unlike § 5, applies nationwide.[67] As enacted in 1965, § 2 largely tracked the language of the Fifteenth Amendment itself. In *City of Mobile v. Bolden*,[68] a majority of the Court agreed that the Fifteenth Amendment and § 2 of the Act were coextensive, but the Justices did not agree on the meaning to be ascribed to the statute. A plurality believed that, because the constitutional provision reached only purposeful discrimination, § 2 was similarly limited. A major purpose of Congress in 1982 had been to set aside this possible interpretation and to provide that any electoral practice "which results in a denial or abridgement" of the right to vote on account of race or color will violate the Act.[69] The subsequent Court adoption, or readoption, of the standards by which it can be determined when a practice denies or abridges the right to vote, though couched in terms of proving intent or motivation, may well bring the constitutional and statutory standards into such close agreement that the constitutional question will not arise.[70]

The decision in *Shelby County v. Holder*[71] resulted in a significant retrenchment of the application of the Voting Rights Act. In *Shelby County*, the Court overturned § 4 of the act, which specifies the formula by which it is determined which states or electoral districts are required to submit electoral changes for preclearance. In 2006, Congress had reauthorized the Act for twenty-five years, providing that the preclearance requirement extended to jurisdictions that had a voting test and less than 50 percent voter registration or turnout as of 1972.[72] In 2009, the Court signaled in *dicta* that this formula no longer served as an accurate characterization of voting conditions in the jurisdictions specified.[73]

---

[67] Private parties may bring suit to challenge electoral practices under § 2. It provided, before the 1982 amendments, that "[n]o voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color."

[68] 446 U.S. 55 (1980). *See* id. at 60–61 (Justices Stewart, Powell, Rehnquist, and Chief Justice Burger), and id. at 105 n.2 (Justice Marshall dissenting).

[69] In § 3 of the 1982 amendments, § 2 of the Act was amended by the insertion of the quoted phrase and the addition of a section setting out a nonexclusive list of factors making up a totality of circumstances test by which a violation of § 2 would be determined. 96 Stat. 134, amending 42 U.S. § 1973. Without any discussion of the Fifteenth Amendment, the Court in Thornburg v. Gingles, 478 U.S. 30 (1986), interpreted and applied the "totality of the circumstances" test in the context of multimember districting.

[70] *See* Rogers v. Lodge, 458 U.S. 613 (1982).

[71] 570 U.S. ___, No. 12–96, slip op. (2013).

[72] Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act, Pub. L. 109–246,120 Stat. 577.

[73] Northwest Austin Municipal Util. Dist. No. One v. Holder, 557 U.S. 193, 203–204 (2009).