debates. One suggestion, nonenforcement of the rule, was found an insufficient remedy for the situation, because it still had a "chilling effect" on employ- ees C.. Apparently there was also resentment over the com- plaints and the change in language policies from other minorities, particularly Blacks, within the union and management. Discussions within the union regarding former historical language exploitation of Blacks in the US helped change the views of those who opposed the complaints C. Contents of the agreement The Conciliation Agreement was 11 pages long, including a title page, a contents page, a Section I entitled General Provisions three pages , a Section II for Signatures two pages , and three appendices a two-page letter from Chancellor Krevans to all staff, including the new policy on nondiscrimination regarding language in the workplace [listed as Attachment A]; a one-page list of Bulletin Boards by Departments [listed as Attachment B]; and a one-page English-only workplace rule survey [listed as Attachment C] EEOC The General Provisions section included five major subsections labelled A E. The first subsection stipulated that the agreement was not an admission of a violation of Title 7 of the Civil Rights Act. The second subsection stated that the charging parties would not sue the university if the agreement was kept.

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5: United States v. Mosquera, F. Supp. (E.D.N.Y.) :: Justia

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The bill would amend Section of the Voting Rights Act which requires covered jurisdictions to provide election language assistance for certain limited-English citizens to require covered jurisdictions to provide election language assistance only for American Indians or Alaskan Natives. Prior to the Civil War, the franchise was denied to nearly everyone except white male property owners who were over 21 years of age. Afterthth the War, the 38 Congress proposed the 13 Amendment to the state legislatures; it became a part of the Constitution in December The 13th Amendment prohibits slavery in the United States and gives Congress power to enforce this article. The 39th Congress sought to expand suffrage to citizens in the United States. With passage of the First Reconstruction Act of , it required former confederate states to write new constitutions that guaranteed the right of all males to vote, irrespective of race. To insulate its efforts from partisan politics and presidential vetoes, Congress turned to constitutional amendments. In June , it proposed the 14th Amendment to the state legislatures. The 14th Amendment contains five sections. Section 1 prohibits the states from denying citizens of the United States equality before the law. Section 2 was devised to prevent the southern states from using literacy and property tests to keep African Americans from voting while retaining their full population- based representation in the House of Representatives. The exception for Section 2 is if the voter has been guilty of rebellion or other crime. Section 3 bars persons who voluntarily participated in the rebellion against the United States from election to any federal office, civil or military, until Congress, by a vote of two-thirds majority in each House, removes such disability. Section 4 prohibits payment of the Confederate debt. In Section 5, Congress is empowered to enforce provisions of this article through appropriate legislation. On July 28, , the 14th Amendment became a part of the Constitution. The 40th Congress proposed the 15th Amendment to theth state legislatures in In March , the 15 Amendment became a part of the Constitution. From to , Congress passed election laws that guaranteed the right to vote in national and state elections and established federal supervision of election and voter registration. To protect the political, legal and social equality of all Americans, Congress passed civil rights legislation that contained provisions for the imposition of fines and criminal penalties on those convicted of conspiring to deprive citizens of their civil rights. As a consequence of these laws, black participation in the political process rose dramatically. Besides electing blacks to office, black voters heavily1 influenced the outcome of local, state, and national elections throughout the South. Most southern whites opposed the enfranchisement of former slaves. Some resorted to a number of tactics to discourage or stop blacks from participating in the political process, such as fraud, violence including murder , and economic blackmail. The Compromise of essentially ended Reconstruction, as withdrawal of federal troops from the South allowed those who supported the disfranchisement of blacks to assume control of most state governments. These legislatures used creative measures to make voting difficult. They passed bills to reduce the numbers of black voters by requiring them to travel great distances to voting precincts and designed complex balloting procedures that amounted to literacy tests. Challenges to registration rulings were heard by local officials who were2 unlikely to be sympathetic. A South Carolina law of , for example, required that special ballots and boxes be placed in every polling place for each office on the ballot, and that voters put their ballots in the correct boxes. No one was allowed to speak to a voter, and 1 U. GPO, , pp. Report, at head of title: GPO, , p. McGraw-Hill, , pp. For a fuller discussion of the Reconstruction Period, see also: But some southern whites were uncomfortable with the resort to fraud, murder, bribery, and theft to disfranchise most blacks. They sought a permanent legal way to limit black voting. Although delegates at these conventions favored repeal of the 15th Amendment, they feared the reaction of the rest of the nation. They need not have though, for the political climate of the country, both north and south, seemed to favor limiting black participation in the political process though for different

