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Techniques of Abridging the Right to Vote: Fraud, Registration, and Literacy Tests

If election regulations shaped the Southern political system, then it is important to know how each operated, why particular types of laws were enacted at certain times, and how effective each was in re-forming the polity. Moreover, were the proponents conscious of the effects of all the various types of electoral laws, or were disfranchisement and the decline of opposition parties, in some cases, merely unintended consequences of legal changes proposed for other purposes? Since registration, residency, the secret ballot, the educational qualification, and the direct primary were not confined to the South, nor particular to the early part of this century, an examination of such mechanisms has quite general significance. Though the next two chapters focus primarily on methods of restriction in the South, they will also briefly suggest parallels with election legislation outside the South and with legislation in other time periods. Was Southern disfranchisement only the most blatant aspect of a nationwide impulse?

The Limitations of Fraud

Those who sought to prune the Southern electorate were hampered by various constitutional restrictions. The Fifteenth Amendment prohibited overt discrimination on the basis of race, color, or previous condition of servitude. The Fourteenth threatened reduction of representation in Congress and the Electoral College proportionate to the number of adult males disfranchised for any reason other than crime or participation in rebellion.[1] Aside from explicit Prohibitions, rapid and defiant Southern action to excise Republican electors from the body politic risked a change in the national and Republican mood that

1. Republicans repeatedly moved to reduce Southern representation because of disfranchisement. See *Congressional Record*, 51st Cong., 2nd sess., pp. 360–361; ibid., 59th Cong., 1st sess., pp. 3885–3894; Sherman, "The Harding Administration and the Negro," pp. 151–168.

would precipitate a return to Reconstruction.[2] The disfranchisers were, therefore, forced to contrive devious means to accomplish their purposes. Less subtle techniques could be employed only after national political conditions ruled out either a renewal of Reconstruction or a strict constructionist interpretation of the postwar amendments.[3]

At first, the Democrats relied primarily on laws and practices that decreased the influence of opposition voters but did not actually prohibit them from exercising the franchise. Some states vested the right to name local officials in governors or legislatures, a procedure which guaranteed that white Democrats would rule even in Republican areas. Other states devised ingenious gerrymanders or set bonds for local officials so high that no one except the agents of the economic elite could afford to serve.[4]

The stuffing of Southern ballot boxes became a national scandal. Senator Samuel D. McEnery of Louisiana stated that his state's 1882 election law "was intended to make it the duty of the governor to treat the law as a formality and count in the Democrats."[5] As governor

2. Louisiana governor Murphy J. Foster declared that the 1879 constitutional convention in that state did not enact suffrage limitations because they "dread[ed] renewed federal complications and interferences from which we had just escaped." See *New Orleans Daily Picayune*, Jan. 4, 1898, and a similar statement by Congressman Charles J. Boatner in the same newspaper, Jan. 6, 1898. Alabama, Tennessee, and Mississippi took no severe action because of the same fears. See McMillan, *Constitutional Development*, pp. 201, 217; Joshua W. Caldwell, *Studies in the Constitutional History of Tennessee* (Cincinnati: The Robert Clarke Co., 1907), pp. 314–315; Frank Johnston, "The Public Services of Senator James Z. George," *Publications of the Mississippi Historical Society* 8 (1904): 209–210. These fears were well grounded at least as late as 1875. See Grant's message to Congress asking Congress to overturn the 1874 Arkansas constitution for depriving minorities of their rights, in Richardson, *Messages and Papers*, 7: 319.

3. Some historians have so confused the time sequence of minor and major changes in election laws as to destroy any broad distinctions between the pre- and post-disfranchisement epochs in Southern politics. Paul Lewinson, for instance, indiscriminately mingles laws passed in the 1870s to disfranchise the few people who committed petty crimes with such major restrictive devices, passed thirty years later, as the literacy and property qualifications. See his *Race, Class and Party*, p. 81.

4. Charles E. Wynes, *Race Relations in Virginia, 1870–1902*, p. 13; Going, *Bourbon Democracy*, pp. 33–34; Frenise A. Logan, *The Negro in North Carolina, 1876–1894*, p. 9. On gerrymandering, see James Welch Patton, "The Republican Party in South Carolina, 1876–1895," in Green, ed., *Essays in Southern History*, pp. 102–104; Buni, *Negro in Virginia Politics*, p. 2; Mabry, *Negro in North Carolina Politics*, pp. 19–20; McMillan, *Constitutional Development*, pp. 221–223. On the bonding maneuver, see Going, *Bourbon Democracy*, pp. 33–34; *Jacksonville Florida Times-Union*, March 24, 1889; Rice, *Negro in Texas*, pp. 88–89.

5. During the debates on the Lodge Elections Bill in 1890, Rep. Julius Caesar Burrows

from 1879 to 1888, McEnery proved a dutiful servant of the legislative will. Democrats in South Carolina and Florida loaded the boxes with tissue ballots and extra-small tickets nicknamed "little jokers." When counters discovered that the number of ballots surpassed the number of voters, they put all the ballots back in the box and, blindfolded, withdrew and discarded a number of the thicker, larger GOP tickets equal to the excess. William A. Anderson, author of the chief Virginia election statute during this period, admitted that Virginia elections were "crimes against popular government and treason against liberty." A delegate to the 1901 Alabama constitutional convention reported that "any time it was necessary the black belt could put in ten, fifteen, twenty or thirty thousand Negro votes." A leader of the 1890 Mississippi convention declared that "it is no secret that there has not been a full vote and a fair count in Mississippi since 1875."[6]

Such flagrant chicanery eroded popular confidence in government, supplied grist for Republican campaign mills, and kept alive national GOP hopes that they could regain power in the South if only they could obtain a fair count. The Democrats therefore turned increasingly to methods that actually struck voters from the lists.

