

the floor to highlight a separate hate crime that has occurred in our country.

On July 15, 2006, in Chicago, IL, a gay man was attacked by Marquell Shepard after leaving a local bar. Shepard approached the man, berating him with sexually derogatory slurs. Shepard then physically assaulted him and fled the scene. He was soon picked up by police and charged with a felony hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SPACE SHUTTLE "DISCOVERY" STS-121 MISSION

Mr. NELSON of Florida. Mr. President, yesterday, July 17, 2006, marked the successful conclusion of the STS-121 space shuttle *Discovery* mission with its safe landing at the Kennedy Space Center in Florida. This 13-day mission was the 115th shuttle mission and the 18th to visit the International Space Station. STS-121 satisfied its "return to flight" objectives by flight testing improvements to the shuttle and testing on-orbit shuttle repair procedures. This flight provided more than 28,000 pounds of equipment and supplies to the space station and enabled its number of occupants to grow to three. STS-121 included three important spacewalks and laid the groundwork for the continued assembly, and ultimately doubling in size, of the space station.

I applaud the bravery, expertise, and accomplishments of the STS-121 crew—Commander Steven Lindsey, Pilot Mark Kelly, and Mission Specialists Michael Fossum, Lisa Nowak, Thomas Reiter, Piers Sellers, and Stephanie Wilson. This successful mission is a testament to the thousands of people who work on the space shuttle and space station programs.

Mr. President, we must continue with our plans to fly the space shuttle in order to complete the construction of the International Space Station. Equally important, we must work together to preserve the workforce that will soon become the backbone of the new crew exploration vehicle and the next human space project.

VOTING RIGHTS ACT REAUTHORIZATION

Mr. LEAHY. Mr. President, more than 2 months ago I joined the Chairmen of both the Senate and House Judiciary Committees, the ranking member of the House Judiciary Committee, the Democratic and Republican leaders of both the Senate and the House of Representatives, and Members of Congress from both parties to introduce a

bill to reauthorize and reinvigorate the temporary provisions of the Voting Rights Act of 1965. The bicameral, bipartisan introduction of this bill reflects not only its historic importance as a guarantor of the right to vote for all Americans, but also the broad consensus that the expiring provisions must be extended this year without delay. Unfortunately, we in the Senate have been delayed in getting this bill to the Senate floor by repeated cancellations and postponements of committee hearings and markups. The bill was also delayed in the House of Representatives for a month by a small group of opponents. Fortunately, the House was able to pass this legislation last week with 390 Members voting in favor. Now it is time for the Senate to do its part and pass this bill.

At my request, the chairman of the Senate Judiciary Committee has agreed to hold a special executive business session of the committee so that after a month of delay we can report out the Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. I hope that this vital civil rights legislation will be ready for full Senate consideration without further delay and that we can proceed with deliberate speed to pass the House-passed bill so that it may become law before Congress takes its summer vacation.

The U.S. Constitution specifically provides that Congress has the power to remedy discrimination under both the fourteenth and the fifteenth amendments. Over the course of nine Judiciary Committee hearings we received testimony from a range of constitutional scholars, voting rights advocates, and Supreme Court practitioners. There was agreement among these witnesses that Congress is at the height of its powers when giving enforceable meaning to these amendments by enacting laws that address racial discrimination in connection with voting. The fourteenth and fifteenth amendments have not changed. As long as these amendments are in our Constitution, Congress has the authority to enforce them, especially on matters of racial discrimination in connection with the right to vote. These are matters of fundamental importance.

The Senate Judiciary Committee held several hearings this year on the continuing need for the provision of the Voting Rights Act that requires covered jurisdictions to "pre-clear" all voting changes before they go into effect. This provision has been a tremendous source of protection for the voting rights of those long discriminated against and also a great deterrent against discriminatory efforts cropping up anew. Some academic witnesses suggested in their committee testimony 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. Why risk losing the gains we have made?

When this Congress finds an effective and constitutional way to prevent violations of the fundamental right to vote, we should preserve it. Now is no time for backsliding.