reasons. Federal enforcement of election laws and protection of citizens were being withdrawn. The Supreme Court, in , narrowly interpreted provisions of civil rights laws passed during Reconstruction or declared them unconstitutional. Congress repealed many sections of the Enforcement Act. These rulings effectively removed the federal government from the business of protecting the civil rights of all Americans for decades. Because delegates at the convention feared voters would reject the new constitution, they did not submit it for popular approval; instead the convention, itself, approved, promulgated and declared the constitution to be in effect. The Mississippi constitution of differed from its predecessor in that it replaced the six months residency requirement with a two-year one; imposed a literacy test for prospective voters, as well as a property requirement of three-hundred dollars; introduced an annual poll tax of two dollars; and disqualified convicts. This was an extremely confusing arrangement for barely literate and illiterate voters. Voters had a maximum of two-and-a-half minutes to vote, if others were waiting in line. As a consequence of this code many black and white illiterate residents were disfranchised. Since blacks were denied the franchise in , none of them qualified under this provision. But the impact of these laws was devastating for blacks. In Louisiana, in , , blacks were registered to vote, by , only 5, Alabama in had , black males of voting age, but after the new constitution was adopted only 3, registered. In an address on the right of suffrage before Congress in , Senator Cole Blease of South Carolina reflected the political climate for African Americans in his state. He boldly admitted that the purpose of the South Carolina constitution was to disfranchise African Americans. I do not know where he got them. I was astonished to know they were cast and shocked to know they were counted. In Florida, payment of the poll tax automatically carried registration with it, but other methods were used to keep African Americans from voting. In the s, an African American who attempted to vote might discover that his name was not on the voters list, that the name or address on his certificate differed from that on the voters list, or that his name through oversight had been placed on the white list â€" all of which were technicalities that could disqualify him from voting. His only recourse was the courts, the expense of which he would have to bear, and even if a court ruled in his favor which was unlikely the ruling would not be timely. Columbia University Press, , p. Russell Sage Foundation, , p. United States; if the individual were African American, the registrars would declare that his answer was incorrect. Since the winner of the primary in a one-party state, was in essence elected to office, African Americans were eliminated from the electoral process. Allwright,15 challenging the constitutionality of the white primary; in , the Supreme Court declared the white primary unconstitutional. In July , the Alabama legislature, with Act No. As a consequence, thousands of black residents and nearly all blacks who were registered to vote could no longer participate in Tuskegee municipal elections. A resident, Charles G. Gomillion, in Gomillion v. Lightfoot16 charged that the act violated both the 14th Amendment the equal protection clause and the 15th Amendment. This was an important case because two issues were involved â€" voting rights for blacks and redistricting by state legislatures. In , as the Court began to dismantle barriers to black political participation, it considered the redistricting issue inherent in Gomillion v. Dissenting Judge John Brown wrote that the fact that act No. Simon and Schuster , p. Since most eligible whites were already registered, they had no real need for a registrar. But thousands of blacks were not registered and were unable to register in Tuskegee for lack of a board of registrars. Therefore, the traditional method of correcting political abuse at the polls was denied blacks. Consequently, Judge Brown found the law unconstitutional. By provisions of the act, the Attorney General was authorized to bring lawsuits to protect equal voting rights, and persons who disobeyed court orders prohibiting discrimination in voting could be held in criminal contempt. It provided that special three-judge federal district courts be convened, with jurisdiction to hear civil rights cases taken out of state courts by the Department of Justice. A six-member Commission on Civil Rights was created to gather information on discrimination in voting and to issue annual reports. Because of the length of legal hearings and the delaying but legal tactics employed during lawsuits, the Civil Rights Act of was mostly ineffective. After three years only four cases were heard and decided. It was felt that the law needed strengthening to prevent evasive measures by registrars and produce more timely rulings; so, in , Congress passed another civil rights law. The Civil Rights Act of sought to fill some of the loopholes in the

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Act. It provided that if a registrar resigned after complaints had been filed, the proceeding could be instituted against the state. It authorized federal referees to investigate complaints of voting discrimination and to register qualified voters. The act required voting records to be preserved for 22 months following any primary, special, or general election at which there were candidates for federal office; and it 18 Ibid. In a report prepared in , the Commission on Civil Rights concluded that this was a role that the federal government should assume. Federal efforts to ban racial discrimination relied heavily on litigation. The Commission rejected this litigious approach because it was time consuming and did not increase black registration significantly. After the violence, Congress passed the Civil Rights Act of , which contains provisions that attempted to have three-judge federal district courts hear cases more quickly, and allow for temporary voting registrars. It forbids local officials to apply standards to some voter registrants e. The act also provides that in any voting rights court case there shall be a presumption of literacy for all voter applicants who have completed the sixth grade in an accredited, English-speaking school. These provisions proved ineffective as well. Sometimes, after lengthy litigation caused an election law to be judicially invalidated as discriminatory, the state or local jurisdiction would pass and enforce a different law or regulation designed to circumvent the court order. The outbreak of violence in Selma, Alabama, as a result of a black voter registration drive, aided the Department in its efforts. On August 6, , the Voting Rights Act was signed into law. In South Carolina v. Statements of Reverend Theodore M.

6: SAGE Reference - Robinson v. Jacksonville Shipyards

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