Registration and Quasi-Literacy Tests

One effective device was to require periodic voter registration. Even where administered impartially, these laws have had a significant negative effect on turnout. As early as 1910, Ray Stannard Baker stated that registration and secret ballot laws together eliminated "hundreds of thousands of voters" in the Northern states. More recently, statutes making several months' residency in a state and an election district a prerequisite for voting reportedly disfranchised 4 million Americans in

remarked: "I firmly believe that if we were to strike out every word in this bill and insert three of the Ten Commandments: Thou shalt not steal; Thou shalt not bear false witness; Thou shalt not kill—the whole Democratic party would declare it an assault upon the South, subversive of the Constitution, and an infringement of the reserved rights of the States." *Congressional Record*, 51st Cong., 1st Sess., p. 6787. For McEnery's admission, see *New Orleans Daily Picayune*, Feb. 30, 1898.

6. *Charleston News and Courier*, Dec. 18, 1880; *Report of the Republican State Executive Committee of Florida to the Republicans of the State Upon the Election Held November 2, 1880* (Washington, D.C.: National Republican Publishing Co., 1881), pp. 24–25. Anderson quoted in Herman L. Horn, "The Growth and Development of the Democratic Party in Virginia Since 1890" (Ph.D. diss., Duke Univ., 1949), pp. 47–48. For delegates' remarks see Ala. Con. Con. *Proceedings* (1901), vol. 3, p. 3373, and Wharton, *Negro in Mississippi*, p. 206.

1950, 5 million in 1954, 8 million in 1960, and 6 million in 1968. In many places in the South in 1972, according to John Lewis, director of the Voter Education Project, registration boards dominated by "party hacks . . . set up rules and regulations and other barriers to the ballot which make it impossible for poor people and working people to register with ease." Southern states in the late nineteenth century usually required one or two years residency in the state and up to a year in the county. Even in the North it sometimes appears obvious that the intent of these laws was to disfranchise. A 1917 Indiana law, for example, required the applicant for registration to specify the material out of which his house was built, the full name of his nearest neighbor, and other matters equally relevant to the exercise of the franchise.[7]

The key disfranchising features of the Southern registration laws were the amount of discretion granted to the registrars, the specificity of the information required of the registrant, the times and places set for registration, and the requirement that a voter bring his registration certificate to the polling place. According to the North Carolina law of 1889, for instance, registrars, appointed indirectly by the Democratic legislature, could require that a voter prove "as near as may be" his "age, occupation, place of birth and place of residency . . . by such testimony, under oath, as may be satisfactory to the registrar." Black men born into slavery were often ignorant of their exact ages; streets in Negro areas often had no names, houses no numbers. Democrats employed this law to deny the vote to white and black Republicans and Populists in the early 1890s. Registration officials in Florida merely erased Republican names and then refused to meet with the voters so that they could re-register. Alabama, after 1892, allowed voters to register only in May, the busiest time of the year for farmers. The practice of closing registration before candidates were even nominated

7. Ray Stannard Baker, "Negro Suffrage in a Democracy," *The Atlantic* 106 (1910): 613. Similarly, see Stanley Kelley, Jr., Richard E. Ayres, and William G. Bowen, "Registration and Voting: Putting First Things First," *American Political Science Review* 61 (1967): 374; Chilton W. Williamson, *American Suffrage from Property to Democracy*, pp. 272–277; and Joseph P. Harris, *Registration of Voters in the United States*, pp. 65–106. Post-1950 statistics are taken from President's Commission on Registration and Voting Participation, *Report* (Washington, D.C.: G.P.O., 1963), p. 13; and *New York Times*, Nov. 17. 1968, p. 10-E. Lewis is quoted in *Los Angeles Times*, Nov. 4, 1972, pp. I-16, 17. For the late nineteenth-century Southern laws, see Ralph Wardlaw, "Negro Suffrage in Georgia, 1867–1930," *Bulletin of the University of Georgia* (Athens, Georgia: Univ. of Georgia Press, 1932), p. 37; N.C. *Acts* (1899), pp. 341–343; Miss. Con. Con. *Journal* (1890) pp. 229–230. For the Indiana statute, see Harris, *Registration of Voters*, p. 87.

obviously put relatively uninterested and unorganized voters at a disadvantage. The county machine could always remind its followers of the closing date for registration, but it neglected those voters outside the dominant political structure, or even prevented them from registering. Several states also required the voter to bring his easily misplaced registration certificate with him to the polls; otherwise, he could not vote.[8]

How much impact the registration laws had upon the electorate depended on their administration. If registrars throughout a state decided to keep the voting lists short, the effect could be quite spectacular. The federal district attorney for South Carolina, Samuel Melton, estimated that the registration section of the 1882 election law disfranchised 75 percent of the Palmetto State's Negro voters. The task of calculating the potency of such laws is complicated by the fact that only one state, Louisiana, published statewide registration figures for the period before 1900. The registration figures there were as fictional as the election returns: in 1897, the registration of white adult males exceeded 100 percent. Nonetheless, it is instructive to observe the effect of the 1896 Louisiana registration law on the electorate. On January 1, 1897, 103.2 percent of the white and 95.6 percent of the Negro adult males appeared on the rolls. By January 1, 1898, voters were required to have registered anew. Despite the fact that the constitutional qualifications for voting remained the same during both periods, only 46.6 percent of the whites and 9.5 percent of the blacks were listed at the later date. The law as administered reduced white registration by nearly 60 percent and Negro by 90 percent.[9]

