

dence”¹⁴⁵⁹ that is more reminiscent of pre-*Washington v. Davis* cases than of the more recent decisions.

Rogers v. Lodge was also a multimember electoral district case brought under the Equal Protection Clause¹⁴⁶⁰ and the Fifteenth Amendment. The fact that the system operated to cancel out or dilute black voting strength, standing alone, was insufficient to condemn it; discriminatory intent in creating or maintaining the system was necessary. But direct proof of such intent is not required. “[A]n invidious purpose may often be inferred from the totality of the relevant facts, including the fact, if it is true, that the law bears more heavily on one race than another.”¹⁴⁶¹ Turning to the lower court’s enunciation of standards, the Court approved the *Zimmer* formulation. The fact that no black had ever been elected in the county, in which blacks were a majority of the population but a minority of registered voters, was “important evidence of purposeful exclusion.”¹⁴⁶² Standing alone this fact was not sufficient, but a historical showing of past discrimination, of systemic exclusion of blacks from the political process as well as educational segregation and discrimination, combined with continued unresponsiveness of elected officials to the needs of the black community, indicated the presence of discriminatory motivation. The Court also looked to the “depressed socio-economic status” of the black population as being both a result of past discrimination and a barrier to black access to voting power.¹⁴⁶³ As for the district court’s application of the test, the Court reviewed it under the deferential “clearly erroneous” standard and affirmed it.

The Court in a jury discrimination case also seemed to allow what it had said in *Davis* and *Arlington Heights* it would not permit.¹⁴⁶⁴ Noting that disproportion alone is insufficient to establish a violation, the Court nonetheless held that the plaintiff’s showing

¹⁴⁵⁹ 458 U.S. at 618–22 (describing and disagreeing with the *Mobile* plurality, which had used the phrase at 446 U.S. 74). The *Lodge* Court approved the prior reference that motive analysis required an analysis of “such circumstantial and direct evidence” as was available. *Id.* at 618 (quoting *Arlington Heights*, 429 U.S. at 266).

¹⁴⁶⁰ The Court confirmed the *Mobile* analysis that the “fundamental interest” side of heightened equal protection analysis requires a showing of intent when the criteria of classification are neutral and did not reach the Fifteenth Amendment issue in this case. 458 U.S. at 619 n.6.

¹⁴⁶¹ 458 U.S. at 618 (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976)).

¹⁴⁶² 458 U.S. at 623–24.

¹⁴⁶³ 458 U.S. at 624–27. The Court also noted the existence of other factors showing the tendency of the system to minimize the voting strength of blacks, including the large size of the jurisdiction and the maintenance of majority vote and single-seat requirements and the absence of residency requirements.

¹⁴⁶⁴ *Castaneda v. Partida*, 430 U.S. 482 (1977). The decision was 5-to-4, Justice Blackmun writing the opinion of the Court and Chief Justice Burger and Justices Stewart, Powell, and Rehnquist dissenting. *Id.* at 504–07.