Since section 5 of the Voting Rights Act was first enacted in 1965 and last reauthorized in 1982, the country has made tremendous progress in combating racial discrimination. Certain jurisdictions disregarded the fifteenth amendment for almost 100 years and had a history of pervasive discriminatory practices that resisted attempts at redress from the passage of the fifteenth amendment in 1870 to the passage of the Voting Rights Act in 1965. Section 5 is intended to be a remedy for violations of the fourteenth and fifteenth amendments, in place for as long as necessary to enforce those amendments and eliminate practices denying or abridging the rights of minorities to participate in the political process. In fact, due in large measure to the remedies provided in the VRA, many voters in jurisdictions covered for the purposes of section 5 have gained the effective exercise of their right to vote.

However, based on the record established in hearings before the Senate Judiciary Committee and the Subcommittee on Constitution, Civil Rights, and Property Rights, which builds on the extensive record established in the House of Representatives, there remains a compelling need for section 5. The Judiciary Committee received three categories of evidence supporting the continuation of this remedy. First, there is evidence that even with section 5 in place, covered jurisdictions have continued to engage in discriminatory tactics. Often, this recurring discrimination takes on more subtle forms than in 1965 or 1982, such as vote dilution, which relies on racially polarized voting to deny the effectiveness of the votes cast by members of a particular race. Second, there is evidence of the effectiveness of section 5 as a deterrent against bad practices in covered jurisdictions. Finally, there is evidence of the prophylactic effect of section 5, preserving the gains that have been achieved against the risk of backsliding.

Today, I would like to provide some of the evidence received in the Judiciary Committee about the persistence of discriminatory practices in covered jurisdictions that supports reauthorization of this crucial provision.

The robust record compiled in the Senate Judiciary Committee includes voluminous evidence of recurring discrimination in section 5 covered jurisdictions. Often, this recurring discrimination takes on more subtle forms than in 1965 or 1982, such as vote dilution and redistricting to deny the effectiveness of the votes cast by members of a particular race. Notably, many jurisdictions are repeat offenders, continuing a pattern of persistent resistance dating back to the enactment of the VRA. Debo P. Adegbile, Associate

Director of Litigation of the NAACP Legal Defense and Educational Fund, Inc., testified about some examples of the types of evidence in the record:

The Record before this Congress presents continued evidence of such violations, and highlights the necessity for continued review of voting changes to protect minority voters in covered jurisdictions. For example, since the VRA's 1982 renewal, violations of minority voting rights have taken the form of last minute election date or polling place changes, discrimination at the polls, and familiar dilutive tactics of "cracking" and "packing" minority voting districts.

Objections to voting changes interposed by DOJ are one category of evidence relevant to the persistence of discrimination in covered jurisdictions. Although several witnesses pointed to a recent reduction in VRA objections as a reason to oppose extension of section 5, in fact there have been more objections in covered jurisdictions since the last reauthorization in 1982—608—than there were before that reauthorization, including 80 statewide section 5 objections. However, these objections only reveal a chapter of a much longer story. Mr. Adegbile also testified:

Although many VRA opponents and commentators point to a recent reduction in DOJ objections as evidence of the decreasing need for Section 5—this analysis oversimplifies the many ways in which the law serves to protect minority voters. Excluded from the category of objection statistics are other categories of deterred and rejected voting changes. These include matters that were denied preclearance by the Washington D.C. District Court; matters that were settled while pending before that court; voting changes that were withdrawn, altered or abandoned after the DOJ made formal More Information Requests, MIRs; as well as any recognition that the very existence of preclearance deters discriminatory voting changes in the first place. Taken together, these categories provide a more holistic view of the sizeable impact, deterrent effect, and continued need for section 5's provisions. Moreover, without the section 5 preclearance provisions many jurisdictions that have experienced a long history of exclusionary practices in voting would have lacked the incentive to tailor their electoral changes in a non-discriminatory fashion. Even with section 5 in place, many covered jurisdictions made voting changes that disadvantaged minority voters without preclearing them with the DOJ.

