follow, as decreed by the trial court, as well as divestiture in appropriate local situations, as directed by this Court. It is impossible, I submit, to make these judgments on the findings before us because of the distortion due to an incorrect and unreal definition of the "relevant market." Now, because of this Court's mandate, the market-by-market inquiry must begin for purposes of the decree. But this should have been the foundation of judgment, not its superimposed conclusion. This inquiry should—in my opinion, it must—take into account the *total* economic situation—all of the options available to one seeking protection services. It should not be limited to central stations, and certainly not to "insurance accredited central station protective services" which this Court sanctions as the relevant market. Since I am of the opinion that defendants and the courts are entitled to a reappraisal of the liability consequences as well as the appropriate provisions of the decree on the basis of a sound definition of the market, I would reverse and remand for these purposes.

384 U.S. 641

Nicholas de B. KATZENBACH, Attorney General of the United States, et al., Appellants,

v.

John P. MORGAN and Christine Morgan.

NEW YORK CITY BOARD OF ELECTIONS, etc., Appellants,

v.

John P. MORGAN and Christine Morgan.

Nos. 847, 877.

Argued April 18, 1966.

Decided June 13, 1966.

Action by voters of New York City seeking declaratory judgment and injunction restraining compliance with Voting Rights Act of 1965. A statutory three-judge court for the United States District Court for the District of Columbia, 247 F.Supp. 196, granted the declaratory and injunctive relief requested, and appeals were taken directly to the United States Supreme Court which noted probable jurisdiction. The Supreme Court, Mr. Justice Brennan, held that section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test, as applied to prohibit enforcement of election laws of New York requiring ability to read and write English as condition of voting, was proper exercise of powers granted to Congress by enforcement section of Fourteenth Amendment and, by force of supremacy clause, New York English literacy requirement cannot be enforced to extent that it is inconsistent with Voting Rights Act.

Reversed.

Mr. Justice Harlan and Mr. Justice Stewart dissented.

For dissenting opinion see 86 S.Ct. 1731.

See also 86 S.Ct. 1728.

1. Elections ⇦18
States ⇦4.14

Section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test, as applied to prohibit enforcement of election laws of New York requiring ability to read and write English as condition of voting, was proper exercise of powers granted to Congress by enforcement section of Fourteenth Amendment and, by force of su-

premacy clause, New York English literacy requirement cannot be enforced to extent that it is inconsistent with Voting Rights Act. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e); U.S.C.A. Const. art. 6, cl. 1 et seq.; Amend. 14, § 5; Const.N.Y. art. 2, § 1; Election Law N.Y. §§ 150, 168.

2. Elections ⇐60

Qualifications established by states for voting for state officers and members of most numerous branch of state legislature also determine who may vote for United States representatives and senators. U.S.C.A.Const. art. 1, § 2.

3. Elections ⇐15

States have no power to grant or withhold voting franchise on conditions forbidden by Fourteenth Amendment or any other provision of constitution, and such exercises of state power are no more immune to limitations of Fourteenth Amendment than any other state action. U.S.C.A.Const. Amend. 14.

4. Constitutional Law ⇐209
Elections ⇐18

Section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test can be sustained as appropriate legislation to enforce equal protection clause even though judiciary has not decided that application of English literacy requirement prohibited by that action is forbidden by equal protection clause itself. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e); U.S.C.A.Const. Amend. 14.

5. Constitutional Law ⇐209

Congress is authorized to enforce prohibitions of equal protection clause by appropriate legislation, and some legislation is contemplated to make amendment fully effective. U.S.C.A.Const. Amend. 14.

6. Constitutional Law ⇐209

Rule that all means which are appropriate, which are plainly adapted to legitimate end, and which are not prohibited, but are consistent with letter and spirit of constitution, are constitutional is standard measuring what constitutes appropriate legislation under enforcement clause of Fourteenth Amendment. U.S.C.A.Const. Amend. 14, § 5.

7. Constitutional Law ⇐206(1), 209, 251

Enforcement clause of Fourteenth Amendment is positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure guarantees of such amendment. U.S.C.A.Const. Amend. 14, § 5.

