

Title: Literacy Test

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Many states used to require voters to be literate in English. The main constitutional problems raised by this practice arose from the use of literacy tests in southern and border states as a form of RACIAL DISCRIMINATION aimed at denying black citizens their VOTING RIGHTS in violation of the FIFTEENTH AMENDMENT. A typical law conditioned voter registration on the ability to read and write a provision of the state constitution selected by the registrar, to the registrar's "satisfaction." (An Alabama registrar once wrote this explanation for rejecting a black applicant: "Error in spilling.") Some laws also required the applicant to "interpret" or "explain" the constitutional provision, offering even greater opportunities for discriminatory application.

In *Davis v. Schnell* (1949) the Supreme Court summarily affirmed a lower court decision invalidating a requirement that a voter "understand and explain" an article of the United States Constitution; the registrar's discretion was so great that the test was an obvious "device to make racial discrimination easy." However, in *Lassiter v. Northampton County Board of Elections* (1959) the Court unanimously upheld a bare literacy requirement, in the absence of any showing of discriminatory application. This distinction had been suggested by the Court as early as *WILLIAMS V. MISSISSIPPI* (1898).

Meanwhile, the Court had fought two minor voting rights skirmishes with Oklahoma. That state had required voters to pass a literacy test, but excepted any voter whose ancestors had been registered to vote in 1866. Because of this GRANDFATHER CLAUSE, only black registrants were required to take literacy tests; the Court readily invalidated this law in *GUINN V. UNITED STATES* (1915). After the decision, Oklahoma adopted a law requiring all new voters to register within a twelve-day period; because virtually all the new voters were black, this onerous procedure fell before the Fifteenth Amendment, which "nullifies sophisticated as well as simple-minded modes of discrimination," in *Lane v. Wilson* (1939).

The death blow to voter literacy tests was delivered not by the Court but by Congress, which approached the question gingerly. The VOTING RIGHTS ACT OF 1965 required certain states and counties to suspend their use of literacy tests for five years. This feature of the law was upheld in *SOUTH CAROLINA V. KATZENBACH* (1966). In the same year, *KATZENBACH V. MORGAN* (1966) upheld another feature of the 1965 act requiring states to confer the vote on some citizens who, having been educated in Puerto Rico, were literate in Spanish. In 1970, Congress suspended literacy tests for voting throughout the nation, a provision which the Court upheld in *OREGON V. MITCHELL* (1970) as a valid exercise of the power to enforce the Fifteenth Amendment. Finally,

in 1975, Congress made the ban on literacy tests permanent. In practical terms, literacy tests for voters are a thing of the past, and the Supreme Court is unlikely to confront the *Lassiter* issue again.

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Bibliography

LEIBOWITZ, ARNOLD H. 1969 English Literacy: Legal Sanction for Discrimination. *Notre Dame Lawyer* 45:7-67.

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