This is the Testimony of Debo P. Adegbile, Associate Director of Litigation of the NAACP Legal Defense and Educational Fund, Inc., before the United States Senate Judiciary Subcommittee on the Constitution, June 21, 2006, citing generally Luis Ricardo Fraga & Maria Lizet Ocampo, *More Information Requests and the Deterrent Effect of section 5 of the Voting Rights Act*, June 7, 2006—unpublished essay,

submitted to Senate Judiciary Committee on June 9, 2006.

The following are only a small set of examples from the robust record compiled in the Senate Judiciary Committee:

VOTE SUPPRESSION

Through the use of illegal devices, State and local officials in covered jurisdictions have suppressed the ability of minority voters to effectively exercise their right to vote.

In 2001, Kilmichael, Mississippi's white mayor and all white five-member Board of Alderman abruptly cancelled an election after census data revealed that African Americans had become the majority in the town and an unprecedented number of African-American candidates were running for office. Even after DOJ objected, concluding that the cancellation was an attempt to suppress the African-American candidates, the mayor and board did not reschedule the election. Only after DOJ forced Kilmichael to hold an election in 2003 did it elect its first African-American mayor, along with three African-American alderman. This is from Caroline Fredrickson and Deborah J. Vagins, *Promises to Keep: The Impact of the Voting Rights Act*, March 2006, at 12.

In March, 2004, in Prairie View, Texas, home to historically black Prairie View A&M University, two students decided to run for the local governing body. The white criminal district attorney threatened that any student who voted in the election would face felony prosecution for "illegal voting" and only withdrew his statements when the NAACP filed suit. Shortly thereafter, the Commissioner's Court voted to reduce the availability of early voting at the polling place closest to the college from 17 hours over two days, to 6 hours on one day. This would have severely limited the students' political participation, as most planned to take advantage of early voting since their spring break coincided with the primary date. The county did not restore the voting hours until the NAACP filed a section 5 enforcement suit. This is from Laughlin McDonald "The Case for Extending and Amending the Voting Rights Act," *A Report of the Voting Rights Project of the American Civil Liberties Union* at 65-66.

In a 2004 opinion invalidating South Dakota's redistricting plan, a Federal district judge documented the State's long history of discrimination, including persistent efforts to suppress the Native American vote since 1999. The judge documented illegal denials of the right to vote in certain elections, barriers to voter registration, intimidation and unsubstantiated charges of vote fraud, lack of access to polling sites, non-compliance with the Voting Rights Act's language assistance provision, and dilutive voting schemes. The opinion also quoted legislators expressing prejudice against Indians. For example, when debating an unsuccessful bill to make it easier for Indians to register, one legislator said, "I'm not sure we want that kind of person in the polling place." This is from National Commission on the Voting Rights Act, "Protecting Minority Voters: The Voting Rights Act at Work 1982-2005" February 2006 at 44.

The Mayor of the Town of North Johns, AL intentionally discriminated against African-American candidates for city council when he frustrated the attempts of these candidates to acquire the required forms for their candidacy and refused to swear them in when they won their elections. The court found that the mayor acted to undermine the candidacy of two African-American men because their election would result in the town council becoming majority black. This

is from *Dillard v. North Johns*, 717 F. Supp. 1471, M.D. Ala. 1989.

DISCRIMINATORY REDISTRICTING

Due to racially polarized voting, the reality in many jurisdictions is that the ability of minorities to have the opportunity to elect their candidate of choice is often dependent on the racial composition of a voting district. Consequently, the seemingly neutral task of drawing district lines can, in fact, be used strategically to abridge minorities' right to vote using techniques called "packing" where a very large percentage of minorities are placed in a single district and thereby denying them influence except in that one jurisdiction, or the obverse "unpacking," which fragments minority communities into numerous jurisdictions, denying them influence anywhere.