8. Constitutional Law ⇐206(1), 209, 251

Power of Congress under enforcement clause of Fourteenth Amendment is limited to adopting measures to enforce guarantees of amendment, and such clause grants Congress no power to restrict, abrogate, or dilute such guarantees. U.S.C.A.Const. Amend. 14, § 5.

9. Constitutional Law ⇐70(1)

It was not for court to review congressional resolution of various conflicting considerations involved in enactment of section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test, and it was sufficient that court was able to perceive basis upon which Congress might resolve conflict as it did. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e).

10. Constitutional Law ⇐38

In deciding constitutional propriety of limitations in reform measure, Supreme Court is guided by principles that statute is not invalid under constitution because it might have gone further than it did, that legislature need not strike at all evils at same time, and that reform may take one step at a time, addressing

itself to phase of problem which seems most acute to legislative mind.

11. Constitutional Law ⚖253
Elections ⚖18

Fact that section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified for voting under any literacy test prohibits enforcement of English literacy requirement only for those educated in school located within United States jurisdiction in which language of instruction is other than English and not for those educated in schools beyond territorial limits of United States in which language of instruction is other than English did not establish that section itself worked invidious discrimination in violation of Fifth Amendment. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e); U.S.C.A.Const. Amend. 5.

12. Constitutional Law ⚖209
Elections ⚖18

Section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test, as applied to prohibit enforcement of election laws of New York requiring ability to read and write English as condition of voting, is appropriate legislation to enforce equal protection clause. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e); Const. N.Y. art. 2, § 1; Election Law N.Y. §§ 150, 168; U.S.C.A.Const. Amend. 14, § 5.

642

Sol. Gen. Thurgood Marshall and J. Lee Rankin, New York City, for appellants.

Alfred Avins, Memphis, Tenn., for appellees.

Rafael Hernandez Colon, Ponce, P. R., for Commonwealth of Puerto Rico, as amicus curiae.

Jean M. Coon, Albany, N. Y., for State of New York, as amicus curiae.

643

Mr. Justice BRENNAN delivered the opinion of the Court.

[1] These cases concern the constitutionality of § 4(e) of the Voting Rights Act of 1965.[1] That law, in the respects pertinent in these cases, provides that no person who has successfully completed the sixth primary grade in a public school in, or a private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction was other than English shall be denied the right to vote in any election because of his inability to read or write English. Appellees, registered voters in New York City,

1. The full text of § 4(e) is as follows:
"(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.
"(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English." 79 Stat. 439, 42 U.S.C. § 1973b(e) (1964 ed., Supp. I).

brought this suit to challenge the constitutionality of § 4(e) insofar as it *pro tanto* prohibits

644

the enforcement of the election laws of New York[2] requiring an ability to read and write English as a condition of voting. Under these laws many of the several hundred thousand New York City residents who have migrated there from the Commonwealth of Puerto Rico had previously been denied the right to vote, and appellees attack § 4(e) insofar as it would enable many of

645

these citizens to vote.[3] Pursuant to § 14(b) of the Voting Rights Act of 1965, appellees commenced this proceeding in the District Court for the District of

2. Article II, § 1, of the New York Constitution provides, in pertinent part:

"Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English."

Section 150 of the New York Election Law, McKinney's Consol.Laws, c. 17, provides, in pertinent part:

"* * * In the case of a person who became entitled to vote in this state by attaining majority, by naturalization or otherwise after January first, nineteen hundred twenty-two, such person must, in addition to the foregoing provisions, be able, except for physical disability, to read and write English. A 'new voter,' within the meaning of this article, is a person who, if he is entitled to vote in this state, shall have become so entitled on or after January first, nineteen hundred twenty-two, and who has not already voted at a general election in the state of New York after making proof of ability to read and write English, in the manner provided in section one hundred sixty-eight."

Section 168 of the New York Election Law provides, in pertinent part:

"1. The board of regents of the state of New York shall make provisions for the giving of literacy tests.

* * * * * * *

"2. * * * But a new voter may present as evidence of literacy a certificate or diploma showing that he has completed the work up to and including the sixth grade of an approved elementary school or of an approved higher school in which English is the language of instruction or a certificate or diploma showing that he has completed the work up to and including the sixth grade in a public school or a private school accredited by the Commonwealth of Puerto Rico in which school instruction is carried on predominantly in the English language or a matriculation card issued by a college or university to a student then at such institution or a certificate or a letter signed by an official of the university or college certifying to such attendance."

