

Sec. 4—Elections

Cl. 1—Times, Places, and Manner

rights.³⁷⁰ Under the Enforcement Act of 1870 and subsequent laws, false registration, bribery, voting without legal right, making false returns of votes cast, interference in any manner with officers of election, and the neglect by any such officer of any duty required of him by state or federal law were made federal offenses.³⁷¹ Provision was made for the appointment by federal judges of persons to attend at places of registration and at elections with authority to challenge any person proposing to register or vote unlawfully, to witness the counting of votes, and to identify by their signatures the registration of voters and election tally sheets.³⁷²

When the Democratic Party regained control of Congress, these pieces of Reconstruction legislation dealing specifically with elections were repealed,³⁷³ but other statutes prohibiting interference with civil rights generally were retained and these were used in later years. More recently, Congress in 1957, 1960, 1964, 1965, 1968, 1970, 1975, 1980, 1982, 1992 and 2006 enacted legislation to protect the right to vote in all elections, whether federal, state or local, through the assignment of federal registrars and poll watchers, suspension of literacy and other tests, and the broad proscription of intimidation and reprisal, whether with or without state action.³⁷⁴

Another chapter in regulation of elections was begun in 1907 when Congress passed the Tillman Act, prohibiting national banks

³⁷⁰ Article I, § 4, and the Fifteenth Amendment have had quite different applications. The Court insisted that under the latter, while Congress could legislate to protect the suffrage in all elections, it could do so only against state interference based on race, color, or previous condition of servitude, *James v. Bowman*, 190 U.S. 127 (1903); *United States v. Reese*, 92 U.S. 214 (1876). Under the former it could also legislate against private interference for whatever motive, but only in federal elections. *Ex parte Siebold*, 100 U.S. 371 (1880); *Ex parte Yarbrough*, 110 U.S. 651 (1884).

³⁷¹ The Enforcement Act of May 31, 1870, 16 Stat. 140; The Force Act of February 28, 1871, 16 Stat. 433; The Ku Klux Klan Act of April 20, 1871, 17 Stat. 13. The text of these and other laws and the history of the enactments and subsequent developments are set out in R. CARR, *FEDERAL PROTECTION OF CIVIL RIGHTS: QUEST FOR A SWORD* (1947).

³⁷² The constitutionality of sections pertaining to federal elections was sustained in *Ex parte Siebold*, 100 U.S. 371 (1880), and *Ex parte Yarbrough*, 110 U.S. 651 (1884). The legislation pertaining to all elections was struck down as going beyond Congress' power to enforce the Fifteenth Amendment. *United States v. Reese*, 92 U.S. 214 (1876).

³⁷³ 28 Stat. 144 (1894).

³⁷⁴ Pub. L. 85–315, Part IV, § 131, 71 Stat. 634, 637 (1957); Pub. L. 86–449, Title III, § 301, Title VI, 601, 74 Stat. 86, 88, 90 (1960); Pub. L. 88–352, Title I, § 101, 78 Stat. 241 (1964); Pub. L. 89–110, 79 Stat. 437 (1965); Pub. L. 90–284, Title I, § 101, 82 Stat. 73 (1968); Pub. L. 91–285, 84 Stat. 314 (1970); Pub. L. 94–73, 89 Stat. 400 (1975); Pub. L. 97–205, 96 Stat. 131 (1982); Pub. L. 102–344, 106 Stat. 921; Pub. L. 109–246, 120 Stat. 577 (2006). Most of these statutes are codified in 42 U.S.C. §§ 1971 *et seq.* The penal statutes are in 18 U.S.C. §§ 241–245.