The impact of racially polarized voting is significant. In the 2000 elections, only 8 percent of African Americans were elected from majority white districts. This is from National Commission on the Voting Rights Act, "Protecting Minority Voters: The Voting Rights Act at Work 1982-2005" February 2006 at 38. As of 2000, neither Hispanics nor Native Americans candidates had been elected to office from a majority white district. Id. This is true throughout covered jurisdictions. Every African-American representative currently holding office in Congress from Louisiana, or in the Louisiana State Legislature, has been elected from a majority African-American district. This is from Debo P. Adegbile, "Voting Rights in Louisiana: 1982-2006," *RenewTheVRA.org* at 9. In Mississippi, the State with the highest percentage African-American population, not a single African-American candidate has won election to Congress or the state legislature from a majority-white district, and no African-American candidate has won a statewide office in the 20th Century. This is from Robert McDuff, "Voting Rights in Mississippi: 1982-2006," *RenewTheVRA.org* at 13.

After failing to redistrict for over two decades, following the 1980 and 1990 census, the city of Seguin, Texas was 60 percent Hispanic, yet only 3 out of 9 city council members were Hispanic. After a successful section 5 challenge by Hispanic plaintiffs, the city redrew its discriminatory districts in 1994 and again following the 2000 census, but cut short the filing deadlines for the upcoming elections, ensuring that the white incumbent would run unopposed. Another section 5 suit was necessary to prevent this change, called by some merely de minimis even though it determined the election's outcome, from going into effect. This is Testimony of John Trasvina, Interim President and General Counsel, Mexican American Legal Defense and Educational Fund MALDEF, before the United States Senate Judiciary Committee, June 13, 2006, at 4.

At a 2001 section 2 hearing, while testifying in defense of the St. Bernard Parish School Board's illegal plan to eliminate its only African-American district, Louisiana State Senator Lynn Dean, the highest ranking public official in St. Bernard Parish, admitted that he uses a term considered by many to be a derogatory, even offensive, word in referring to African Americans, had done so recently, and does not necessarily consider it a racial term. Dean had served on the school board for 10 years. This is from Debo P. Adegbile, "Voting Rights in Louisiana: 1982-2005," *RenewTheVRA.org* at 26.

In the post-1990 redistricting cycle, the Department of Justice objected to Georgia's Senate redistricting bill twice and to Georgia's House redistricting bill three times. The newly adopted plans were then challenged by litigation in which the state admitted to constitutional violations. After

losing the lawsuit, the state claimed to remedy the problem. However, its newly adopted plans reduced the black populations of numerous districts, thereby drawing DOJ objections to both plans yet again in March 1996. This is from Robert Kengle, "Voting Rights in Louisiana: 1982-2006," *RenewTheVRA.org* at 14.

The 2001 legislative redistricting plan in South Dakota, which divided the State into thirty-five legislative districts, altered the boundaries of District 27, which included Shannon and Todd Counties, so that American Indians comprised 90 percent of the district, while the district was one of the most overpopulated in the State. Had American Indians not been "packed" in District 27, they could have comprised a majority in a house district in adjacent District 26. South Dakota refused to submit the plan for pre-clearance, leading Alfred Bone Shirt and three other residents from Districts 26 and 27 to sue the State in December 2001. The plaintiffs claimed that South Dakota failed to submit its plan for pre-clearance and also that the plan unnecessarily packed Indian voters in violation of section 2. A 3-judge court ordered the state to seek pre-clearance and the Attorney General pre-cleared it, concluding that the additional packing of Indians in District 27 did not have a retrogressive effect. However, the district court, sitting as a single-judge court, heard the plaintiffs' section 2 claim and invalidated the State's 2001 legislative plan as diluting American Indian voting strength, finding that there was "substantial evidence that South Dakota officially excluded Indians from voting and holding office." This is from Bone Shirt v. Hazeltine, 200 F. Supp. 2d 1150, 1154 D.S.D. 2002.