Section 168 of the Election Law as it now reads was enacted while § 4(e) was under consideration in Congress. See 111 Cong.Rec. 19376–19377. The prior law required the successful completion of the eighth rather than the sixth grade in a school in which the language of instruction was English.

3. This limitation on appellees' challenge to § 4(e), and thus on the scope of our inquiry, does not distort the primary intent of § 4(e). The measure was sponsored in the Senate by Senators Javits and Kennedy and in the House by Representatives Gilbert and Ryan, all of New York, for the explicit purpose of dealing with the disenfranchisement of large segments of the Puerto Rican population in New York. Throughout the congressional debate it was repeatedly acknowledged that § 4(e) had particular reference to the Puerto Rican population in New York. That situation was the almost exclusive subject of discussion. See 111 Cong.Rec. 11028, 11060–11074, 15666, 16235–16245, 16282–16283, 19192–19201, 19375–19378; see also Voting Rights, Hearings before Subcommittee No. 5 of the House Committee on the Judiciary on H.R. 6400, 89th Cong., 1st Sess., 100–101, 420–421, 508–517 (1965). The Solicitor General informs us in his brief to this Court, that in all probability the practical effect of § 4(e) will be limited to enfranchising those educated in Puerto Rican schools. He advises us that, aside from the schools in the Commonwealth of Puerto Rico, there are no public or parochial schools in the territorial limits of the United States in which the predominant language of instruction is other than English and which would have generally been attended by persons who are otherwise qualified to vote save for their lack of literacy in English.

Columbia seeking a declaration that § 4(e) is invalid and an injunction prohibiting appellants, the Attorney General of the United States and the New York City Board of Elections, from either enforcing or complying with

646

§ 4(e).[4] A three-judge district court was designated. 28 U.S.C. §§ 2282, 2284 (1964 ed.). Upon cross motions for summary judgment, that court, one judge dissenting, granted the declaratory and injunctive relief appellees sought. The court held that in enacting § 4(e) Congress exceeded the powers granted to it by the Constitution and therefore usurped powers reserved to the States by the Tenth Amendment. 247 F.Supp. 196. Appeals were taken directly to this Court, 28 U.S.C. §§ 1252, 1253 (1964 ed.) and we noted probable jurisdiction. 382 U.S. 1007, 86 S.Ct. 621, 15 L.Ed.2d 524. We reverse. We hold that, in the application challenged in these cases, § 4(e) is a proper exercise of the powers granted to Congress by § 5 of the Fourteenth Amendment[5] and that by force of the

647

Supremacy Clause, Article VI, the New York English literacy requirement cannot be enforced to the extent that it is inconsistent with § 4(e).

[2, 3] Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers, and the qualifications established by the States for voting for members of the most numerous branch of the state legislature also determine who may vote for United States Representatives and Senators, Art. I, § 2; Seventeenth Amendment; Ex parte Yarbrough, 110 U.S. 651, 663, 4 S.Ct. 152, 28 L.Ed. 274. But, of course, the States have no power to grant or withhold the franchise on conditions that are forbidden by the Fourteenth Amendment, or any other provision of the Constitution. Such exercises of state power are no more immune to the limitations of the

4. Section 14(b) provides, in pertinent part:
"No court other than the District Court for the District of Columbia * * * shall have jurisdiction to issue * * * any restraining order or temporary or permanent injunction against the * * enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto." 79 Stat. 445, 42 U.S.C. § 1973*l*(b) (1964 ed., Supp. I).
The Attorney General of the United States was initially named as the sole defendant. The New York City Board of Elections was joined as a defendant after it publicly announced its intention to comply with § 4(e); it has taken the position in these proceedings that § 4(e) is a proper exercise of congressional power. The Attorney General of the State of New York has participated as *amicus curiae* in the proceedings below and in this Court, urging § 4(e) be declared unconstitutional. The United States was granted leave to intervene as a defendant, 28 U.S.C. § 2403 (1964 ed.); Fed.Rule Civ.Proc. 24(a).

