IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1970

No. 43, Original

STATE OF OREGON, *Plaintiff,*

—v.—

JOHN N. MITCHELL, Attorney General of the United States, *Defendant.*

BRIEF OF THE PLAINTIFF

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JURISDICTION

The Plaintiff is a State of the United States. The Defendant is a resident of a State other than the Plaintiff and is currently serving as the Attorney General of the United States. The original jurisdiction of the Court is invoked by authority of Article III, Section 2, of the Constitution of the United States and 28 U.S.C. § 1251 (b)(3).

QUESTION PRESENTED

Whether Title III of the Voting Rights Act Amendments of 1970, Pub. L. No. 91–285, 84 Stat. 314, violates the constitutional rights of the Plaintiff and its citizens under Article I, Sections 2 and 4, of the Constitution of the United States, in reducing to 18 the minimum age for voting in all elections.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U. S. Const. art. I, § 2:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. * * *"

U. S. Const. art. I, § 4:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators. * * *"

U. S. Const. amend. X:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

U. S. Const. amend. XIV:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons

in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

* * *

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

U. S. Const. amend. XV:

"Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

Oregon Const. art. II, § 2(1):

"Every citizen of the United States is entitled to vote in all elections not otherwise provided for by this Constitution if such citizen:

(a) Is 21 years of age or older * * *"

Voting Rights Act Amendments of 1970, tit. III, Pub. L. No. 91–285, 84 Stat. 314, is set forth in Appendix A.

STATEMENT

On June 22, 1970, the Congress passed, and the President of the United States approved the "Voting Rights Act Amendments of 1970," Pub. L. No. 91–285, 84 Stat. 314 (hereinafter referred to as the "Act"). Title III of the Act reduces to 18 the minimum age for voting in all elections.

The Act specifically authorizes and directs the Attorney General to enforce its provisions. The defendant wrote to the Governor of each State seeking an affirmative assurance that the State would comply with the Act, indicating that he intended to take action to enforce it if the States did not conform.

The plaintiff commenced this action in original jurisdiction requesting a declaration that Title III of the Act is unconstitutional and that the defendant be permanently enjoined from enforcing the Act.

SUMMARY OF ARGUMENT

The State-federal relationship established by Article I, Section 2, of the United States Constitution places the function of determining reasonable voter qualifications on the individual States. The Constitution and its Amendments allow federal intervention when a State-established qualification operates as a device to deny the citizens of a State their constitutional guarantees. Title III of the Voting Rights Act Amendments of 1970 extends beyond the limitations of permissible congressional intervention and is based upon an unwarranted extension of this Court's holding in *Katzenbach v. Mor-*

gan, 384 U.S. 641 (1966). Classification by age is not and cannot be a denial of equal protection of the laws.

ARGUMENT

I.

THE FEDERAL RELATIONSHIP REQUIRES CONTINUED RECOGNITION OF THE COMPETENCY OF EACH STATE TO ESTABLISH PROPER MINIMUM VOTER QUALIFICATIONS.

In reducing the minimum age for voting in all elections to 18, Title III of the Act conflicts with the Constitution of the plaintiff State and with Article I, Section 2 of the United States Constitution.

The Constitutional Convention of 1787 debated the question of how voter qualifications should be determined. It was decided then that this was within the competency of the individual states.

The considerations of the framers have been set out in *The Federalist*, the work which is "justly supposed to be entitled to great respect in expounding the constitution."[①]

> "It will not be alleged, that an election law could have been framed and inserted in the Constitution, which would have been always applicable to every probable change in the situation of the country; and it will therefore not be denied, that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded, that there were only three ways in which this power could have been reasonably modified and disposed: that it must either have been lodged wholly in the national legislature, or wholly in the State legislatures, or pri-

① *M'Culloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 433 (1819).

> marily in the latter and ultimately in the former. The last mode has, with reason, been preferred by the convention. They have submitted the regulation of elections for the federal government, in the first instance, to the local administrations; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.
>
> * * *
>
> "Supposè an article had been introduced into the Constitution, empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power, and as a premeditated engine for the destruction of the State governments? The violation of principle, in this case, would have required no comment; and, to an unbiased observer, it will not be less apparent in the project of subjecting the existence of the national government, in a similar respect, to the pleasure of the State governments. An impartial view of the matter cannot fail to result in a conviction, that each, as far as possible, ought to depend on itself for its own preservation." The Federalist No. 59, at 404-405 (Bourne ed. 1901) (Hamilton).