In 2001, the Louisiana State Legislature sought judicial pre-clearance of its statewide redistricting plan for the Louisiana House of Representatives, which eliminated a majority African-American district in Orleans Parish. According to the legislators that drew that plan, the district was eliminated because white voters in Orleans Parish were entitled to "proportional representation," despite significant population growth among African-Americans in Orleans Parish over the course of the prior decade. Although the legislators ultimately dropped their selective "proportional representation" argument, the court found that the state "blatantly violate[d] important procedural rules" through its litigation tactics and condemned the state for its "radical mid-course revision in [its legal] theory of the case." The evidence, obtained over plaintiffs' resistance via a motion to compel, showed significant levels of racially-polarized voting in virtually all electoral contests, as well as retrogressive purpose and effect in the adoption of the plan. The evidence also showed that the Speaker Pro Tempore, who was a plaintiff in the action, removed long-standing language from the State's redistricting guidelines that acknowledged the State's obligations under the VRA at the start of the line drawing cycle. The litigation resulted in a settlement on the eve of trial that restored the opportunity district in Orleans Parish. The 2001 Louisiana House redistricting plan followed the standard practice in Louisiana as no initial redistricting plan for the Louisiana House of Representatives has ever been pre-cleared by DOJ since the inception of Voting Rights Act in 1965. This is Testimony of Richard Engstrom before the House of Representatives, Committee on the Judiciary, Subcommittee on the Constitution, October 25, 2005. This is also Debo P. Adegbile, Voting Rights in Louisiana, 1982-2006, at 16.

After finding Point Coupee Parish, Louisiana's redistricting plans retrogressive, the

Department of Justice objected 3 decades in a row: in 1983, 1992, and 2002. After the first 2 census cycles, the parish attempted to pack minority voters into a single district while fragmenting the remaining African-Americans into majority-white districts. In 2002, without explanation, the parish eliminated one majority African-American district, despite an increase in the African-American population of the parish. Unfortunately, the experience in Point Coupee Parish is typical in Louisiana: "[b]etween 1982 and 2003, 10 other parishes were "repeat offenders," and 13 times the DOJ noted that local authorities were merely resubmitting objected-to proposals with cosmetic or no changes." This is Debo P. Adegbile, "Voting Rights in Louisiana: 1982-2006," *RenewTheVRA.org* at 27.

In 1983, African-American legislators were excluded from legislative sessions held to develop Louisiana's post-census redistricting plan after negotiations stalled. The governor had threatened to veto a proposed plan that would create one African-American majority district and the Senate rejected the governor's plan to create all white majority districts. In the absence of minority legislators, a compromise—Act 20—was reached that sacrificed the majority-minority district despite the fact that—after a marked increase in the previous decade—the highly-concentrated African-American population now made up 48.9 percent of the voting age population in Orleans Parish. Act 20 was struck down by a 1982 section 2 case. The remedied district led to the election of Louisiana's first African-American congressman since reconstruction. This is also from Debo P. Adegbile, "Voting Rights in Louisiana: 1982-2006," *RenewTheVRA.org* at 16.

In 1991 and 1992, the Morehouse Parish, Louisiana, Police Jury drew district lines in an attempt to pack African-American voters in the city of Bastrop multiple times in defiance of DOJ objections. After a 1991 section 5 objection to its attempt to draw the same districting plan several times the Morehouse Parish Police Jury made cosmetic changes and resubmitted the same plan. After DOJ lodged another objection, the police jury resubmitted the same plan with only cosmetic changes. Only after DOJ objected a third time in 1992 did the police jury address the substance of the first objection and draw district lines that did not result in an over-concentration of African-American voters.

In 2006, election officials in Randolph County, Georgia, moved the board of education district lines to include Henry Cook, the African-American chair of the board of education, from District Five of the county board of education, which is majority black, to District Four, which is majority white. In District Four, Cook would almost certainly be defeated given the prevalence of racial bloc voting in the county, depriving the African-American community of an incumbent elected official who had their strong support in past elections. Although Randolph County was covered by section 5, county officials refused to submit the change for pre-clearance. African-American residents of the county filed suit on April 17, 2006, to enjoin use of the change absent pre-clearance. On June 5, 2006, the 3-judge court issued an order enjoining further use of the voting change because of failure to comply with section 5.

In 1991, Mississippi legislators rejected proposed House and Senate redistricting plans that would have given African-American voters greater opportunity to elect representatives of their choice, referring to one such alternative on the House floor as the "black plan" and privately as "the n-plan." DOJ objected, concluding that a racially discriminatory purpose was at play. In the 1992 elections, the cured redistricting plans boosted the percentage of African-American rep-

resentatives in the legislature to an all time high: 27 percent of the House and 19 percent of the Senate—up from 13 percent and 4 percent respectively in a state where 33 percent of the voting age population is African-American. This is Robert McDuff, "Voting Rights in Mississippi: 1982-2006," *RenewTheVRA.org* at 9-10.