5. "Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."
It is therefore unnecessary for us to consider whether § 4(e) could be sustained as an exercise of power under the Territorial Clause, Art. IV, § 3; see dissenting opinion of Judge McGowan below, 247 F.Supp., at 204; or as a measure to discharge certain treaty obligations of the United States, see Treaty of Paris of 1898, 30 Stat. 1754, 1759; United Nations Charter, Articles 55 and 56, 59 Stat. 1033; Art. I, § 8, cl. 18. Nor need we consider whether § 4(e) could be sustained insofar as it relates to the election of federal officers as an exercise of congressional power under Art. I, § 4, see Minor v. Happersett, 21 Wall. 162, 171, 22 L.Ed. 627; United States v. Classic, 313 U.S. 299, 315, 61 S.Ct. 1031, 1037, 85 L.Ed. 1368; Literacy Tests and Voter Requirements in Federal and State Elections, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary on S. 480, S. 2750, and S. 2979, 87th Cong., 2d Sess., 302, 306–311 (1962) (brief of the Attorney General); nor whether § 4(e) could be sustained, insofar as it relates to the election of state officers, as an exercise of congressional power to enforce the clause guaranteeing to each State a republican form of government, Art. IV, § 4; Art. I, § 8, cl. 18.

Fourteenth Amendment than any other state action. The Equal Protection Clause itself has been held to forbid some state laws that restrict the right to vote.[6]

648

[4, 5] The Attorney General of the State of New York argues that an exercise of congressional power under § 5 of the Fourteenth Amendment that prohibits the enforcement of a state law can only be sustained if the judicial branch determines that the state law is prohibited by the provisions of the Amendment that Congress sought to enforce. More specifically, he urges that § 4(e) cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by § 4(e) is forbidden by the Equal Protection Clause itself. We disagree. Neither the language nor history of § 5 supports such a construction.[7] As was said with regard to § 5 in Ex parte Com. of Virginia, 100 U.S. 339, 345, 25 L.Ed. 676. "It is the power of Congress which has been enlarged. Congress is authorized to *enforce* the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective." A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional resourcefulness and congressional responsibility for implementing the Amendment.[8] It would confine the legislative power

649

in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the "majestic generalities" of § 1 of the Amendment. See Fay v. People of State of New York, 332 U.S. 261, 282–284, 67 S.Ct. 1613, 1624–1625, 91 L.Ed. 2043.

Thus our task in this case is not to determine whether the New York English literacy requirement as applied to deny the right to vote to a person who successfully completed the sixth grade in a Puerto Rican school violates the Equal

6. Harper v. Virginia Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169; Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675. See also United States v. Mississippi, 380 U.S. 128, 85 S.Ct. 808, 13 L.Ed.2d 717; Louisiana v. United States, 380 U.S. 145, 151, 85 S.Ct. 817, 821, 13 L.Ed.2d 709; Lassiter v. Northampton County Bd. of Elections, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072; Pope v. Williams, 193 U.S. 621, 632–634, 24 S.Ct. 573, 575–576, 48 L.Ed. 817; Minor v. Happersett, 21 Wall. 162, 22 L.Ed. 627; cf. Burns v. Richardson, 384 U.S. 73, at 92, 86 S.Ct. 1286, at 1296, 16 L.Ed.2d 376; Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506.

7. For the historical evidence suggesting that the sponsors and supporters of the Amendment were primarily interested in augmenting the power of Congress, rather than the judiciary, see generally Frantz, Congressional Power to Enforce the Fourteenth Amendment Against Private Acts, 73 Yale L.J. 1353, 1356–1357; Harris, The Quest for Equality, 33–56 (1960); tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–217 (1951).

8. Senator Howard, in introducing the proposed Amendment to the Senate, described § 5 as "a direct affirmative delegation of power to Congress," and added:
"It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment." Cong. Globe, 39th Cong., 1st Sess., 2766, 2768 (1866).
This statement of § 5's purpose was not questioned by anyone in the course of the debate. Flack, The Adoption of the Fourteenth Amendment 138 (1908).