8. N.C. *Acts* (1889), ch. 287, sections 3, 12, quoted in Logan, *Negro in North Carolina*, pp. 58–59. For a similar law in Mississippi, see Wharton, *Negro in Mississippi*, pp. 199–200. For proof that North Carolina Democratic boss, Furnifold Simmons, coordinated the administrative discrimination against his opposition, see Simmons to Marmaduke J. Hawkins, cited in Steelman, "The Progressive Era in North Carolina," p. 36, n. 11. The Fusion legislature's 1895 election law reversed the Democratic law's presumption that a voter (at least a Populist or Republican voter) was not registered unless he could prove it. See Helen G. Edmonds, *The Negro and Fusion Politics in North Carolina*, pp. 70–74. For the registration procedure in Florida, see *Report of the Republican State Executive Committee*, pp. 11–13. For the effect of the Alabama law, see Ala. Con. Con. *Proceedings* (1901), Vol. 3, pp. 3284–3285. On the importance of the closing date for registration, see Allen M. Shinn, Jr., "A Note on Voter Registration and Turnout in Texas, 1960–1970," *Journal of Politics* 33 (1971): 1120–1129. For registration certificates, see S. C. *Acts* (1881–1882), pp. 1110–1126; Ala. *Acts* (1892–1893), pp. 837–851; Tenn. *Acts* (1889), pp. 414–420.

9. Samuel Melton to Benjamin Brewster, Dec. 20, 1882, quoted in Cooper, *The Conservative Regime*, p. 216. Registration figures, by race, are given in the La. Con. Con. *Journal* (1898),

Undoubtedly, the effect was less dramatic in most instances. And since the technique relied upon discriminatory administration, a change in the control of the state government might reverse the direction of discrimination in voter registration. Federal regulation of registration, a feature of the Lodge Elections Bill of 1890, might eliminate it entirely. Registration laws were most efficiently used—as in South Carolina, Louisiana, and North Carolina—to cut the electorate immediately before a referendum on constitutional disfranchisement.[10]

Two states, South Carolina in 1882 and Florida in 1889, adopted eight-box laws; the latter state's action copied the former's. North Carolina instituted a multi-box law in time for the 1900 referendum on the disfranchisement amendment. These bureaucratic monstrosities extended the practice existing in several Southern states of maintaining separate ballot boxes for state and federal elections. The two-box system had been used to keep federal election supervisors who were observing congressional elections from discovering frauds in state contests. Under the eight-box laws, separate ballots for president, congressman, governor, state senator, etc., were supposed to be deposited in the proper boxes; if the ballots were distributed otherwise, they were not counted. Boxes were constantly shifted to prevent a literate voter from arranging the tickets of an uneducated friend in the correct order before he entered the voting place. Illiterates could ask the election judges to read the names on the boxes, but since all election officials were appointed by the Democratic governor, it is doubtful that Republicans got much assistance in voting. Since 55 percent of the adult male Negroes in South Carolina, 53 percent in North Carolina, and 39 percent in Florida were classed as illiterates as late as 1900, the effect of these de facto literacy tests was quite appreciable.[11]

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insert opposite p. 42.

10. Crofts, "Blair Bill," pp. 252–254. The technique of requiring a new registration before a crucial election has been used recently, e.g., in the Mississippi elections of 1971. See *Los Angeles Times*, Jan. 2, 1972, p. G-5.

11. S.C. *Acts* (1881–82), pp. 1117–1118; Fla. *Acts* (1889), pp. 101–102. For the similarity of the two acts, compare sec. 29 of the South Carolina law with sec. 25 of the Florida law. For North Carolina, see N.C. *Acts* (1899), sec. 26–28, p. 670; N.C. *Acts* (Adjourned Sess., 1900), sec. 35, pp. 36–37. See also *Miller* vs. *Elliot*, in Chester H. Rowell, comp., *Digest of Contested Election Cases, 1789–1901*, pp. 461–464; James Owen Knauss, "The Growth of Florida's Election Laws." *Florida Historical Quarterly* 5 (1926): 10. Illiteracy rates from *Twelfth Census of the United States, 1900* (Washington, D.C.: G. P. O., 1901), vol. I, *Population*, part I, table 68, pp. 910–911.

Rarely included in discussions of disfranchisement, the secret ballot was a far subtler device than the multiple-box laws. The most recent historian of the "Australian system," although he notes its use as a literacy test in Louisiana, pictures it as a "major reform issue . . . part of the general reforming spirit of the age." Spokesmen for the lower strata in society—in England, the Chartists; and in America, the Populists, Terence Powderly of the Knights of Labor, and Henry George—argued that the secret ballot would prevent employers from dictating the votes of their workers. Upper-class reformers such as Henry Cabot Lodge and Richard Henry Dana III felt it would decrease corruption, encourage independent voting, and bring more of the "best men" into politics. With such backing, the new method of voting could be presented as an instrument of "reform" both above and below the Mason-Dixon line.[12]

Until 1888, political parties printed and distributed the ballots in each of the United States. Besides discouraging split-ticket voting and encouraging strong party organizations—just making sure all potential voters had ballots must have necessitated meticulous campaigning at the grass roots—the party ballot insured illiterates the right to vote. Nevertheless, reformers, who were more concerned with eliminating fraud than safeguarding the rights of illiterates, instituted the secret ballot in eight Southern and 30 non-Southern states between 1888 and 1900.[13]

The publicly printed ticket required the voter, sometimes without any aid from anyone, to scurry quickly through a maze of names of candidates running for everything from presidential elector to county court clerk, a list which was often arranged by office rather than party.

