

**TESTIMONY OF DR. JAMES H. LOEWEN, DEPARTMENT OF SOCIOLOGY, UNIVERSITY OF VERMONT, ACCOMPANIED BY WILLIAM TAYLOR, CATHOLIC UNIVERSITY LAW SCHOOL**

Dr. LOEWEN. Thank you, Mr. Chairman.

I have a prepared statement and also a one-page list of six major conclusions of my testimony that I would hope could become part of the record.

Mr. EDWARDS. Without objection, they will be made a part of the record.

Dr. LOEWEN. My written statement provides my experience. I have testified as an expert at a number of lawsuits in which the courts have found that dilution of minority voting strength is unlawful, it violates the guarantees of the Voting Rights Act of 1965.

In my oral remarks today I want to emphasize several conclusions about racial bloc voting in the South and its implications for black participation in the political process.

Racial bloc voting—its presence or absence—is an empirical question. That means it is a question answered by the data.

Part two of my statement describes briefly one way of measuring racial bloc voting and mentions two other methods. By means of these methods, the data can be analyzed quite precisely, so we know how the whites voted, how the blacks voted, even though we were not in the polling booth with anyone.

I might add that in the Floyd County election that I used for my example, which was the same election mentioned by Mr. Brinson, I did find white bloc voting in Floyd County and in Rome, not just in Floyd County, outside Rome, which might perhaps be misinferred from Mr. Brinson's remarks.

The question then becomes one of theory. Does a given level of white votes for white candidates merit the term "white bloc voting"?

My answer generally is to use the 160-percent rule. If 80 percent of the whites are voting for the white candidate, while 80 percent of the blacks support the black candidate, then I would agree we have found strong evidence of racial bloc voting. That is an arbitrary rule, but you have to be arbitrary at some point, and I believe this is the most scientifically defensible point.

The reason both sides figure into this definition is this. Sometimes a nonviable black candidate has run, perhaps putting out only a token campaign effort and getting, say, 40 percent of the black vote and no noticeable white support. Should we describe whites as a racial bloc because more than 99 percent of them voted white? Under those circumstances, I think not. And the 160-percent rule would not make that error.

Having defined "bloc voting" and having established three ways to analyze for it, what are the results of my analysis?

My written statement details them by State. My basic conclusion is that generally, in election after election, from 1968 through 1980, in the jurisdictions I have analyzed in four States, whites vote as a racial bloc. The correlation between percent white and votes for the white candidate is typically 0.85, often 0.95, and even 0.99.

Now, a correlation that great indicates almost a perfect relationship, because a correlation of zero means no relationship between race and outcome at all, while 1 is perfection, a total relationship.

These are astonishingly strong results. Whites will vote white more than Democrats will vote Democratic or than whites would vote Democratic in Northern elections. Bloc voting is not diminishing, or if it is, only at a glacial rate. By State, that includes a division of pre-1975 elections versus post-1975 elections across the South, I found that the proportion of whites voting white decreased from 94 percent to 92 percent, hardly much movement.

Now we have analyzed elections and found racial bloc voting. One claim which I have sometimes heard is that it is not race that determines the white bloc vote but something else: income, perhaps, or education or some other variable. This is not so. First, this approach is wrong in theory. If it is claimed, for instance, that whites have higher incomes, so they respond to a white candidate whose positions on the issues are more favorable to higher income residents, we must note that lower income is part and parcel of what being black means in the areas I have studied.

I would refer you to table 6 on page 11 for an example. It makes little sense to me to partial out some of the effect of income, thus leaving less effect due to race. Moreover, this approach is wrong, factually. In South Carolina, I did just the analysis we need to test this claim. I examined three variables in addition to race: income, education, and percent rural or urban, surely the three most likely candidates might be suggested to explain voting, other than race, in the South.

I found that none of these three had anything like the strong effect or race on voting. Correlations were zero to .5, rather than the nearly .9 correlation between race and income. When I looked at the effect of each of the three, while eliminating any effect from race, even these small correlations decreased to zero or became negative.