Protection Clause. Accordingly, our decision in Lassiter v. Northampton County Bd. of Election, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072, sustaining the North Carolina English literacy requirement as not in all circumstances prohibited by the first sections of the Fourteenth and Fifteenth Amendments, is inapposite. Compare also Guinn v. United States, 238 U.S. 347, 366, 35 S.Ct. 926, 931, 59 L.Ed. 1340; Camacho v. Doe, 31 Misc.2d 692, 221 N.Y.S.2d 262 (1958), aff'd 7 N.Y.2d 762, 194 N.Y.S.2d 33, 163 N.E.2d 140 (1959); Camacho v. Rogers, 199 F.Supp. 155 (D.C.S.D.N.Y.1961). *Lassiter* did not present the question before us here: Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the state law by legislating under § 5 of the Fourteenth Amendment? In answering this question, our task is limited to determining whether such

650

legislation is, as required by § 5, appropriate legislation to enforce the Equal Protection Clause.

[6, 7] By including § 5 the draftsmen sought to grant to Congress, by a specific provision applicable to the Fourteenth Amendment, the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18.[9] The classic formulation of the reach of those powers was established by Chief Justice Marshall in McCulloch v. Maryland, 4 Wheat. 316, 421, 4 L.Ed. 579:

> "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

Ex parte Com. of Virginia, 100 U.S., at 345–346, 25 L.Ed. 676, decided 12 years after the adoption of the Fourteenth Amendment, held that congressional power under § 5 had this same broad scope:

> "Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power."

651

Strauder v. West Virginia, 100 U.S. 303, 311, 25 L.Ed. 664; Virginia v. Rives, 100 U.S. 313, 318, 25 L.Ed. 667. Section 2 of the Fifteenth Amendment grants Congress a similar power to enforce by "appropriate legislation" the provisions of that amendment; and we recently held in State of South Carolina v. Katzenbach, 383 U.S. 301, 326, 86 S.Ct. 803, 817, 15 L.Ed.2d 769, that "[t]he basic test to be applied in a case involving § 2 of the Fifteenth Amendment is the same as in all cases concerning the express powers of Congress with relation to the reserved powers of the States." That test was identified as the one formulated in McCulloch v. Maryland. See also James Everard's Breweries v. Day, 265 U.S. 545, 558–559, 44 S.Ct. 628, 631, 68 L.Ed. 1174 (Eighteenth Amendment). Thus the McCulloch v. Maryland standard is the measure of what constitutes "appropriate legislation" under § 5 of the Fourteenth Amendment. Correctly viewed, § 5 is a positive grant of legislative pow-

9. In fact, earlier drafts of the proposed Amendment employed the "necessary and proper" terminology to describe the scope of congressional power under the Amendment. See tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–190 (1951). The substitution of the "appropriate legislation" formula was never thought to have the effect of diminishing the scope of this congressional power. See, e. g., Cong.Globe, 42d Cong., 1st Sess., App. 83 (Representative Bingham, a principal draftsman of the Amendment and the earlier proposals).

er authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment.

[8] We therefore proceed to the consideration whether § 4(e) is "appropriate legislation" to enforce the Equal Protection Clause, that is, under the McCulloch v. Maryland standard, whether § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause, whether it is "plainly adapted to that end" and whether it is not prohibited by but is consistent with "the letter and spirit of the constitution." [10]

652

There can be no doubt that § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause. Congress explicitly declared that it enacted § 4(e) "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English." The persons referred to include those who have migrated from the Commonwealth of Puerto Rico to New York and who have been denied the right to vote because of their inability to read and write English, and the Fourteenth Amendment rights referred to include those emanating from the Equal Protection Clause. More specifically, § 4(e) may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government—both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.

[9] Section 4(e) may be readily seen as "plainly adapted" to furthering these aims of the Equal Protection Clause. The practical effect of § 4(e) is to prohibit New York from denying the right to vote to large segments of its Puerto Rican community. Congress has thus prohibited the State from denying to that community the right that is "preservative of all rights." Yick Wo v. Hopkins, 118 U.S. 356, 370, 6 S.Ct. 1064, 1071, 30 L.Ed. 220. This enhanced political power will be helpful in gaining nondiscriminatory treatment in public services for the entire Puerto Rican community.[11] Section

653

4(e) thereby enables the Puerto Rican minority better to obtain "perfect equality of civil rights and the equal protection of the laws." It was well within congressional authority to say that this need of the Puerto Rican minority for the

10. Contrary to the suggestion of the dissent, infra, 384 U.S. p. 668, 86 S.Ct. p. 1736, 16 L.Ed.2d p. 845, § 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that Congress' power under § 5 is limited to adopting measures to enforce the guarantees of the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by § 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws.

