

electoral behavior of those voters within a particular jurisdiction," he said.

Critics on the U.S. Commission on Civil Rights are not so sure. "The Voting Rights Act is supposed to protect against situations when black voters are locked out because of racism," said Abigail Thernstrom, a Republican appointee to the U.S. Commission on Civil Rights. "There is no entitlement to elect a candidate they prefer on the assumption that all black voters prefer Democratic candidates."

Located about 60 miles from the Atlantic Coast in eastern North Carolina, Kinston has a history of defying governmental authority. During Colonial times, the fledgling city was known as Kingston—named for King George III—but residents dropped the "g" from the city's name after the American Revolution.

In Kinston's heyday of manufacturing and tobacco farming, it was a bustling collection of shops, movie theaters and restaurants. Now, many of those buildings are vacant—a few have been filled by storefront churches—and residents are left hoping for better days.

In November's election—one in which "hope" emerged as a central theme—the city had uncommonly high voter turnout, with more than 11,000 of the city's 15,000 voters casting ballots. Kinston's blacks voted in greater numbers than whites.

Whites typically cast the majority of votes in Kinston's general elections. Kinston residents contributed to Barack Obama's victory as America's first black president and voted by a margin of nearly 2-to-1 to eliminate partisan elections in the city.

The measure appeared to have broad support among both white and black voters, as it won a majority in seven of the city's nine black-majority voting precincts and both of its white-majority precincts.

But before nonpartisan elections could be implemented, the city had to get approval from the Justice Department.

Kinston is one of the areas subject to provisions of the landmark 1965 Voting Rights Act, which requires the city to receive Justice Department approval before making any changes to voting procedures. Kinston is one of 12,000 voting districts in areas of 16 states, almost exclusively in the South, that the Voting Rights Act declared to have had a history of racial discrimination.

In a letter dated Aug. 17, the city received the Justice Department's answer: Elections must remain partisan because the change's "effect will be strictly racial."

"Removing the partisan cue in municipal election will, in all likelihood, eliminate the single factor that allows black candidates to be elected to office," Loretta King, who (at the time) was the acting head of the Justice Department's civil rights division, wrote in a letter to the city.

Ms. King wrote that voters in Kinston vote more along racial than party lines and without the potential for voting a straight Democratic ticket, "the limited remaining support from white voters for a black Democratic candidate will diminish even more."

Ms. King is the same official who put a stop to the New Black Panther Party case. In that case, the Justice Department filed a civil complaint in Philadelphia after two members of the black revolutionary group dressed in quasi-military garb stood outside a polling place on election day last year and purportedly intimidated voters with racial insults, slurs and a nightstick.

After a judge ordered default judgments against the Panthers, who refused to answer the charges or appear in court, the Justice Department dropped the charges against all but one of the defendants, saying "the facts and the law did not support pursuing" them.

Ms. King's letter in the Kinston case states that because of the low turnout black voters

must be "viewed as a minority for analytical purposes," and that "minority turnout is relevant" to determining whether the Justice Department should be allowed a change to election protocol.

Black voters account for 9,702 of the city's 15,402 registered voters but typically don't vote at the rates whites do.

As a result of the low turnout, Ms. King wrote, "black voters have had limited success in electing candidates of choice during recent municipal elections."

"It is the partisan makeup of the general electorate that results in enough white cross-over to allow the black community to elect a candidate of choice," she wrote.

Mrs. Thernstrom of the civil rights commission blasted the department's interpretation of the law.

"The Voting Rights Act is not supposed to be compensating for failure of show up on Election Day," she said. "The Voting Rights Act doesn't guarantee an opportunity to elect a 'candidate of choice.' . . . My 'candidate of choice' loses all the time in an election."

When asked whether Justice had ever "either granted or denied" requests either "to stop partisan elections or implement partisan elections," Mr. Miyar, the department spokesman, said it was impossible to retrieve past decisions on that basis.

But he did provide, based on the recollection of a department lawyer, a single precedent—a decision during the Clinton administration denying a bid from a South Carolina school district to drop partisan elections.

That decision employs similar reasoning and language as the Kinston ruling: "Implementation of nonpartisan elections . . . appears likely to deprive black supported candidates of meaningful partisan-based support and to exacerbate racial polarization between black and white voters."

But the 1994 decision doesn't mention the necessity of the Democratic Party and doesn't mention low turnout among black voters in that school district as a factor affecting their ability to elect candidates they prefer.

Kinston City Council member Joseph Tyson, a Democrat who favors partisan elections, said nothing is stopping black voters in Kinston from going to the polls.

"Unfortunately, I'm very disappointed with the apathy that we have in Kinston among the Afro-American voters," he said.

Mr. Tyson, who is one of two black members of the six-member City Council, said the best way to help black voters in Kinston is to change the council's structure from city-wide voting to representation by district. Kinston voters currently cast as many votes in the at-large races as there are council seats up for election—typically three, or two and the mayor.

"Whether it's partisan or nonpartisan is not a big issue to me, whether or not the city is totally represented is what the issue is to me," he said. "If you have wards and districts, then I feel the total city will be represented."

Partisan local elections are a rarity in North Carolina. According to statistics kept by the University of North Carolina School of Government in Chapel Hill, only nine of the state's 551 cities and towns hold partisan elections.

The City Council could take the Justice Department to court to fight decision regarding nonpartisan elections, but such a move seems unlikely. The council voted 4-1 to drop the issue after meeting privately with Justice Department officials in August.