Finally, in contest after individual contest, characteristics of the candidates seemed to make little difference to white voters. For instance, I analyzed two contests in a Mississippi county, both were black versus white contests, both for the State legislature. In one case, the black candidate was not a high school graduate. He lived in a rather different part of the district than the county that I was analyzing, and he ran a lackluster campaign in this county, garnering perhaps 55 percent of the black vote. He received less than 1 percent of the white vote. The other candidate, also black, for the other position, was a college graduate and a college teacher. He was the incumbent, the only black at that time in the entire Mississippi Legislature. He lived near this county and campaigned extensively in it. He won more than 90 percent of the black votes in the county, but again he received less than 1 percent of the white vote.

Among whites then, race typically determines election outcome, nothing but race.

Now having shown the prevalence of racial bloc voting, what is its relevance to the Voting Rights Act? I think it has three points of importance, and these are the three final points of my list of major conclusions. First, white bloc voting indicates something about white attitudes. An election is like a huge opinion poll, after all, of the entire community, at least of its voting members.

A polarized election shows a still polarized community. Changes like school desegregation and the end of the exclusion of black Americans from motels and restaurants have been extremely important, but they have not yet led to desegregated attitudes, particularly where political power is concerned. I might point out that greater changes than these took place in the South a century ago in the 1870's, and yet those gains on the behalf of black citizenship were then lost in the 1880's.

Regarding political participation today, the situation is analogous to the school desegregation before the massive desegregation of about 1969 or 1970. During the 1960's in the Deep South whites were still in their "never" frame of mind segregating schools at every turn. After the massive integration of 1969-70, most white southerners have come to accept desegregated schooling. They no longer feel that civilization will come to an end if blacks and whites attend school together. But no such change has taken place in politics. There whites still manifest a furious determination to deny blacks even minority representation on elective boards in many areas.

With regard to politics white attitudes are still segregated and white bloc voting shows this.

The second reason I focus on the presence or absence particularly of white bloc voting is because if whites bloc vote, then in combination with certain election practices, blacks can find themselves virtually deprived of a chance to participate meaningfully in the political process. Owing to a host of socioeconomic factors mentioned in my statement, in order to have a roughly equal chance to elect a candidate, blacks must comprise between 65 percent to 71 percent of the total population. There are not many cities or counties where this is the case. When elections are held countywide or citywide at large, blacks, therefore, lose. When counties are divided in unusual ways, rather than divided into compact, contiguous areas, so that black areas become split into several majoritywide districts, then again blacks lose, owing to white bloc voting.

Black candidates and voters know this, so white bloc voting has a chilling effect on black political mobilization and on would-be black candidates.

It might be interesting that so few candidates ran in Floyd County before the successful objection to the majority vote requirement, and so many are running now.

The final element of white bloc voting relates to an additional legacy of segregation, like the attitudinal links. This is the socioeconomic position of blacks, which is markedly different than that of whites. The statistics in table 6 of my prepared statement are from the 1970 census, to be sure, and some change may have occurred since then. We need the 1980 census. But most of the illiterate and semiliterate adults counted in 1970 are still alive in 1980 and are probably still undereducated.

Blacks still rent disproportionately compared to whites, and so forth. So this socioeconomic difference, a legacy of past segregation, helps to explain the dropoff in percent black at the polls compared to their percentage among registered voters, with a dropoff in percent black in the voting age population compared to their percentage in the total population. It also helps to explain why it is

difficult for white officials to serve black interests. For black interests often diverge from white interests.

Black residents of this county, for instance, in Mississippi, have an interest in rether's provisions or in strict enforcement of code requirements regarding plumbing. Whites do not.

The continuation of white bloc voting worries me then regarding the future participation of blacks in the political process in the South. The 1980 census worries me, for instance, because it may trigger a flood of county level redistrictings and state reapportionment to confirm to the one man, one vote requirement. Without the protection of the Voting Rights Act, including section 5, many counties are likely to move to at large elections or gerrymandered districts that will keep incumbents in office and keep boards all white.

By 1991 I hope that white bloc voting is decreased, so that blacks are not shut out by such policies, and so that we can infer that whites no longer oppose the possibility of black political power with such unanimity. I think there is potential for such a finding at that time, but the factual situation today is quite different. Even the most recent white voting statistics show the need then for the continuation of the act.