12. L. E. Fredman, *The Australian Ballot*, pp. ix–x, 4, 33, 36–41, 57–63. Loren P. Beth, in *The Development of the American Constitution, 1877–1917*, p. 113, states that "the poor" were disfranchised before the late 1880s by "the lack of a secret ballot, which tended to intimidate the frightened or halfhearted." Philip E. Converse believes the decline in turnout, North and South, resulting from the secret ballot and personal registration laws an "unintended consequence" or "side effect" of the desire by the "forces of good government" to eliminate "gross overtones of fraud in American elections." See his "Change in the American Electorate," in Campbell and Converse, *The Human Meaning of Social Change*, pp. 297–299. For a similar interpretation of the secret ballot's effect throughout the world, see Stein Rokkan, *Citizens, Elections, Parties* (New York: David McKay Co., 1970), pp. 35–36, 152–54. For the "reform" appeal see *Nashville Daily American*, April 5, 1889; *Little Rock Arkansas Gazette*, March 1, 1891; Joseph B. Bishop, "The Secret Ballot in Thirty-Five States," *The Forum* 2 (1892): 589–598.

13. Spencer D. Albright, *The American Ballot*, pp. 23–29.

He then had to mark an "X" by the names of the candidates for whom he wished to vote, or, in some states, mark through or erase those he opposed. Such a task demanded not merely literacy, but fluency in the English language. An ingenious lawmaker could make voting all but impossible. Florida totally abolished party designations on its ballot. A Populist or Republican who wished to vote for his presidential electors had to count down five, ten, or fifteen unfamiliar names before starting to mark. Voters in one Virginia congressional district in 1894 confronted a ballot printed in the German Fraktur script.[14]

The extent to which a desire to eliminate the "ignorant" or the "unfit" from the electorate motivated Northern ballot reformers, and the effect of such "reforms" of the political process outside the South deserves more attention from scholars than it has received. Although the *Nation* noted in 1889 that "in the discussions concerning the Australian system, a great deal has been said about the illiterate voter," historians have said little about him since then.[15]

There is evidence that the desire to reduce the electorate played a significant part in Northern adoption of the Australian system.[16] The magazine editor George Gunton, speaking primarily of the North, declared that "so obvious is the evil of ignorant voting that more stringent naturalization laws are being demanded, because too many of our foreign-born citizens vote ignorantly. It is to remedy this that the Australian ballot system has been adopted in so many states." The secret ballot's purpose, he said, was "to eliminate the ignorant, illiterate voters."[17] Eight states outside the limits of the Confederacy prohibited

14. Eldon C. Evans, *A History of the Australian Ballot System in the United States*, p. 43; Philip Loring Allen. "The Multifarous Australian Ballot," *North American Review* 191 (1910): 608–609.

15. See the anonymous article, "Successful Ballot Laws," *The Nation* 49 (1889) : 304. Analysts of the Australian system share the common mugwump prejudices against illiterates. For example, Harris, *Registration of Voters*, p. 158, says that "it is doubtful whether the loss of a vote of a person too illiterate or ignorant to mark [a secret ballot] is a public loss." Similarly, see Evans, *Australian Ballot System* pp. 42–43. Converse in "American Electorate" (p. 300), points out patronizingly that the secret ballot discourages vote-selling even by "benighted subpopulations . . . so cognitively vague about politics as to be indifferent to what vote they cast, and too inarticulate or subservient to create any public scandal if by chance the solicitation is resented."

16. On the desirability of disfranchising non-English speaking immigrants see an article by that mirror of American mugwump attitudes, James Bryce, "Thoughts on the Negro Problem," *North American Review* 153 (1891): 656.

17. Gunton quoted in *Review of Reviews* 6 (1892–93): 448. Similarly, see J. J. McCook,

election officials from assisting illiterates. About one of every four white males of voting age in the United States in 1900 had been born abroad, two-thirds of these in non-English-speaking countries. We do not know what proportion of the foreign-born citizens were literate in English, for the census counted as literate anyone who said he could read at all in any language.[18] It seems probable, therefore, that many immigrants did not have a sufficient command of English to complete their ballots unassisted. And it would be strange indeed if the same politicians who distributed campaign literature in a wide variety of languages had overlooked the effect of an intricate English ballot on the foreign-born voters.

Although existing evidence of the intent of the Northern ballot reformers is only circumstantial and suggestive, there is little question that the secret ballot was adopted in the South primarily to purge the electorate of illiterates. The president of the Alabama State Senate supported his state's Australian ballot law, he said, because under it, "the ignorant are practically disfranchised." The "father of Georgia disfranchisement" included the Australian ballot system in a list of the most effective ways of eliminating Negroes from politics. Tennessee Democrats beat down GOP attempts to allow election officials to aid the unlettered or print party initials after each candidate's name.[19]

"Venal Voting: Methods and Remedies," *The Forum* 14 (1892): 159–177; Bishop, "Ballot in Thirty-Five States," pp. 597–598; *Springfield* (Massachusetts) *Republican*, quoted in *Jacksonville Florida Times-Union*, April 17, 1889; *The Outlook* 116 (1901) 329–330.

18. Evans, *Australian Ballot System*, p. 53. See, for example, New York *Laws* (1890), pp. 482–487; New Jersey *Acts* (1890), pp. 361–402. The *New York Sun*, quoted in Evans, *Australian Ballot System*, p. 25, thought that the New York law, by making it more difficult to vote, would gradually disfranchise many New Yorkers. Racist Democrats in Maryland, which is usually classified as a Northern state, passed a secret ballot act in 1901 in an attempt to disfranchise black Republicans. See Margaret Law Callcott, *The Negro In Maryland Politics, 1870–1912*, pp. 102–114. Census data from U. S. Bureau of the Census, *Abstract of the Twelfth Census of the United States, 1900* (Washington, D.C.: G.P.O., 1904), Table 22, p. 19; table 59, p. 77; table 61, pp. 79–81; U.S. Bureau of the Census, *Thirteenth Census of the United States, 1910* (Washington, D.C.: G.P.O., 1913), vol. I, p. 1185.