11. Cf. James Everard's Breweries v. Day, supra, which held that, under the Enforcement Clause of the Eighteenth Amendment, Congress could prohibit the prescription of intoxicating malt liquor for medicinal purposes even though the Amendment itself only prohibited the manufacture and sale of intoxicating liquors for beverage purposes. Cf. also the settled principle applied in the Shreveport Case (Houston, E. & W. T. R. Co. v. United States, 234 U.S. 342, 34 S.Ct. 833, 58 L.Ed. 1341), and expressed in United States v. Darby, 312 U.S. 100, 118, 61 S.Ct. 451, 459, 85 L.Ed. 609, that the power of Congress to regulate interstate commerce "extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end * * *." Accord, Heart of Atlanta Motel v. United States, 379 U.S. 241, 258, 85 S.Ct. 348, 358, 13 L.Ed. 2d 258.

vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. 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. There plainly was such a basis to support § 4(e) in the application in question in this case. Any contrary conclusion would require us to be blind to the realities familiar to the legislators.[12]

The result is no different if we confine our inquiry to the question whether § 4 (e) was merely legislation aimed

654

at the elimination of an invidious discrimination in establishing voter qualifications. We are told that New York's English literacy requirement originated in the desire to provide an incentive for non-English speaking immigrants to learn the English language and in order to assure the intelligent exercise of the franchise. Yet Congress might well have questioned, in light of the many exemptions provided,[13] and some evidence suggesting that prejudice played a prominent role in the enactment of the requirement,[14] whether these were actually the interests being served. Congress might have also questioned whether denial of a right deemed so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English, or of furthering the goal of an intelligent exercise of the franchise.[15] Finally, Con-

12. See, e. g., 111 Cong.Rec. 11061–11062, 11065–11066, 16240; Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, supra, 507–508.

13. The principal exemption complained of is that for persons who had been eligible to vote before January 1, 1922. See n. 2, supra.

14. This evidence consists in part of statements made in the Constitutional Convention first considering the English literacy requirement, such as the following made by the sponsor of the measure: "More precious even than the forms of government are the mental qualities of our race. While those stand unimpaired, all is safe. They are exposed to a single single danger, and that is that by constantly changing our voting citizenship through the wholesale, but valuable and necessary infusion of Southern and Eastern European races * * *. The danger has begun. * * * We should check it." III New York State Constitutional Convention 3012 (Rev. Record 1916). See also id., at 3015–3017, 3021–3055. This evidence was reinforced by an understanding of the cultural milieu at the time of proposal and enactment, spanning a period from 1915 to 1921—not one of the enlightened eras of our history. See generally Chafee, Free Speech in the United States 102, 237, 269–282 (1954 ed.). Congress was aware of this evidence. See, e. g., Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, supra, 507–513; Voting Rights, House Hearings, n. 3, supra, 508–513.

15. Other States have found ways of assuring an intelligent exercise of the franchise short of total disenfranchisement of persons not literate in English. For example, in Hawaii, where literacy in either English or Hawaiian suffices, candidates' names may be printed in both languages, Hawaii Rev.Laws § 11–38 (1963 Supp.); New York itself already provides assistance for those exempt from the literacy requirement and are literate in no language, N. Y. Election Law, § 169; and, of course, the problem

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655
as
a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs.[16] Since Congress undertook to legislate so as to preclude the enforcement of the state law, and did so in the context of a general appraisal of literacy requirements for voting, see State of
656
South Carolina v. Katzenbach, supra, to which it brought a specially informed legislative competence,[17] it was Congress' prerogative to weigh these competing considerations. 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 invidious discrimination in violation of the Equal Protection Clause.