In late 2001, Northampton County, VA proposed a change in the method of electing the board of supervisors by collapsing six districts into three larger districts. The DOJ objected, finding that three of the six districts were majority-minority districts in which African-American voters regularly elected their candidates of choice. The new plan would have diluted the minority-majorities and caused them to completely disappear in 2 of the 3 new districts—clearly having retrogressive effects. Two years later, the county provided a new 6-district plan, which had the same retrogressive effects of the 3-district plan. DOJ objected and provided a model non-retrogressive, 6-district plan, which has yet to be followed by the county. This from Anita S. Earls, Kara Millonzi, Oni Seliski, and Torrey Dixon, "Voting Rights in Virginia, 1982-2006," *RenewTheVRA.org* at 27-28.

In 1989, in section 2 suit, a Federal district court knocked down Chickasaw County, Mississippi, illegal plan to have all majority-white supervisors' districts. Sent back to the drawing board, the county then passed 3 different plans over the next 6 years. Not one passed section 5 pre-clearance. Finally, the Federal court drew its own plan for the 1995 elections, providing for 2 majority-black districts to reflect a population that was nearly 40 percent black. Only then did the county adopt a plan that met no objection by the Department of Justice. This is Robert McDuff, "Voting Rights in Mississippi: 1982-2006," *RenewTheVRA.org* at 6.

In 1992, DOJ objected to a Justice of the Peace and Constable redistricting plan in Galveston County, Texas, that fractured geographically compact African-American and Hispanic voters and provided no opportunity districts among the 8 districts in the plan, even though African Americans and Hispanic comprised 31 percent of the county's population. This is from Nina Perales, Luis Figueroa and Criselda G. Rivas, "Voting Rights in Texas, 1982-2006", *RenewTheVRA.org*, at 17-18.

In 1992, DOJ objected to the Terrell County Commissioners Court redistricting plan. Although the Hispanic population in the county had increased from 43 percent to 53 percent, the proposed redistricting plan cracked the Hispanic population by substantially decreasing the number of Hispanic voters in one of the two Hispanic majority districts and packing them into the other to create a district with an 83 percent Hispanic district. This is from Nina Perales, Luis Figueroa and Criselda G. Rivas, "Voting Rights in Texas, 1982-2006," *RenewTheVRA.org*, at 19.

In 2005, DOJ objected to the redistricting plan for the Town of Delhi, LA, which eliminated an African-American opportunity district, rejected an alternative plan which would have been better for minority voters, and was adopted with the intent to worsen the position of minority voters. According to the 2000 Census, Delhi's population was majority African-American, yet local officials attempted to reduce minority voting strength in the town. DOJ denied pre-clearance after determining that town officials sought to worsen the position of minority voters by looking first to the historical background of the city's decision, which revealed that the plan was adopted despite steadily increasing growth in the town's African-American population. In its April 25, 2005, objection letter, DOJ stated, "[w]ithout

question, Black voters are worse off under the proposed plan," which was adopted despite the counsel of the Town's demographer, who noted the retrogressive effect of the plan. This is from a Letter from R. Alexander Acosta, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to Mr. David Creed, Executive Director, North Delta Regional Planning and Development District, April 25, 2005.

In 1992, the Department of Justice objected to Florida's redistricting plan for the State Senate, observing that "[w]ith regard to the Hillsborough County area, the State has chosen to draw its senatorial districts such that there are no districts in which minority persons constitute a majority of the voting age population. To accomplish this result, the State chose to divide the politically cohesive minority populations in the Tampa and St. Petersburg areas." This is from JoNel Newman, "Voting Rights in Florida, 1982-2006", *RenewTheVRA.org*, at 9.