19. George Washington Cable, "The Southern Struggle for Pure Government," a pamphlet (Boston, Mass.: Samuel Usher, 1890), p. 21; *New Orleans Daily Picayune*, Dec. 3, 1897; *Macon* (Georgia) *Telegraph*, quoted in *Mobile* (Alabama) *Daily Register*, Jan. 31, 1893; Memorial from the "Ballot Reform League," in La. *Senate Journal* (1894), pp. 319–320. Alabama Senate president quoted in McMillan, *Constitutional Development*, p. 225; Thomas W. Hardwick, quoted in I. A. Newby, *The Development of Segregationist Thought*, p. 99. The *Atlanta Constitution*, Sept. 4, 1906, designated Hardwick the father of disfranchisement in Georgia. Governor Tyler told the Virginia legislature that his state's ballot law "virtually disfranchised

Although officials could help illiterates in other Southern states that passed secret ballot laws in this period, many unschooled people, especially black Republicans and other opponents of the Democratic party, probably hesitated to expose their ignorance or did not trust the partisan election officials to instruct them correctly. Thus, a Democratic campaign song in Arkansas in 1892 included this stanza:

> The Australian Ballot works like a charm,
> It makes them think and scratch,
> And when a Negro gets a ballot
> He has certainly got his match.[20]

Many voters who persisted marked their ballots incorrectly. Virginia Governor J. Hoge Tyler stated that "thousands of defective or improperly marked ballots have been thrown out in every election since the [secret ballot] law was enacted—in many instances as many as one-third or one-half of the ballots deposited." By 1895, eight of the eleven ex-Confederate states had adopted secret ballot laws covering at least the large centers of population. Only Georgia and South Carolina, protected by the poll tax and eight-box laws, respectively, and North Carolina, then enjoying a Populist-Republican majority in the legislature, held out.[21]

Table 2.1 suggests the effect that the secret ballot and other literacy tests might have had on the South. In seven states the majority of black adult males were classed as illiterate in 1900. In two, nearly a fifth of the whites could not read. Moreover, many whom the census classified as "literate" certainly could not read a complex ballot or a typical clause in the state or national constitution. As the census bureau warned, "The 'literate' population in the report should be understood as including all persons who have had even the slightest amount of schooling,

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many." Va. *House Journal* (1897–98), pp. 39–40. Tennessee events appear in Tenn. *Senate Journal* (extra sess., 1890), pp. 57–59. Florida's 1895 law contained identical provisions. Fla. *Acts* (1895), pp. 56–86. Louisiana in 1896 also prohibited assistance to illiterates. *New Orleans Daily Picayune*, June 15, 1896.

20. Walter A. Watson, a proponent of disfranchisement, admitted that when the secret ballot was introduced "great numbers of our white people were too sensitive to go to the polls, because they had to ask a judge of election or constable to fix their ticket." Va. Con. Con. *Proceedings* (1901–1902), p. 3070. The song is quoted in John William Graves, "Negro Disfranchisement in Arkansas," pp. 212–213.

21. Tyler, in Va. *House Journal* (1897–98), pp. 39–40; Albright, *American Ballot*, pp. 23–29.

Table 2.1. Percentage of Adult Males Who Were Illiterate, by Race, 1900.

State	*White*	*Negro*
Alabama	13.6	59.5
Arkansas	10.4	44.8
Florida	8.4	39.4
Georgia	11.7	56.4
Louisiana	18.0	61.3
Mississippi	8.2	53.2
North Carolina	18.8	53.1
South Carolina	12.2	54.7
Tennessee	14.0	47.6
Texas	8.6	45.1
Virginia	12.1	52.5

while the illiterate represent persons who have had no schooling whatever."[22]

But since many illiterates undoubtedly quit voting for other reasons, the statistics on illiteracy do not constitute a fair test of the effect of the secret ballot or other literacy qualifications. A better method of weighing the impact of the Australian system is to look at actual election returns. The electorates of Arkansas, Alabama, and Louisiana had not been limited by poll taxes, registration laws, or other devices before their legislatures authorized the use of the secret ballot. It is possible to measure the effect of the new ballot, therefore, by comparing turnout in the elections before and after its passage.[23] Table 2.2 gives the estimated

Table 2.2. Effect of the Secret Ballot: Estimates of Turnout, by Race, before and after Passage of Secret Ballot Laws in Three States.

State	*Election*	*White*	*Negro*
Alabama	1892 Governor	80	64
	1896 Governor	68	49
Arkansas	1890 Governor	75	71
	1892 Governor	67	38
Louisiana	1896 Governor (April)	79	69
	1896 President (November)	51	24

22. U.S. Bureau of the Census, *Thirteenth Census*, vol. I, *Population*, p. 1185. The same definition applied in 1900.

23. Unfortunately, such comparisons also reflect the power of registration laws passed at the same time in Alabama and Arkansas. Registration procedures in these states, however, do not seem to have been very stringent. The Louisiana registration law did not take effect until January 1, 1897.

turnout by race in each of the three pairs of elections. The decline in participation varied from 8 percent to 28 percent of the white adult males, and from 15 percent to 45 percent of the Negro adult males.

No other explanation accounts for such large declines in turnout. In Alabama and Arkansas both the first and second elections shown in the table were hotly contested by strong candidates with active party organizations. In each state, the Populists and Republicans repeatedly denounced the secret ballot laws as attempts to disfranchise and defraud the voters. After the bitter April 1896 campaign for governor in Louisiana, leading Democrats stated that unless a secret ballot law were passed, McKinley would carry the state in November. One Louisiana Republican concluded that the Australian system had disfranchised 50 percent of the Negro males, a figure not far from my estimate.[24] Comparisons of elections before and after institution of the secret ballot, then, indicate that it was quite a potent method of restricting the suffrage, especially among the poorly educated Negroes.