"What do I plan to do? Absolutely, nothing," Mr. Tyson said. "And I will fight, within Robert's Rules of Order, wherever necessary to make sure that decision stands."

The Justice ruling and Kinston's decision not to fight it comes in the wake of a key Voting Rights Act case last year. In that decision, the Supreme Court let a small utility district in Texas seek an exemption from the law's requirements to receive Justice Department approval before making any changes to voting procedures. But the court declined to address whether the law itself is constitutional.

Critics of the law argue it has changed little since its 1965 inception and that the same places the law covered then no longer need Justice Department approval to make changes to voting procedures.

Proponents, including Attorney General Eric H. Holder Jr., said the law is still necessary to ensure equal voting rights for all Americans.

In Kinston, William Barker is the only City Council member who voted to continue discussing whether to challenge the Justice Department's ruling.

He said he voted against eliminating partisan elections because the proposed new system would declare a winner simply on who received a plurality of votes instead requiring candidates to reach certain threshold of votes based on turnout.

"Based on the fact that the voters voted overwhelmingly for it, I would like to see us challenge it based on that fact. My fight is solely based on fighting what the voters voted on," he said. "It bothers me, even though I'm on the winning side now, that you have a small group, an outside group coming in and saying, 'Your vote doesn't matter.'"

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CARTER (at the request of Mr. BOEHNER) for today on account of illness.

Mr. SHADEGG (at the request of Mr. BOEHNER) for today and the balance of the week on account of a death in the family.

Mr. WALDEN (at the request of Mr. BOEHNER) for today on account of illness.

Mr. YOUNG of Alaska (at the request of Mr. BOEHNER) for today and the balance of the week on account of attending a memorial service in Alaska for his late wife.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUIGLEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MURPHY of Connecticut, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. GRAYSON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, October 23, 26 and 27.

Mr. JONES, for 5 minutes, October 23, 26 and 27.

Mr. BURTON of Indiana, for 5 minutes, October 23.

Mr. POSEY, for 5 minutes, today and October 22.

Mr. INGLIS, for 5 minutes, today.

Mr. DEAL of Georgia, for 5 minutes, October 21.

Ms. ROS-LEHTINEN, for 5 minutes, October 26 and 27.

Mr. BURGESS, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, October 23, 26 and 27.

Mr. MCHENRY, for 5 minutes, today, October 21, 22 and 23.

ENROLLED BILL SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3183. An act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 21, 2009, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4160. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — C10-C18-Alkyl dimethyl amine oxides; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2009-0690; FRL-8437-3] received October 1, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4161. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Pyraclostrobin; Pesticide Tolerances [EPA-HQ-OPP-2008-0713; FRL-8793-2] received October 1, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4162. A letter from the Director, Office of National Drug Control Policy, transmitting a letter on how the office will obligate the Fiscal Year (FY) 2009 HIDTA discretionary funds; to the Committee on Appropriations.

4163. A letter from the Assistant Secretary, Department of the Navy, transmitting a letter notifying Congress of a performance decision by the Department of the Navy to convert to contract the training and administrative support functions performed by 78 military personnel at various locations; to the Committee on Armed Services.

4164. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Indi-

ana; Extended Permit Terms for Renewal of Federally Enforceable State Operating Permits [EPA-R05-OAR-2008-0031; FRL-8963-4] received October 1, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4165. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Operating Permit Programs; Flexible Air Permitting Rule [EPA-HQ-OAR-2004-0087; FRL-8964-8] (RIN: 2060-AM45) received October 1, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4166. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for Coal Preparation and Processing Plants [EPA-HQ-OAR-2008-0260; FRL-8965-3] (RIN: 2060-AO57) received October 1, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4167. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 102-09, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad, pursuant to section 36(c) and 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4168. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 097-09, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4169. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 070-09, certification of a proposed agreement for the export of defense services or defense articles, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4170. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 079-09, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad, pursuant to section 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4171. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 101-09, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad, pursuant to section 36(c) and 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4172. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 126-09, certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad, pursuant to section 36(c) and 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4173. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 107-09, certification of proposed issuance of an export license pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4174. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 100-09, certification of proposed issuance of an ex-

port license pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4175. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 106-09, certification of proposed issuance of an export license pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4176. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 026-09, certification of proposed issuance of an export license pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4177. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 116-09, certification of proposed issuance of an export license pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4178. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 096-09, certification of proposed issuance of an export license pursuant to section 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4179. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 114-09, certification of proposed issuance of an export license pursuant to section 36(c) and 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4180. A letter from the Acting Associate General Counsel for General Law, Department of Homeland Security, transmitting report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4181. A letter from the Acting Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4182. A letter from the Acting Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4183. A letter from the Solicitor, Federal Labor Relations Authority, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4184. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 2009 through September 30, 2009 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a Public Law 88-454; (H. Doc. No. 111-68); to the Committee on House Administration and ordered to be printed.

4185. A letter from the Assistant Attorney General, Department of Justice, transmitting first annual report entitled, "Prioritizing Resources and Organization for Intellectual Property Act of 2008", pursuant to Public Law 110-403; to the Committee on the Judiciary.

4186. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operaton Regulations; Raritan River, Arthur Kill and their tributaries, Staten Island, NY and Elizabeth, NJ [Docket No.: USCG-2009-0202] (RIN: 1625-AA09) received October 6, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.