The Department of Justice interposed an objection to the 2002 redistricting plan for the Florida House of Representatives, stating that the plan reduced "the ability of Collier County Hispanic voters to elect their candidate of choice [and] the drop in Hispanic population in the proposed district would make it impossible for these Hispanic voters to continue to do so." As a result of the Department's Section 5 objection to the 2002 reapportionment plan, Hispanic majority-minority district was preserved in Collier County. This is JoNel Newman, "Voting Rights in Florida, 1982-2006", *RenewTheVRA.org*, at 10.

In 2002, the Department of Justice objected to Arizona's state legislative redistricting plan because it fractured Hispanic voters and reduced Hispanic voting age population in 5 districts below their 1994 benchmarks, despite the growth of the State's Hispanic population and the ability to draw three compact majority-Hispanic districts. The State court responded by accepting an interim plan recommended by a Special Master that restored one district to its benchmark level and created 2 new Hispanic-majority districts in metropolitan Phoenix to replace some of the other four majority Hispanic-majority districts that had been eliminated.

In 1991, Hispanic plaintiffs and Monterrey County, California, which was 33.6 percent Hispanic, reached a settlement plan which, unlike Monterrey's initial plan, did not dilute the vote of the county's Hispanic population. However, after voters struck down the county's redistricting plan in a required referendum petition, the county issued a new plan to which the Justice Department objected under section 5, stating that the County's plan "... appears deliberately to sacrifice Federal redistricting requirements, including a fair recognition of Hispanic voting strength, in order to advance the political interests of the non-minority residents of northern Monterey County." Subsequently, the district court adopted the plaintiffs' plan. As a result of the implementation of the plaintiffs' plan, a Hispanic was elected to the Board of Supervisors for the first time in over 100 years. This is *Gonzalez v. Monterey County* 808 F.Supp. 727, 729 (N.D. Cal. 1992); Joaquin G. Avila, California State Report on Voting Discrimination (forthcoming May 25, 2006, manuscript at 9).

After the 1990 census, Merced County, CA, adopted a redistricting plan that ignored the presence of its growing Hispanic population which at the time constituted 32.6 percent. In doing so, the county disregarded its demographer's recommendation to create a supervisor district with a Hispanic majority and instead chose a plan that fragmented the county's Hispanic population. The Justice Department issued an objection rejecting the

county's redistricting plan because the plan fragmented the Hispanic population. Following the objection, the county created a new redistricting plan that both avoided the fragmentation of the county's Hispanic population and created a supervisory district with a Hispanic majority. The plan was later approved and a Hispanic Supervisor elected. This is Joaquin G. Avila, California State Report on Voting Discrimination, forthcoming May 25, 2006, manuscript at 11.

DISCRIMINATORY POLLING PLACE CHANGES

Another method used in covered jurisdictions to deny minorities the right to vote has been to move or even eliminate polling places, often without notice. Moving a polling place can appear to have little impact or importance, but the record demonstrates that these changes have been used systematically to deny minorities their constitutional right to vote by injecting intimidation and confusion into the electoral process.

Some have cited polling place changes as "de minimis" changes for which there should be an exception to section 5 pre-clearance. However, making such an exception could lead to substantial violations of minority voting rights. As Robert McDuff, a civil rights attorney in Mississippi who has worked on preclearance testified, "polling place changes can be retrogressive and should not be dismissed as per se de minimis. With section 5 preclearance requests the context is critical and DOJ has an expertise in assessing the context." Robert McDuff, Answers to Written Questions from Senator Coburn. The following examples demonstrate that far from being "de minimis," polling place changes can be one of the most effective means of denying minorities the right to vote.

In 1992, the Attorney General objected to a proposal by the Wrightsville, GA, to relocate the polling place from the county courthouse to the American Legion Hall, an all-white club with a history of refusing membership to black applicants and a then-current practice of hosting functions to which blacks were not welcome. This is Laughlin McDonald "The Case for Extending and Amending the Voting Rights Act," A Report of the Voting Rights Project of the American Civil Liberties Union at 333, 334.