Literacy and Property Requirements

At the time the Fifteenth Amendment was being considered in Congress, Senator Henry Wilson of Massachusetts proposed a version prohibiting discrimination on the basis of race, color, creed, nativity, property, or education. The Senate passed this broad guarantee of universal male suffrage, but a complicated and seemingly capricious process of haggling between the two houses reduced the amendment to a curb on disfranchisement on the grounds of race, color, or previous condition of servitude only.[25] Had the Wilson amendment passed, it is difficult to see what permanent means of suffrage limitation those who

24. On the elections and the secret ballot law in Alabama, see Hackney, *Populism to Progressivism*, pp. 37–40, 89–107, and chapter 5, below. On Arkansas, see Graves, "Arkansas Negro," pp. 45–57, as well as chapter 5, below. The anonymous prediction is quoted in *New Orleans Daily Picayune*, June 20, 1896. On the elections, see chapter 6, below. For GOP reaction see Walter J. Suthon to William McKinley, July 16, 1897, cited in Philip D. Uzee, "Republican Politics in Louisiana, 1877–1900" (Ph.D. diss., Louisiana State Univ., 1950), p. 174.

25. Leslie Fishel, "The North and the Negro, 1865–1900" (Ph.D. diss., Harvard Univ., 1953), pp. 119–121; James G. Blaine, *Twenty Years of Congress*, 2: 416–417; Richard P. Hallowell, *Why the Negro Was Enfranchised* (Boston, Mass.: George H. Ellis Co., 1903), pp. 13–14; John M. Matthews, *Legislative and Judicial History of the 15th Amendment* (Baltimore, Maryland: Johns Hopkins Univ. Press, 1909), pp. 49–50, 58, 76–77, 79–86; William Gillette, *The Right to Vote* (Baltimore, Md.: Johns Hopkins Univ. Press, 1965), pp. 46–78; Hans L. Trefousse, *The Radical Republicans: Lincoln's Vanguard for Racial Justice* (New York: Alfred A. Knopf, 1969) pp. 416–418.

wished to eliminate poor and uneducated groups from the electorate could have employed.

Literacy and property tests were not confined to the South. Between 1889 and 1913, nine states outside the South made the ability to read English a qualification for voting, and Rhode Island required voters to pay at least $1 in taxes.[26] Writing in the prestigious *North American Review,* a prominent University of Michigan geologist denounced "the communistic principle of universal and equal suffrage." Disfranchising those who lacked "the highest qualification of intelligence and virtue," he went on,

> is not injustice to those who surrender control; it is justice to those who have a right to the best government; it is justice to those whom nature and education have fitted to administer best government. This is not oppression of the masses by a selected few; it is the best protection of the masses from all political evils; the best guidance of the masses toward the blessings of higher national and individual prosperity.[27]

Other Northerners supported state or national literacy tests to reduce the influence of immigrants or Negroes and expel the "bosses" and "demagogues" who allegedly benefited from the votes of these groups. Many Northern Democrats and Mugwumps publicly approved Southern suffrage restriction. Southern disfranchisers, in turn, justified their qualifications on the grounds that they were merely following Yankee examples.[28]

Seven ex-Confederate states adopted literacy qualifications from 1890.

26. John B. Phillips, "Educational Qualifications of Voters," *University of Colorado Studies* (1906), pp. 55–62; Albert J. McCulloch, *Suffrage and Its Problems,* pp. 54–58.

27. Alexander Winchell, "The Experiment of Universal Suffrage," *North American Review* 136 (1883): 119–134.

28. Phillips, "Educational Qualifications," p. 57; McCulloch, *Suffrage,* pp. 133–157, 171; J. J. McCook, "Venal Voting," pp. 171–176; John R. Commons, *Races and Immigrants in America,* pp. 183, 195; Walter C. Hamm, "The Three Phases of Colored Suffrage," *North American Review* 168 (1899): 285–296; President Andrew D. White of Cornell, in Isabel C. Barrows, ed., *First Mohonk Conference on the Negro Question, June 4, 5, 6, 1890,* p. 120. Several Republicans in Congress strongly pushed a literacy test for immigrants. See John Higham, *Strangers in the Land,* pp. 101–105, 128–129. For Northern approval of Southern disfranchisement, see Rayford W. Logan, *The Betrayal of the Negro,* pp. 291–292; John J. Clancy, Jr., "A Mugwump on Minorities," *Journal of Negro History* 51 (1966): 178–182; Crofts, "Blair Bill," pp. 320–321; Rev. A. D. Mayo, in Barrows, *First Mohonk Conference,* p. 47. For Southern justification, see Edward McCrady, Jr., *The Registration of Electors,* a pamphlet; *New Orleans Daily Picayune,* March 9, 12, 1898; Rep. Andrew F. Fox (D., Mississippi) in *Congressional Record,* 56th Cong., 2nd sess., appendix, p. 75.

to 1908. Under the provisions of these plans, the potential voter had to read a section of the state or federal constitution to qualify, and in Virginia he also had to convince a registrar that he understood what he had read. In each of the seven states except Mississippi and North Carolina, an illiterate could qualify if he owned a certain amount of assessed property, usually $300 worth. Administered fairly, these provisions would certainly have disfranchised a majority of the potential Negro voters in 1900, and perhaps as many as 30 percent to 40 percent of the whites in some states.