There remains the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent "with the letter and spirit of the constitution." The only respect in which appellees contend that § 4(e) fails in this regard is that the section itself works an invidious discrimination in violation of the Fifth Amendment by prohibiting the enforcement of the English literacy requirement only for those educated in American-flag schools (schools located within United States jurisdiction) in which the language of instruction was other than English, and not for those educated in schools

of assuring the intelligent exercise of the franchise has been met by those States, more than 30 in number, that have no literacy requirement at all, see e. g., Fla. Stat.Ann. §§ 97.061, 101.061 (1960) (form of personal assistance); New Mexico Stat.Ann. §§ 3–2–11, 3–3–13 (personal assistance for those literate in no language), §§ 3–3–7, 3–3–12, 3–2–41 (1953) (ballots and instructions authorized to be printed in English or Spanish). Section 4(e) does not preclude resort to these alternative methods of assuring the intelligent exercise of the franchise. True, the statute precludes, for a certain class, disenfranchisement and thus limits the States' choice of means of satisfying a purported state interest. But our cases have held that the States can be required to tailor carefully the means of satisfying a legitimate state interest when fundamental liberties and rights are threatened, see, e. g., Carrington v. Rash, 380 U.S. 89, 96, 85 S.Ct. 775, 780, 13 L.Ed.2d 675; Harper v. Virginia Board of Elections, 383 U.S. 663, 670, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169; Thomas v. Collins, 323 U.S. 516, 529–530, 65 S.Ct. 315, 322–323, 89 L.Ed. 430; Thornhill v. State of Alabama, 310 U.S. 88, 95–96, 60 S.Ct. 736, 740–741, 84 L.Ed. 1093; United States v. Carolene Products Co., 304 U.S. 144, 152–153, n. 4, 58 S.Ct. 778, 783–784, 82 L.Ed. 1234; Meyer v. State of Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042; and Congress is free to apply the same principle in the exercise of its powers.

16. See, e. g., 111 Cong.Rec. 11060–11061, 15666, 16235. The record in this case includes affidavits describing the nature of New York's two major Spanish-language newspapers, one daily and one weekly, and its three full-time Spanish-language radio stations and affidavits from those who have campaigned in Spanish-speaking areas.

17. See, e. g., 111 Cong.Rec. 11061 (Senator Long of Louisiana and Senator Young), 11064 (Senator Holland), drawing on their experience with voters literate in a language other than English. See also an affidavit from Representative Willis of Louisiana expressing the view that on the basis of his thirty years' personal experience in politics he has "formed a definite opinion that French-speaking voters who are illiterate in English generally have as clear a grasp of the issues and an understanding of the candidates, as do people who read and write the English language."

beyond the territorial limits of the United States in which the language of instruction was also other than English. This is not a complaint that Congress, in enacting § 4(e), has unconstitutionally denied or diluted anyone's right to vote but rather that Congress violated the Constitution by not extending the

657

relief effected in § 4(e) to those educated in non-American-flag schools. We need not pause to determine whether appellees have a sufficient personal interest to have § 4(e) invalidated on this ground, see generally United States v. Raines, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524, since the argument, in our view, falls on the merits.

[10] Section 4(e) does not restrict or deny the franchise but in effect extends the franchise to persons who otherwise would be denied it by state law. Thus we need not decide whether a state literacy law conditioning the right to vote on achieving a certain level of education in an American-flag school (regardless of the language of instruction) discriminates invidiously against those educated in non-American-flag schools. We need only decide whether the challenged limitation on the relief effected in § 4(e) was permissible. In deciding that question, the principle that calls for the closest scrutiny of distinctions in laws *denying* fundamental rights, see n. 15, supra, is inapplicable; for the distinction challenged by appellees is presented only as a limitation on a reform measure aimed at eliminating an existing barrier to the exercise of the franchise. Rather, in deciding the constitutional propriety of the limitations in such a reform measure we are guided by the familiar principles that a "statute is not invalid under the Constitution because it might have gone farther than it did," Roschen v. Ward, 279 U.S. 337, 339, 49 S.Ct. 336, 73 L.Ed. 722, that a legislature need not "strike at all evils at the same time." Semler v. Oregon State Board of Dental Examiners, 294 U.S. 608, 610, 55 S.Ct. 570, 571, 79 L.Ed. 1086 and that "reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind," Williamson v. Lee Optical Co., 348 U.S. 483, 489, 75 S.Ct. 461, 465, 99 L.Ed. 563.