Variety is the vital heart of federalism; homogeneity deadens it. Federalism rests upon diversity as an essential quality within constitutional guarantees. The various social experiments available are evidenced by the lowering of the voting age from the historical and traditional 21 by the States of Georgia, Hawaii, Alaska and Kentucky. The value of so doing is yet to be assessed. Other

States may follow, the Constitution may be amended, or the experiment may fail. Had Congress earlier interfered to homogenize the electoral process it could well have smothered Oregon's innovation in popular democracy, the initiative and referendum procedures,[2] as well as subsequent social experiments by other States.

The essential quality of the federal system has consistently been left undisturbed by this Court. In the case challenging exclusion of women from voting, *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875), in which it was urged that the exclusion was a violation of equal protection of the laws guaranteed by the Fourteenth Amendment, the Court stated:

> "* * * If the law is wrong, it ought to be changed; but the power for that is not with us. The arguments addressed to us bearing upon such a view of the subject may perhaps be sufficient to induce those having the power to make the alteration, but they ought not to be permitted to influence our judgment in determining the present rights of the parties now litigating before us. No argument as to woman's need of suffrage can be considered. We can only act upon her rights as they exist. It is not for us to look at the hardship of withholding. Our duty is at an end if we can find it is within the power of a State to withhold." 88 U.S. (21 Wall.) at 178.

In upholding residency requirements for voting in State elections in *Pope v. Williams*, 193 U.S. 621 (1907), the Court stated:

> "* * * In other words, the privilege to vote in a state is within the jurisdiction of the state itself, to be exercised as the state may direct, and upon such

[2] See Oregon Const. art. IV, § 1.

terms as to it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal Constitution." 193 U.S. at 632.

The function of the States in determining voter qualification was affirmed when the right to vote in a primary election was held to be guaranteed by the Constitution.

"Pursuant to the authority given by § 2 of Article 1 of the Constitution, and subject to the legislative power of Congress under § 4 of Article 1, and other pertinent provisions of the Constitution, the states are given, and in fact exercise a wide discretion in the formulation of a system for the choice by the people of representatives in Congress." *United States v. Classic*, 313 U.S. 299, 311 (1940).

In upholding literacy tests, *per se*, a unanimous Court, speaking through Mr. Justice Douglas, has stated:

"We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, *age*, previous criminal record * * * are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters." *Lassiter v. Northampton County Bd. of Elections*, 360 U.S. 45, 51 (1959) [emphasis added].

The right of the States to set qualifications for the exercise of the franchise on a non-discriminatory basis has continued to be emphasized by the Court in recent decisions.

"* * * There can be no doubt either of the historic function of the States to establish, on a nondiscriminatory basis, and in accordance with the Constitution, other qualifications for the exercise of

> the franchise. Indeed, '[t]he States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.' Lassiter v. Northampton Election Bd., 360 U.S. 45, 50. Compare United States v. Classic, 313 U.S. 299; Ex parte Yarbrough, 110 U.S. 651. 'In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution.' Pope v. Williams supra, at 632." *Carrington v. Rash*, 380 U.S. 89, 91 (1965).

The Court has consistently refrained from interfering with each State's proper exercise of its responsibility to determine the requisite qualifications for voters "within its jurisdiction."

In eliminating invidious State restrictions, the Court has recently recognized the basic franchise elements that are within the competency of the States.

> "* * * Appellant agrees that the States have the power to impose reasonable citizenship, *age*, and residency requirements on the availability of the ballot." *Kramer v. Union Free School Dist.*, 395 U.S. 621, 625 (1969) [emphasis added].

In cases related to *Kramer*, the Court speaks repeatedly of "qualified voters" and "otherwise qualified voters." See *Cipriano v. City of Houma*, 395 U.S. 701, 704n.4 (1969); *City of Phoenix v. Kolodziejski*, 399 U.S. 204 (1970).

Previous expansions of suffrage have consistently been accomplished by Constitutional amendments. See,

e.g., Amendment XV (race); Amendment XVII (direct Senatorial election); Amendment XIX (women's suffrage); Amendment XXIII (limited District of Columbia voting); Amendment XXIV (elimination of poll tax).

II.

TO SUPERSEDE A STATE-ESTABLISHED VOTER QUALIFICATION, CONGRESS MUST FIND THAT THE QUALIFICATION HAS BEEN USED BY THE STATE AS A DEVICE TO DENY EQUAL PROTECTION OF THE LAWS.

Each State has the right to establish non-discriminatory voter qualifications pursuant to the United States Constitution. Title III of the Act raises the question whether Congress can enact legislation which supersedes the qualifications established by the particular States in the absence of any finding that the qualification has been used by the State as a device to deny voters equal protection of the laws.

