

OP-ED by Patrick Leahy: A Crucial Voting Rights Case Reaches The Supreme Court

The following guest column by Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) was originally published in the Atlanta Journal-Constitution on April 29, 2009. This morning, the Supreme Court will hear oral arguments in Northwest Austin Municipal Utility District Number One v. Holder, a case involving Section 5 of the Voting Rights Act.]

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A Crucial Voting Rights Case Reaches The Supreme Court

by Patrick Leahy

Today the U.S. Supreme Court will consider a case challenging the constitutional authority of Congress to reauthorize Section 5 of the Voting Rights Act. Three years ago, the Senate and House of Representatives overwhelmingly reauthorized expiring provisions of this critical civil rights law. The challenge brought today before the nation's highest court threatens to undermine one of the nation's premier laws protecting the right to vote.

The Voting Rights Act of 1965 resulted from the historic struggle for civil rights, which reached a crucial turning point in Selma in 1965, when John Lewis and his fellow civil rights marchers were brutally attacked by state troopers while exercising their civil rights. The stark images of that "Bloody Sunday" jolted citizens nationwide and spurred Congress to pass the Voting Rights Act to ensure equal access to our democracy, regardless of race.

In contrast to the resistant, bitter politics that followed the Voting Rights Act of 1965, an historic bipartisan event on the steps of the U.S. Capitol launched Congress's 2006 work to reauthorize sections of the law. The legislation introduced then cited specific findings highlighting the need to reauthorize the Act, including that "discrimination in voting continue[s] to exist." Those findings concluded that without reauthorization, "racial and language minority citizens will be deprived" of their right to vote, undermining 40 years of progress. Following a unanimous Senate vote, and a near unanimous House vote, the reauthorization Act became law.

The Fourteenth and Fifteenth Amendments to the Constitution grant Congress the authority to remedy discrimination, and Congress is at the height of its prerogatives when enacting laws that address racial discrimination in connection with voting. These Amendments have not changed, nor has the authority of Congress to enforce them.

At issue in the case now before the Supreme Court -- *Northwest Austin Municipal Utility District Number One v. Holder* - is Section 5 of the Voting Rights Act, which provides a remedy for unconstitutional discrimination in voting by requiring certain jurisdictions with a history of discrimination to "pre-clear" all voting changes with either the Justice Department or the U.S. District Court for the District of Columbia. In 2006, after 19 hearings and in thousands of pages of testimony and documents, the Senate Judiciary Committee found evidence in three critical areas: (1) Even with Section 5 in place, covered jurisdictions continue to engage in discriminatory, often subtle, tactics, that play on racially polarized voting to deny the effectiveness of the votes cast by members of a particular race; (2) Section 5 provides an effective deterrent against bad practices in covered jurisdictions; and (3) Section 5 plays a vital role in preserving the gains minority voters have achieved.

Before the Voting Rights Act, minorities of all races faced major barriers to democratic participation through poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, systematic vote dilution and other tactics. Section 5 combats the practice of covered jurisdictions shifting from one invalidated discriminatory voting tactic to another.

Not until the passage of the Voting Rights Act of 1965 were people of all races in many parts of our country able to effectively exercise the rights granted 95 years earlier by the Fifteenth Amendment. Despite the gains we have made in building a more inclusive democracy, the work of the Voting Rights Act is not yet complete. The Act has been a source of protection for the voting rights of those long discriminated against, and a deterrent against new discriminatory efforts.

The Voting Rights Act transformed America by ushering in an era of greater inclusion. Now some suggest that Section 5 should be a victim of its success. In my view, abandoning a successful deterrent just because it works defies logic and common sense. When Congress finds an effective and constitutional way to prevent violations of the law, the courts must uphold it. In fact, since 1966, whenever the Supreme Court has reviewed or even cited to the Voting Rights Act, it has affirmed the Act as a valid exercise of congressional authority.

Almost three years ago Congress voted nearly unanimously to extend the vital remedies of Section 5 of the Voting Rights Act. I am confident that when the Justices review the substantial record compiled by Congress, they will support the clear success of this vital civil rights legislation.

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[Senator Patrick Leahy (D-Vt.) is the Chairman of the Senate Judiciary Committee and was the lead Democratic sponsor of the 2006 reauthorization of the Voting Rights Act. The Supreme Court today will hear oral arguments in Northwest Austin Municipal Utility District Number One v. Holder.]