Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LOPEZ ET AL. *v.* MONTEREY COUNTY ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. 97–1396. Argued November 2, 1998– Decided January 20, 1999

Section 5 of the Voting Rights Act of 1965 requires designated States and political subdivisions to obtain federal preclearance– either from the Attorney General or from the District Court for the District of Columbia– before giving effect to changes in their voting laws. Monterey County (County), a jurisdiction that is "covered" by §5, enacted a series of ordinances effecting changes in the method for electing County judges. Appellants, Hispanic voters residing in the County, filed suit, alleging that the County had failed to fulfill its §5 obligation to preclear these changes. See *Lopez* v. *Monterey County*, 519 U. S. 9. The three-judge District Court ultimately dismissed the complaint on the ground that California, which is not covered by §5, had also passed legislation requiring the very voting changes challenged by appellants. The County need not seek federal approval before giving effect to these changes, the court reasoned, because California is not subject to §5 and the County was merely implementing a California law without exercising any independent discretion.

Held: The Act's preclearance requirements apply to measures mandated by a noncovered State to the extent that these measures will effect a voting change in a covered county. Accordingly, Monterey County is obligated to seek preclearance under §5 before giving effect to voting changes required by California law. Pp. 10–21.

(a) Section 5's plain language requiring federal preclearance "whenever a [covered jurisdiction] shall enact or seek to administer any voting" change provides the most compelling support for the conclusion that the preclearance requirement applies to a covered county's nondiscretionary efforts to implement a voting change required by state law, notwithstanding the fact that the State is not itself a covered jurisdiction. The "seek[s] to administer" phrase pro-

vides no indication that Congress intended to limit preclearance obligations to covered jurisdictions' discretionary actions. To the contrary, dictionaries consistently define "administer" in purely nondiscretionary terms. The State's view that "administer" is intended to capture a covered jurisdiction's nonlegislative, executive initiatives poses no barrier to the view that "administer" also encompasses nondiscretionary acts by covered jurisdictions endeavoring to comply with their States' superior law. Nor does §5's use of "seek" require an act of discretion by the covered jurisdiction. In this context, "seek" is more readily understood as creating a temporal distinction; a covered jurisdiction need not seek preclearance before *enacting* legislation that would effect a voting change but must seek preclearance before actually *administering* such a change. The Court's reading is supported by its prior assumption that preclearance is required where a noncovered State effects voting changes in covered counties, see, *e.g.*, *United Jewish Organizations of Williamsburgh, Inc.* v. *Carey*, 430 U. S. 144, 148–149, 162, and by numerous preclearance submissions received by the Justice Department and cases before the lower federal courts in which interested parties have labored under such an assumption, see, *e.g.*, *Shaw* v. *Reno*, 509 U. S. 630, 634. Finally, it is especially relevant that the Attorney General has consistently construed §5 as does this Court. Her interpretation is entitled to substantial deference in light of her central role in implementing §5. Pp. 10–15.

(b) This interpretation does not unconstitutionally tread on rights reserved to the States. Although recognizing that the Act imposes substantial "federalism costs," *Miller* v. *Johnson*, 515 U. S. 900, 926, this Court has likewise acknowledged that the Reconstruction Amendments– which include the Fifteenth Amendment under which the Act was passed– by their nature contemplate some intrusion into areas traditionally reserved to the States. Legislation that deters or remedies constitutional violations can fall within the sweep of Congress' enforcement power even if it prohibits conduct that is not itself unconstitutional and intrudes into such areas. *City of Boerne* v. *Flores*, 521 U. S. 507, 518. Moreover, the Court has specifically upheld the constitutionality of §5 against a challenge that this provision usurps powers reserved to the States. See *e.g.*, *South Carolina* v. *Katzenbach*, 383 U. S. 301, 327–335. Nor does *Katzenbach* require a different result where, as here, §5 is held to cover acts initiated by noncovered States. The Court there recognized that, once a jurisdiction has been designated as covered, the Act may guard against both discriminatory animus and the potentially harmful *effect* of neutral laws in that jurisdiction. *Id.*, at 333–334. This is precisely what §5's text requires when it provides that the District Court for the District of

Syllabus

Columbia may preclear a proposed voting change only if the court concludes that the change "does not have the purpose *and will not have the effect* of denying . . . the right to vote" on account of an impermissible classification (emphasis supplied). The Attorney General employs the same standard in deciding whether to object to a proposed voting change. Thus, there is no merit to California's claim that Congress lacks Fifteenth Amendment authority to require federal approval before the implementation of a state law that may have a discriminatory effect in a covered county. Moreover, even if California were correct that a partially covered State, like itself, cannot seek a §4(a) exemption from the Act's coverage on behalf of its covered counties, this would not advance the State's constitutional claim, since there is no question that the County may avail itself of §4(a)'s "bailout" provision. The State also errs in asserting that certain of this Court's prior decisions require a covered jurisdiction to exercise some discretion or policy choice in order to trigger §5's preclearance requirements. *Young* v. *Fordice*, 520 U. S. 273, 284, and *City of Monroe* v. *United States*, 522 U. S. 34, distinguished. Nor can the State benefit here from the exception to the preclearance requirement that this Court has recognized for voting changes crafted by federal district courts. *Connor* v. *Johnson*, 402 U. S. 690, 691, and *McDaniel* v. *Sanchez*, 452 U. S. 130, 153, distinguished. Pp. 15–21.

Reversed and remanded.

O'CONNOR, J., delivered the opinion of the Court, in which STEVENS, SCALIA, SOUTER, GINSBURG, and BREYER, JJ., joined. KENNEDY, J., filed an opinion concurring in the judgment, in which REHNQUIST, C. J., joined. THOMAS, J., filed a dissenting opinion.