A. *Katzenbach v. Morgan* does not eliminate the necessity of a finding by Congress that an otherwise reasonable classification will operate as an invidious discrimination.

The power of Congress to enact Title III of the Act was discussed at great length before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, United States Senate. There was further discussion before the Judiciary Subcommittee on Constitutional Amendments on March 10, 1970, 116 Cong. Rec. 3511 (daily ed. March 11, 1970), and extensive debate on

the floor of the United States Senate on March 11, 1970. *Id.* at 3474-3517.

Throughout these hearings, and in the argument on the floor of the Senate, the question of the power of Congress to enact legislation lowering the minimum voting age in all State and federal elections was debated. Those endorsing the power relied upon the Court's opinion in *Katzenbach v. Morgan*, 384 U.S. 641 (1966).

That opinion was predicated upon the fact that Congress determined on the evidence that violations of equal protection existed and formulated a solution to those problems. Thus, the Court exercised appropriate restraint:

> "* * * It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." 384 U.S. at 653.

No such violations of equal protection appear in this legislative record, as indeed they cannot.

Katzenbach v. Morgan arose out of a New York literacy qualification statute which had the effect of denying equal protection of the laws to many of New York's Puerto Rican citizens. *Katzenbach v. Morgan* applies to legislation founded upon denial of equal protection. The attempt to use it to support legislation absent a showing of denial of equal protection is an unwarranted extension of the Court's holding.

Much to the consternation of the proponents, the thrust of *Katzenbach v. Morgan* was ably explained before the Senate Judiciary Subcommittee on Constitu-

tional Amendments by William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel. Mr. Rehnquist made graphically clear the impossibility of finding a denial of equal protection in the equal application of minimum voting age requirements.

> "* * * [N]ot only is the voting age requirement of 21 not discriminatory against any defined class by its terms, but it is not discriminatory in result, at all. We do not here have a situation where the test, though fair on its face, discriminates *in result* between classes which may not be discriminated between *in terms* under the Fourteenth Amendment. There is not the slightest indication that the 18- to 21-year-old voting group in any particular state or in the United States as a whole, is composed of markedly larger numbers of Negroes, women, Spanish-Americans, or any other group which has been the subject of overt discrimination. This, in my opinion, is the principal and very significant factual difference between the 18-year-old vote law and section 4(e) of the Voting Rights Act.
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> "When we deal with 18-year-old voting, we reach no secondary result by applying the statutory voting age requirements—the only identifiable class affected is that set forth in the state voting law in so many words—the class of potential voters between the age of 18 and 21. In contrast, the New York literacy test, although by its terms barring only illiterates, had the result of discriminating against, if not barring, a secondary identifiable class against whom discrimination was prohibited under the Fourteenth Amendment.
>
> "Finally, one may ask, what is the 'discrimination' which Congress would here seek to eliminate? Unless voting is to be done from the cribs the minimum age line must be drawn somewhere; can it really be said that to deny 20, 19, and 18-year-olds the vote is 'dis-

crimination', while to deny the vote to 17-year-olds is sound legislative judgment?

"It is pointless to further elaborate the matter. The Committee and the Congress is faced with one Supreme Court decision on the entire subject, and the reasoning of that decision is not one that he who runs may read. There are striking factual differences between the facts of *Morgan* and the facts that would be involved in determining the validity of a voting age statute; the fact that 46 states presently impose a 21-year-old voting requirement; the fact that 21 was the voing age requirement unanimously enforced by the states which adopted the Constitution; and the fact that a voting age law is one which applies to all citizens alike without resulting in any identifiable discrimination—my conclusion is that *Morgan* is not strong support for the validity of such a statute." 116 Cong. Rec. 3513 (daily ed. March 11, 1970).

In *Katzenbach v. Morgan*, the Court stated:

"* * * Here again, it is enough that we perceive a basis upon which Congress might predicate a judgment that the application of New York's English literacy requirement to deny the right to vote to a person with a sixth grade education in Puerto Rican schools in which the language of instruction was other than English constituted an indivious discrimination in violation of the Equal Protection Clause." 384 U.S. at 656.

At no place in the legislative history of Title III of the Act is there any showing that the requirement of a minimum voting age of 21 by those States having such a requirement operates as a discrimination on the basis of race, national origin, creed, or sex.

B. Minimum voting age cannot be an invidious discrimination that is prohibited by Section 1 of the Fourteenth Amendment.

Congress was unable to find that denial of vote to persons under 21 constitutes discrimination. Classification by age cannot operate as a discrimination, for the clear reason that the passage of time, the sole criterion upon which the classification is based, is completely impartial—and is applicable equally to all persons.