Thank you.

Mr. EDWARDS. Well, thank you. That is a very scholarly study.

Mr. Taylor.

Mr. TAYLOR. I have no statement, Mr. Chairman.

Mr. EDWARDS. I'm sure you have a few observations.

Mr. TAYLOR. Since you have given me the opportunity, and although the hour is late, I do think that one of the things that is pointed out by Dr. Loewen's statement, is that it is not simply proportional representation on numbers that is the gage, that it is representation of one's interest as well, and I do think that the question of proportional representation is something of a red herring.

I spoke briefly to Congressman Lungren outside after he asked this question, and the point I made, which he asked me to make on the record as well, is that we do have an effects test now under section 5, and that effects test has not been construed in the courts, and so far as I know it has not been urged in the courts, that it be construed to require proportional representation. That simply is not what it's all about.

The question is more one of fairness. We also talked briefly about the question of whether election devices that may have a perfectly neutral meaning when they're used in jurisdictions without a history of voting discrimination, take on some added significance when they are used in those districts. And again I think Dr. Loewen's testimony points out the answer, and that is things that may be reformer's devices when used in California or Wisconsin or elsewhere, have had a special meaning in the South.

I am a person, as you know, Mr. Chairman, who is urging in housing, education and employment, that the discriminatory practices that exist in the North really are not very different from the practices that exist in the South, and I think that is true, but I also think it is perfectly consistent to say that what we have had in the covered areas is a long history of special use of techniques of

disfranchisement in ways that made the Voting Rights Act of 1965 necessary, and that they do not apply with equal validity to other areas of the country.

I think the evidence you are taking here is demonstrating the need for continuation of those protections and also indicating some of the answers to the question of when we may be in a position to have laws that are no difference for the whole country.

Thank you very much.

Mr. EDWARDS. Thank you, Mr. Taylor. Anybody who has been to Italy and seen how proportional representation does not work, would not want to have it in the United States. One of the great protests of the younger people is that proportional representation brings out the same old hacks. One party is entitled to 4 percent, and the same old people show up, because that particular group, that particular political party gets 4 percent. And so they have two people, and they are always the same people, and they stay there for 30 years. And so it is some kind of a problem.

We're not really talking about that here. I would like to ask Dr. Loewen, didn't school desegregation work a little better in the South than it did, let's say, in Los Angeles, Chicago, Cleveland, and so forth?

Dr. LOEWEN. Yes, it did. In the State of Mississippi the results of white pullout were exaggerated to begin with, and there has been considerable collapse of some of the white schools. The overwhelming majority of whites are in school, public school, with black children. School desegregation is functioning. The schools in Mississippi were among the worst in the Nation before desegregation, and they still are, but they are somewhat improved. It did work.

Now I think the relevance of that to voting rights issue is that upon the election of a significant number of blacks to important public office, at least to participation in countywide boards and even perhaps positions of which there are only one, like sheriff, I think after that happens, I think that counties and white people in those counties will come to realize that the sun still rises in the East, sets in the West, that the blacks are fulfilling the offices perhaps to the same level of mediocrity or excellence that their predecessors did.

I think acceptance of desegregation in politics will follow. But the attitudes as shown by the racial bloc voting statistics have not yet changed in the area of politics, as I believe they have in the area of education.

Mr. EDWARDS. Well, the city of Los Angeles, third or fourth largest city in the United States, has a black mayor, elected by white people. And California has had its share of racism, I assure you, historically. Tell me the answer to that.

Dr. LOEWEN. That's not the only one. I was in Massachusetts when Mr. Brooke won his first campaign for the U.S. Senate, and he had a vast majority of white support to win that position, and there are many others, I think. But the special characteristic of the South has been the segregation imposed by the 1890 constitution in Mississippi, which was then followed by every other Southern State between 1890 and 1907, which set up politics as a white preserve. And it was considered outrageous and unthinkable and was totally impossible for a black person to be elected to any political office in

any interracial district or town or county in any part of Mississippi and most of the rest of the South for at least 50 years, and in most cases right up to 1965.