[11] Guided by these principles, we are satisfied that appellees' challenge to this limitation in § 4(e) is without merit. In the context of the case before us, the congressional choice to limit the relief effected in § 4(e) may,

658

for example, reflect Congress' greater familiarity with the quality of instruction in American-flag schools,[18] a recognition of the unique historic relationship between the Congress and the Commonwealth of Puerto Rico,[19] an awareness of the Federal Government's acceptance of the desirability of the use of Spanish as the language of instruction in Commonwealth schools,[20] and the fact that Congress has fostered policies encouraging migration from the Commonwealth to the States.[21] We have no occasion to determine in this case whether such factors would justify a similar distinction embodied in a voting-qualification law that denied the franchise to persons educated in non-American-flag schools. We hold only that the limitation on relief effected in § 4(e) does not constitute a forbidden discrimination since these factors might

18. See, e. g., 111 Cong.Rec. 11060–11061.

19. See Magruder, The Commonwealth Status of Puerto Rico, 15 U.Pitt.L.Rev. 1 (1953).

20. See, e. g., 111 Cong.Rec. 11060–11061, 11063, 11073, 16235. See Osuna, A History of Education in Puerto Rico (1949).

21. See, e. g., 111 Cong.Rec. 16235; Voting Rights, House Hearings, n. 3, supra, 362. See also Jones Act of 1917, 39 Stat. 953, conferring United States citizenship on all citizens of Puerto Rico.

well have been the basis for the decision of Congress to go "no farther than it did."

[12] We therefore conclude that § 4 (e), in the application challenged in this case, is appropriate legislation to enforce the Equal Protection Clause and that the judgment of the District Court must be and hereby is reversed.

Reversed.

Mr. Justice DOUGLAS joins the Court's opinion except for the discussion, at pp. 1726–1728, of the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent
659
with "the letter and spirit of the constitution." On that question, he reserves judgment until such time as it is presented by a member of the class against which that particular discrimination is directed.

384 U.S. 672

Martha CARDONA, Appellant,

v.

James M. POWER et al.

No. 673.

Argued April 18, 1966.

Decided June 13, 1966.

Action in which prospective voter sought a judicial determination that state English literacy requirement, as applied to deny her the right to vote in all elections, violated the Federal Constitution. The trial court denied relief, which was affirmed by the New York Court of Appeals, 16 N.Y.2d 639, 261 N.Y.S.2d 78, 209 N.E.2d 119, remittitur amended 16 N.Y.S.2d 708, 261 N.Y.S.2d 900, 209 N.E. 2d 556, remittitur further amended, 16 N.Y.2d 827, 210 N.E.2d 458, 263 N.Y.S. 2d 168, and probable jurisdiction was noted. The Supreme Court, Mr. Justice Brennan, held that where complaint did not allege that prospective voter had successfully completed the sixth grade of a public school in, or a private school accredited by, the Commonwealth of Puerto Rico, as required by Voting Rights Act, judgment denying relief should be vacated and cause remanded for further proceedings.

Judgment vacated and cause remanded for further proceedings.

Mr. Justice Douglas, Mr. Justice Harlan, Mr. Justice Fortas, and Mr. Justice Stewart, dissented.

For dissenting opinion see 86 S.Ct. 1731.

See also 86 S.Ct. 1717.

1. Courts ⇐400

In prospective voter's action against city board of elections seeking a judicial determination that state English literacy requirement, as applied to deny her the right to vote in all elections, violated the Federal Constitution, where complaint did not allege that prospective voter had successfully completed the sixth grade of a public school in, or a private school accredited by the Commonwealth of Puerto Rico, as required by Voting Rights Act, judgment denying relief should be vacated and cause remanded for further proceedings. Voting Rights Act of 1965, § 4(e), 42 U.S.C.A. § 1973b(e); Election Law N.Y. § 168.

2. Courts ⇐400

Even if prospective voter who brought action seeking judicial determination that state English literacy requirement, as applied to deny her the