Mr. Justice Brandeis in the dissent in *National Life Ins. Co. v. United States*, 277 U.S. 508 (1928), defined discrimination as "the act of treating differently two persons or things, under like circumstances." 277 U.S. at 530. The difference between an eighteen year old and a twenty-one year old is three birthdays, nothing more and nothing less. Measured by the criterion established, the passage of time, no discrimination can ever be found between the two as they can never, by the criterion, be in like circumstances. They are inevitably in different circumstances as to age.

It is impossible to find discrimination in a classification by age. Mr. Justice Frankfurter has told us "No court can make time stand still," *Scripps-Howard Radio, Inc. v. FCC*, 316 U.S. 4, 9 (1942), and neither can any sheriff, election board, State officer or legislature vary time's application to one citizen as distinguished from another.

The distinction between the legislation that is the subject of this action and that which was interpreted in *Katzenbach v. Morgan* is pointed out in the dissent of

Mr. Justice Black in *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966), decided the same term as *Katzenbach v. Morgan*.

> "* * * The mere fact that a law results in treating some groups differently from others does not, of course, automatically amount to a violation of the Equal Protection Clause. To bar a State from drawing any distinctions in the application of its laws would practically paralyze the regulatory power of legislative bodies. Consequently 'The constitutional command for a state to afford "equal protection of the laws" sets a goal not attainable by the invention and application of a precise formula'. Kotch v. River Port Pilot Comm'rs, 330 U.S. 552, 556. Voting laws are no exception to this principle. All voting laws treat some persons differently from others in some respects. *Some bar a person from voting who is under 21 years of age; others bar those under 18.* Some bar convicted felons or the insane, and some have attached a freehold or other property qualification for voting. * * *
>
> "* * * The equal protection cases carefully analyzed boil down to the principle that distinctions drawn and even discriminations imposed by state laws do not violate the Equal Protection Clause so long as these distinctions and discriminations are not 'irrational,' 'irrelevant,' 'unreasonable,' 'arbitrary,' or 'invidious.' These vague and indefinite terms do not, of course, provide a precise formula or an automatic mechanism for deciding cases arising under the Equal Protection Clause. The restrictive connotations of these terms, however * * * are a plain recognition of the fact that under a proper interpretation of the Equal Protection Clause States are to have the broadest kind of leeway in areas where they have a general constitutional competence to act." 383 U.S. at 672-674 [emphasis added].

Mr. Justice Black, who joined in the majority in

Katzenbach v. Morgan, explained the reach of that decision in his dissent in *Harper, supra*, when he continued:

> "I have no doubt at all that Congress has the power under § 5 [of the 14th Amendment] to pass legislation to abolish the poll tax in order to protect the citizens of this country if it believes that the poll tax is being used as a device to deny voters equal protection of the laws." *Id.* at 679.

Under *Katzenbach v. Morgan*, to intrude upon the States' prerogative, Congress must first find upon some evidence that a minimum voting age of 21 is being used as a device to deny voters equal protection of the laws. Title III of the Act states that the minimum voting age requirement is a "* * * particularly unfair treatment * * * in view of national defense responsibilities", although it is no more unfair than requiring children to attend schools regulated by school boards they did not elect.

Title III further states that a minimum voting age of 21

> "* * * has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution",

although Title III itself denies the same guarantees to those 17 or less. Neither Title III nor its history discloses any more substantial finding of constitutional justification than these bare recitals.

The Constitution reposes in the States the general competence to act in setting the minimum voting age of their electorates. The bare recitals of the Act that equal

protection of the laws is denied does not and cannot constitute a finding that the classification is "irrational," "irrelevant," "unreasonable," "arbitrary," or "invidious." The mere subjective conclusion that denying the vote to eighteen to twenty-one year olds is "unfair" is not a substitute for the more objective standard that the classification must be invidious, irrational, or arbitrary. Any classification may seem unfair to those who are benefited less thereby, but this does not mean that the classification is wholly irrational. The testimony and debates on Title III fail to support such a finding.

Classification by age is rational, as evidenced by its continued use in legislative enactments. It is relevant to the determination of the qualifications of a responsible elector. It is eminently reasonable, as is shown by its continued use by 46 States and by the framers of the Fourteenth Amendment itself. It is no more arbitrary than any other classification and cannot operate invidiously as it is no respecter of persons.

