Moreover, in *City of Mobile v. Bolden* [1453] a plurality of the Court apparently attempted to do away with the totality of circumstances test and to separately evaluate each of the factors offered to show a discriminatory intent. At issue was the constitutionality of the use of multi-member electoral districts to select the city commission. A prior decision had invalidated a multi-member districting system as discriminatory against blacks and Hispanics by listing and weighing a series of factors which in totality showed invidious discrimination, but the Court did not consider whether its ruling was premised on discriminatory purpose or adverse impact.[1454] But in the plurality opinion in *Mobile*, each of the factors, viewed "alone," was deemed insufficient to show purposeful discrimination.[1455] Moreover, the plurality suggested that some of the factors thought to be derived from its precedents and forming part of the totality test in opinions of the lower federal courts—such as minority access to the candidate selection process, governmental responsiveness to minority interests, and the history of past discrimination—were of quite limited significance in determining discriminatory intent.[1456] But, contemporaneously with Congress's statutory rejection of the *Mobile* plurality standards,[1457] the Court, in *Rogers v. Lodge*,[1458] appeared to disavow much of *Mobile* and to permit the federal courts to find discriminatory purpose on the basis of "circumstantial evi-

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man, 443 U.S. 526 (1979), in the context of the quotation in the text. These cases found the *Davis* standard satisfied on a showing of past discrimination coupled with foreseeable impact in the school segregation area.

[1453] 446 U.S. 55 (1980). Also decided by the plurality was that discriminatory purpose is a requisite showing to establish a violation of the Fifteenth Amendment and of the Equal Protection Clause in the "fundamental interest" context, vote dilution, rather than just in the suspect classification context.

[1454] White v. Regester, 412 U.S. 755 (1972), was the prior case. *See also* Whitcomb v. Chavis, 403 U.S. 124 (1971). Justice White, the author of *Register*, dissented in *Mobile*, 446 U.S. at 94, on the basis that "the totality of the facts relied upon by the District Court to support its inference of purposeful discrimination is even more compelling than that present in *White v. Register*." Justice Blackmun, id. at 80, and Justices Brennan and Marshall, agreed with him as alternate holdings, id. at 94, 103.

[1455] 446 U.S. at 65–74.

[1456] 446 U.S. at 73–74. The principal formulation of the test was in Zimmer v. McKeithen, 485 F.2d 1297, 1305 (5th Cir. 1973), *aff'd on other grounds sub nom.* East Carroll Parish School Bd. v. Marshall, 424 U.S. 636 (1976), and its components are thus frequently referred to as the *Zimmer* factors.

[1457] By the Voting Rights Act Amendments of 1982, P.L. 97–205, 96 Stat. 131, 42 U.S.C. § 1973 (as amended), *see* S. REP. NO. 417, 97th Congress, 2d Sess. 27–28 (1982), Congress proscribed a variety of electoral practices "which results" in a denial or abridgment of the right to vote, and spelled out in essence the *Zimmer* factors as elements of a "totality of the circumstances" test.

[1458] 458 U.S. 613 (1982). The decision, handed down within days of final congressional passage of the Voting Rights Act Amendments, was written by Justice White and joined by Chief Justice Burger and Justices Brennan, Marshall, Blackmun, and O'Connor. Justices Powell and Rehnquist dissented, id. at 628, as did Justice Stevens. Id. at 631.