Those whites faced with the extinction of their political rights under a franchise based on literacy or property naturally balked at the innovation. Fearing that lower-class white Democrats and Populists might join with Republicans to defeat the educational and property qualifications in conventions and referenda, the restrictionists invented three types of escape clauses: the understanding clause, the grandfather clause, and the fighting grandfather clause. The understanding clause allowed an illiterate to register if he could understand a section of the state constitution which was read to him and explain it to the registrar's satisfaction. In some states, the registrar had to pass judgment also on the man's "good character"—a rather awesome task for a minor civil servant. Men could register under the grandfather clause if they could have voted in 1867 (before Southern Negroes were allowed to) or if they were descendants of 1867 voters.[29] The fighting grandfather clause allowed the registration of anyone who had fought for the Union or Confederacy, or had fought in any other United States war, and his descendants.[30]

29. See the Mississippi Farmers' Alliance Memorial against education and property tests, and resolutions against such qualifications offered by Alliance leader Frank Burkitt, in Miss. Con. Con. *Journal* (1890), pp. 50–51, 79, 109. On white county insistence on the escape clauses and the disfranchisers' fear of defeat unless the clauses were inserted, see Mabry, "Disfranchisement of the Negro," p. 425, and his *Negro in North Carolina Politics*, p. 59; Wythe W. Holt, Jr., "The Virginia Constitutional Convention of 1901–1902: A Reform Movement Which Lacked Substance," *Virginia Magazine of History and Biography* 76 (1968): 87, 95–96; *Congressional Record*, 51st Cong., 2nd sess., pp. 734–735; Ala. Con. Con. *Proceedings* (1901), vol. 3, p. 2932. The "good character" qualifications originated in federal naturalization laws, which allowed foreigners to become citizens only when they could show they were persons of good character who understood the duties of citizenship. Disfranchisers argued that their phrases were as constitutional as the law from which they were lifted. See Ala. Con. Con. *Proceedings* (1901), vol. 2, p. 2714; vol. 3, p. 2829; U.S. Senator John T. Morgan (D., Ala.), in *Congressional Record*, 56th Cong., 1st sess., p. 675. The grandfather clause was apparently inspired by the Massachusetts constitution of 1857, which instituted a literacy test but exempted those qualified to vote at the time. McCrady, *Registration of Electors*, pp. 10–11.

30. It is no wonder that students often think the grandfather clause was a device to dis-

The escape clauses were obviously tailored for racial and partisan discrimination. When asked whether Christ could register under the good character clause, a leader of the Alabama convention replied, "That would depend entirely on which way he was going to vote." Carter Glass admitted the intent of the delegates to the Virginia constitutional convention: "Discrimination! Why, that is precisely what we propose; that, exactly, is what this convention was elected for." In Alabama, registrars were carefully selected to carry out the "spirit of the Constitution, which looks to the registration of all white men not convicted of crime, and only a few Negroes." Thus, the discrimination which had long occurred in counting the ballots was to be set back one stage. Registrars instead of election supervisors would now do the dirty work.[31]

Moreover, many Negroes would not even attempt to register, for, as a Virginia disfranchiser pointed out, Negroes "believe that they will have a hostile examination put upon them by the white man, and they believe that that will be a preventive to their exercising the right of suffrage, and they will not apply for registration."[32]

Surprisingly enough, the escape clauses seem to have had a similar effect on white registration. As spokesmen for the lower strata of whites had predicted, poor, illiterate men were often too humiliated to register under these provisions. A knowledgeable Mississippian, Frank Johnston, could find only about a dozen whites in the state's largest county in 1902 who were "willing to expose their illiteracy publicly" by qualifying through the understanding clause. Ten years earlier, only 1,084 whites (and 1,058 Negroes) in the whole state had registered under that section of the constitution.[33] Neighboring Louisiana had a similar experience

franchise Negroes directly, instead of to enfranchise otherwise unqualified whites, for even reputable historians sometimes misrepresent the clause's purpose. See, for example, Bernard Weisberger, *The New Industrial Society* (New York: John Wiley & Sons, Inc., 1969) p. 86; Beth, *Development of the American Constitution*, p. 111.

31. Alabama leader quoted in Hackney, *Populism to Progressivism*, p. 253, Carter Glass in Va. Con. Con. *Proceedings* (1901–02), pp. 3076–3077. Similarly, Alfred P. Thom, a delegate to that convention, commented, "I expect the examination with which the black man will be confronted, to be inspired by the same spirit that inspires every man upon this floor and in this convention . . . I would not expect for the white man a rigid examination," p. 2972. See also Governor William D. Jelks to Senator John T. Morgan, Jan. 10, 1902, quoted in Hackney, *Populism to Progressivism*, p. 208. Virginia acted similarly. See Horn, "Democratic Party in Virginia," p. 91, and *New Market* (Virginia) *Spirit of the Valley*, Oct. 11, 1901, quoted in ibid. p. 96.

32. Va. Con. Con. *Proceedings* (1901–02), p. 2973.

33. Ala. Con. Con. *Proceedings* (1901), vol. 3, pp. 2899–2911; U.S. Senator J. L. M. Irby

with the grandfather clause. Although about a quarter of the registrants were listed as qualifying under that provision, a contemporary political scientist revealed that these numbers were "greatly swelled" by educated whites who wished to give the grandfather clause "an air of respectability for those who could register under no other." Similarly, a delegate to the Alabama constitutional convention wrote in 1904 that "no man can deny that thousand[s] of unworthy white men are excluded from the suffrage," by the 1901 constitution's provisions.[34] These figures on registration under the escape clauses—the only ones available—suggest that the disfranchisers may not have expected whites to take advantage of these loopholes, that the clauses were simply window dressing to get the restrictive suffrage plans adopted. The fact that the exemption clauses for illiterate and propertyless whites were temporary, except in Mississippi, strengthens this contention. Whites who failed to register within a period ranging from three years in South Carolina to seven in Georgia would have to meet literacy or property qualifications.