Now there is a tendency, perhaps, in civic life for us to believe that what is being done is the way it must be and is correct, and I think many, many whites who now live and vote and participate as adult citizens in the South, grew up and were socialized under this situation in which politics and governing was a white preserve and they viewed that as correct, and I think some significant attitudinal change has to take place before that will change.

I do not think that that segregated system existed in Los Angeles or Massachusetts or even areas of the North that are marked by heavy amounts of discrimination. I don't think they were marked by an explicit and even legal system of segregation.

Mr. TAYLOR. I find the education and voting analogy to be an interesting one. There are some things that may be saying a word on behalf of the North, but the fact of the matter is school desegregation as a requirement was only imposed on Northern school districts in 1973, whereas in the South it goes back to 1954, so it may not be too surprising that with the intensive effort that took place during the 1960s in the South, that the South has come along a little better than the North.

I think with some enforcement in the North we can bring the North up to where the South is, but I think I do agree with the larger point that Dr. Loewen makes that it was in the South that disfranchisement was used to keep the blacks in a particular status, and that makes the use different from the North despite the fact that there are racial attitudes, negative racial attitudes in both places.

Mr. EDWARDS. Well, from the testimony today even with the Voting Rights Act being in existence all these years, the black people in the covered jurisdictions really have done very well.

Dr. LOEWEN. That they have?

Mr. EDWARDS. That they have not.

Dr. LOEWEN. In politics. Someone will say, or if they won't, I will, that there are something like 380 elected black officials in Mississippi. That may sound like a little or a lot, it depends on your background. That is more than any other State. That is also something like 3 percent of all of the elected public officials in the State, and this is a State that is almost 40 percent black.

Furthermore, the 380 include an awful lot of very minor local officials, and include the mayor of Pace, a town of 600; the mayor of Winstonville; they do not include the mayor of Meridian or the mayor of Vicksburg. So there is certainly a lot of truth to that.

Black are far from being empowered in Mississippi. I suppose you could view that as an example of the failure of the Voting Rights Act, but the Voting Rights Act, as has already been pointed out, does not contain any guarantee of electing anyone. I think it is a demonstration of the continued need for the Voting Rights Act. Black citizens in the State are not yet in a position of political empowerment and could slide backward easily given the propensity of whites to vote as a racial bloc and given their propensity in the past to slip in various kinds of election practices that make voting as a bloc equivalent to election.

Mr. EDWARDS. Counsel, Ms. Gonzales.

Ms. GONZALES. Dr. Loewen, many people claim that there is no longer any racial discrimination in the South with respect to voting. Do your statistics support that? I'm particularly interested since you have been looking at racial bloc voting in the covered jurisdictions. Since 1968 has there been an improvement in that area?

Dr. LOEWEN. Let me answer the first question and then I will speak to the improvement.

The massive discrimination in the South that has existed in the past still exists in the socioeconomic position of blacks, and it results in the startling income statistics that are referred to from a relatively positive or progressive counting. The startling difference in literacy rates, the startling differences in proportion below the poverty line and so forth, and we have 49 percent of black below the poverty line and only 7 percent of whites below the poverty line—this affects voting. It is much more difficult for a black working class or poor citizen to, first of all take off from work to register, and then to take off and vote at a time when the polls are not jammed with people.

It is more difficult for such person to own a television set, subscribe to newspapers, and be otherwise subjected to the kinds of things that cause participation in the political process. It is this legacy of discrimination, continuing discrimination, that you see in socioeconomic terms. That then influences not only voting, but also other aspects of political participation.

Has that improved? Well, I think so. I think there is some improvement. I would look for the 1980 census statistics on these matters to show some modest improvement. 1970 shows some compared to 1960. At the same time I think there is going to be a day and night difference still between white figures and black figures.

With regard to voting specifically, I think there are still many jurisdictions where the black guarantee of voting is, to a large extent, contingent on the Voting Rights Act.