> "* * * The 14th Amendment to the Constitution of the United States does not prohibit legislation which is limited either in the objects to which it is directed, or by the territory within which it is to operate. It merely requires that all persons subjected to such legislation shall be treated alike, under like circumstances and conditions, both in the privileges conferred and the liabilities imposed." *Hayes v. Missouri*, 120 U.S. 68, 71 (1887).

Federal power to lower the minimum voting age is grounded by its proponents on the power given Congress under Section 5 of the Fourteenth Amendment to legis-

late against denial by States of "equal protection of the laws." It is urged that classification by age is such a denial of equal protection. Yet, the framers of the Fourteenth Amendment itself established that classification at age 21.

> "* * * But when the right to vote at any election for * * * the Executive and Judicial officers of a State or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, *being twenty-one years of age*, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." U.S. Const. amend. XIV, § 2 [emphasis added].

Within the very context of the amendment restricting the States from denying the equal protection of the laws to their citizens we therefore find classification as to age being used as a standard to accomplish its ends.

The Amendment recognizes the power of the States to set voter qualifications and acknowledges that a denial of the franchise to individuals under 21 does not contravene the grand generalities of Section 1. It is evident that the framers of the Fourteenth Amendment did not forbid the States from denying or abridging the right to vote, but instead provided a remedy which is strictly correlated to the impact of the abridgment upon the federal system. Thus, the Fourteenth Amendment carefully describes the area of federal competence. The clear import of the Amendment is that the sole area

of federal concern, and therefore federal power to act, on questions of voter qualifications is with the federal representative structure. Title III, to the contrary, reaches beyond the parameters of federal concern to elections of entirely local interest.

Our construction of the Fourteenth Amendment is supported not only by the clear language of the Amendment itself, but by a contemporaneous interpretation by its proponents, one of whom, Representative Bingham, stated in debate in Congress:[8]

> "To be sure we all agree, and the great body of the people of this country agree, that *the exercise of the elective franchise though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States.*" Cong. Globe, 39th Cong., 1st Sess. 2542 (1866) [emphasis added].

This Court has continued to refuse to allow Congress to control the exercise of the elective franchise by the simple invocation of the Fourteenth Amendment.

> "* * * The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State. There is no color for the contention that under the amendments every male inhabitant of the State being a citizen of the United States has *from the time of his majority* a right to vote for presidential electors." *McPherson v. Blacker*, 146 U.S. 1, 39 (1892) [emphasis added].

See also *Lassiter v. Northampton County Bd. of Elections*, 360 U.S. 45, 51 (1969).

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[8] As quoted by Mr. Justice Harlan in his dissent in *Reynolds v. Sims*, 377 U.S. 533, 599 (1964).

C. That classification by age is not a denial of equal protection is clearly manifested by its extensive use in state and federal legislation.

The assertion that classification by age is a discriminatory denial of equal protection of the laws is contravened by the many areas of state and federal legislation utilizing the method. The plaintiff State, for example, uses age for classification of such rights as the right to obtain a motor vehicle operator's license (Oregon Revised Statutes [hereinafter cited as ORS] 482.110), to use tobacco in a public place (ORS 167.250), to play cards, billiards, pool, bagatelle, or other games of chance (ORS 167.295), to be employed in places of public amusement or entertainment (ORS 167.235), to obtain hunting and fishing licenses (ORS 497.010), to pledge articles to pawnbrokers (ORS 726.270(2)), and to wager on races (ORS 462.190).

Classification by age permeates the entire body of state legislation on such important matters as Workmen's Compensation (ORS ch. 656), the age of consent and sexual abuse (ORS ch. 167), testamentary disposition and wills (ORS ch. 112), guardianships (ORS ch. 126), adoption and parental support (ORS ch. 109) and the determination of the age of majority.

> "Except as provided in ORS 109.520, in this state any person shall be deemed to have arrived at majority at the age of 21 years, and thereafter shall have control of his own actions and business, have all the rights and be subject to all the liabilities of a citizen of full age." ORS 109.510.
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> "Except as provided in ORS 653.105, all persons shall be deemed to have arrived at the age of ma-

jority upon their being married according to law." ORS 109.520.

Classification by age equally pervades the constitutions and statutes of the federal government and of the other States of the United States. A practical legislative tool with this historical and universal endorsement cannot be condemned as an invidious discrimination denying equal protection of the laws.

CONCLUSION

Title III of the Voting Rights Act Amendments of 1970, being contrary to Article I, Section 2, of the United States Constitution and not authorized by Section 5 of the Fourteenth Amendment to that Constitution, should be declared unconstitutional and the defendant restrained from enforcing that portion of the Act.

Respectfully submitted,

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