It is exceedingly difficult to measure the effect of the literacy tests and their exemptions precisely, for only Louisiana published official registration figures both before and after it adopted its new constitution. In addition, the registration figures may reflect voter apathy engendered by the decline in party competition. Men who did not expect to vote may not have bothered to register. There was, however, a good deal of pressure on whites to get their names on the lists in the years immediately following the amendments, because an illiterate who acted within the time limit would be registered permanently; otherwise, he would be disfranchised until he learned to read.[35]

Table 2.3 presents the fragmentary official and unofficial registration figures which I have been able to locate in published sources and

in South Carolina's constitutional convention, quoted in Mabry, "Disfranchisement of the Negro," p. 186; Frank Johnston, "Suffrage and Reconstruction in Mississippi," *Publications of the Mississippi Historical Society* 6 (1902): 229. Senator John Sharp Williams (D., Mississippi) made a similar statement in *Congressional Record*, 56th Cong., 2nd sess., appendix, pp. 78–79. For the registration statistics, see James H. Stone, "A Note on Voter Registration under the Mississippi Understanding Clause, 1892," *Journal of Southern History* 38 (1972): 293–296.

34. J. L. Warren Woodville, "Suffrage Limitation in Louisiana," *Political Science Quarterly* 21 (1906): 188; James Weatherly to Hilary A. Herbert, Dec. 31, 1904, quoted in David Alan Harris, "Racists and Reformers: A Study of Progressivism in Alabama, 1896–1911" (Ph.D. diss., Univ. of North Carolina, 1967), p. 188.

35. McMillan, *Constitutional Development*, p. 353.

Table 2.3. Impact of Changes in Constitutional Suffrage Requirements on Voter Registration.

	Year	% Whites Registered	% Negroes Registered	% All Registered
(1) Alabama	1902	74.8	1.3	–
(2) Alabama	1908[a]	87.7	1.8	–
(3) Georgia	1904[b]	66.6	28.3	–
(4) Georgia	1910	73.9	4.3	–
(5) Louisiana	1898[a,b]	46.6	9.5	–
(6) Louisiana	1904[a]	52.5	1.1	–
(7) Mississippi	1892[a]	53.8	5.4	–
(8) Mississippi	1896[a]	76.2	8.5	–
(9) Mississippi	1904	–	7.1	–
(10) Mississippi	1908	62.9	7.5	–
(11) North Carolina	1902	–	4.6	–
(12) North Carolina	1904	–	4.6	–
(13) South Carolina	1896	41.9	3.8	–
(14) South Carolina	1897	73.7	8.2	–
(15) South Carolina	1900	79.8	9.1	–
(16) South Carolina	1904	–	13.8	–
(17) Virginia	1900[b]	–	–	95.9
(18) Virginia	1904	–	15.2	–
(19) Virginia	1905	83.6	13.7	–

SOURCES: Sources for actual and estimated registration figures are listed below by the numbers preceding the states. Percentages were computed from raw totals and census data. Newspapermen and knowledgeable contemporary observers made the estimates. (1) *Montgomery Daily Advertiser,* Sept. 6, 1902. (2) *Alabama Official and Statistical Register,* 1911 (Montgomery, Alabama, 1911), pp. 262–263. (3) Clarence A. Bacote, "The Negro in Georgia Politics," p. 421. (4) Dewey W. Grantham, Jr., *Hoke Smith and the Politics of the New South,* p. 162. (5, 6) Louisiana Secretary of State, *Report, 1905* (Baton Rouge, La., 1905), pp. xxx-xxxi. (7) Vernon Lane Wharton, *The Negro in Mississippi,* p. 215. (8) George H. Haynes, "Educational Qualifications for the Suffrage in the United States," p. 506; James W. Garner, "The Fourteenth Amendment and Southern Representation," p. 203. (9, 12, 16, 18) Edgar Gardner Murphy, *Problems of the Present South* (New York: The Macmillan Co., 1904), p. 198, n. 1. (10) Alfred Holt Stone, *Studies in the American Race Problem,* p. 357. (11) *Raleigh* (N. C.) *News and Observer,* Nov. 4, 1902. (13) *Yorkville* (S.C.) *Enquirer,* Oct. 7, 1896, cited in George B. Tindall, *South Carolina Negroes, 1877–1900,* p. 88. (14) *New Orleans Daily Picayune,* Dec. 14, 1897; *Raleigh News and Observer,* Feb. 4, 1899. (15) *Congressional Record,* 56th Cong., 1st sess, p. 1036. (17) H. L. Horn, "Democratic Party in Virginia," p. 107. (19) *Lynchburg* (Virginia) *News,* quoted in *Richmond Times-Dispatch,* April 1, 1905, cited in Ralph Clipman McDanel, *The Virginia Constitutional Convention of 1901–1902,* p. 50.

[a]Official registration figures. All others are unofficial estimates.

[b]Denotes registration figure predating constitutional suffrage limitations.

Ph.D. theses. In only two of the seven states where post-disfranchisement statistics are available were more than 10 percent of the Negroes registered. In no case did black registration exceed 16 percent. On the other hand, the escape clauses for whites do not seem to have been as elastic as the disfranchisers promised. Their repeated pledges that "no white men will be disfranchised" must be somewhat discounted in light of the fact that white registration reached only 53 percent in Louisiana in 1904 and 63 percent in Mississippi in 1908.

Table 2.3 also allows us to compare the effect of the constitutional changes with other factors that decreased participation. We noted previously that an 1896 Louisiana law cut white registration by half and black by more than 90 percent. The 1898 constitution did little more than insure that these declines were permanent. The white registration increased somewhat after 1898, while the black could not drop too much further than it had before the convention. In Georgia, the cumulative poll tax, the white primary, and the demise of the Populists had depressed the proportion of whites registered to two-thirds and Negroes to less than one-third even before passage of the suffrage amendment in 1908. It must be noted, however, that Negro registration in Georgia in 1904 was considerably higher than that in any state after constitutional suffrage restriction. In sum, the constitutional suffrage plans insured that the Southern electorate for half a century would be almost all white; yet the plans did not guarantee all whites the vote.