Ms. GONZALES. Another question I have has to do with the figures in your testimony indicating that in most cases racial bloc voting, as you indicated, is very high and on a consistent basis, yet the figures seem to indicate that for blacks racial bloc voting is very high in some areas and in other areas it is not quite so high. Am I right in concluding that it is less consistent and if so, why is it?

Dr. LOEWEN. Even within the same area, looking in the same country, blacks will vote as high 99 percent for a black candidate, and then in another election will vote, let's say only 80 percent for a black candidate or even only 70 or 50 percent for a black candidate. In that situation I think what is happening is that the blacks are going by qualifications, incumbency, well-knownness on the part of both the black and white candidates. That indicates that a substantial part of the black population is not routinely bloc voting. And, of course, I argue conversely that the white population, which does not usually show this kind of variation, thereby does show that race is the only factor that makes a difference to them.

I will say one other thing. There are many, many areas in the South, particularly in Mississippi and Alabama, where the propor-

tion of blacks who vote black has never approached the proportion of whites who vote white. And I think what is going on there is not only the positive willingness to look at qualifications and other things, but I think there is also some intimidation, some fear, some identification with whites who are above them in the social structure. And I think we will see that as conditions slowly improve in the South, that the proportion of blacks in those areas who bloc vote will grow, and ironically that will show an improvement rather than the unimprovement that such racial polarization might otherwise indicate.

Mr. EDWARDS. Mr. Boyd.

Mr. BOYD. Mr. Taylor, since you've raised the effects test of section 5, I would like to pursue that for a moment if I might. The effects test is prospective and has to do with future enactments only.

Mr. TAYLOR. With enactments submitted after 1965, that's correct.

Mr. BOYD. That is not the standard in the Rodino bill.

Mr. TAYLOR. Title II would apply to any current enactment, to any current practice regardless of when it was originally enacted, that's correct.

Mr. BOYD. That is far broader than section 5?

Mr. TAYLOR. That's correct, but the question went to proportional representation.

Mr. BOYD. Are you prepared to say that that is not a likelihood? That a court could not interpret title II of the Rodino bill to require proportional representation?

Mr. TAYLOR. Yes; I am prepared to say that.

Mr. BOYD. Dr. Loewen, have you made any studies, completed any studies outside the South which examine the white bloc voting tendencies elsewhere in the country?

Dr. LOEWEN. I have read some in the literature. The only study that I personally conducted was in Cairo, Ill.

Mr. BOYD. What was the result?

Dr. LOEWEN. The result was that Cairo is an extremely racially polarized town, and was throughout the 1960's. I once drove through and noticed all of the displays of teargas and blackjacks for sale in local service stations, and I had never seen that before in a filling station. They are ready.

Anyway, Cairo manifested racial bloc voting to a level greater than that I have ever seen in South Carolina or Georgia. It was exactly on a par with Mississippi, so it did certainly show racial bloc voting on a very high level.

Mr. BOYD. Your statement attacks levels of criticism at at-large voting as a tactic or device. Do you believe that it is discriminatory generally in its application to minorities?

Dr. LOEWEN. I think so, I don't know that it is always intended that way. I do make some statements in my written statement that the—that at large elections usually would make it more difficult for minorities to be elected. Those are in my Southern experience, in my specific first-hand experience.

But I would think that they would also hold true in Philadelphia or in Northern jurisdictions, so I think at large elections are unfortunate. I think that they remove government from some immedi-

acy with the people and I think they do so particularly with regard to minorities where those minorities are living in distinct areas.

Mr. BOYD. Mr. Chairman, some time ago Dr. Abigail Thernstrom of Harvard University spoke before an American Bar Association committee studying the Voting Rights Act and submitted a paper which deals, to some degree, with at large voting as a tactic. This is the same paper referred to earlier by Robert Brinson, City Attorney for Rome, Ga. With your permission I would like to make that part of the record. (See pp. 327-354.)

Mr. BOYD. I have no further questions. Thank you.

Mr. EDWARDS. I have no further questions. Your testimony is very valuable. If we have any questions we will write them to you. Thank you very much, Dr. Loewen, and Mr. Taylor.

[Whereupon, at 5:02 p.m., the hearing was adjourned.]

[Additional materials submitted by today's witnesses follow:]