In 1995, Jenkins Parish, LA, attempted to relocate a polling place from a predominantly black community easily accessible to many voters by foot to a location outside the city limits in a predominantly white neighborhood which had no sidewalks, curving roads, and a speed limit of 55 mph. The Attorney General rejected the change, concluding, "the county's proffered reasons for the selection of this particular polling site appear to be pretextual, as the selection of this location appears to be designed, in part, to thwart recent black political participation." This is Deval L. Patrick, Assistant Attorney General, to William E. Woodrum, Jenkins County Attorney, March 20, 1995.

In 1985, the Apache County Board of Supervisors proposed to eliminate the last remaining polling place on Arizona's Fort Apache Reservation, reduce the daily hours of operation for those voting stations that remained open, and implement a rotating polling place system that would make it even harder for Navajo voters to reach the polls. Yet, absentee voting opportunities were not provided to Indian voters. Pointing to the clear discriminatory purpose and effect of the proposed changes, the Department of Justice objected. This is James Thomas Tucker and Rodolfo Espino, "Voting Rights in Arizona 1982-2006," *RenewTheVRA.org*, 46, 2006.

In 1994, after receiving word that whites were uncomfortable walking into an African-

American neighborhood to vote at the Sunset Community Center, the St. Landry Parish, LA, Police Jury moved the polling place to the Sunset Town Hall, the site of historical racial discrimination. The police jury did not hold a public hearing, seek any further input, or advertise the change in any way. If not for the section 5 pre-clearance process, minority voters would not have known of the change until Election Day. This is Debo P. Adegbile, "Voting Rights in Louisiana, 1982-2006," *RenewTheVRA.org*, at 31.

In 1999, after the Davills Precinct polling center burned down and the County Board of Supervisors of Dinwiddie County, Virginia, moved the polling place to the Cut Bank Hunt Club, privately owned with a large African-American membership, one hundred and five citizens submitted their signatures to have the precinct moved to the Mansons United Methodist Church, located three miles southeast of the Hunt Club. The petition's stated purpose for moving the precinct was for a "more central location." Before the board's meeting to discuss moving the polling place, the Mansons United Methodist Church withdrew its name as a possible location. The board then placed an advertisement for a public hearing on changing the polling place which stated that if any "suitable centrally located location [could] be found prior to July 15, 1999," they would consider moving it there. On July 12, 1999, the Bott Memorial Presbyterian Church members offered their facilities for polling. On August 4, 1999, the board approved changing the polling place to Bott Memorial Presbyterian Church. The church is located at the extreme east end of the precinct, however, and 1990 Census data showed that a significant portion of the black population resides in the western end of the precinct.

DOJ objected to the change, finding that the polling place was moved for discriminatory reasons. This is a Letter from Bill Lann Lee, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Benjamin W. Emerson of Sands, Anderson, Marks & Miller, October 27, 1999.

METHODS OF ELECTIONS

Officials have used their authority to set the methods of elections as ways to abridge or even deny the ability of minority citizens to vote and elect candidates of their choice. The following are examples of the use of at-large election systems, dual registration systems and other methods since the last reauthorization of section 5.

In 1995, the State of Mississippi resurrected a form of the dual registration system, which a Federal district court had struck down less than a decade earlier as racially discriminatory in intent and effect. Mississippi then refused to submit its voting procedures for pre-clearance until ordered to do so by the U.S. Supreme Court. Under the unlawful system, voters who registered pursuant to the National Voter Registration Act, NVRA, would only be eligible to vote in federal elections, but not in State and local elections. The majority of voters registered under the NVRA were African-American. In addition, while one state department provided its mostly-African-American public assistance clientele with only the NVRA registration forms, another department registered its mostly-white driver's license applicants through the state forms, which enabled them to vote in all elections. In its objection letter, DOJ noted the state had merely breathed new life into the dual registration system originally enacted by Mississippi in the 19th Century with an aim to eliminate the African-American vote. This is Robert McDuff, "Voting Rights in Mississippi: 1982-2006," *RenewTheVRA.org* at 16.

In 1992, Effingham County, Georgia proposed an at-large election system despite anticipating that, due to racially polarized voting, after the change, African-Americans would no longer be able to elect the commissioner who would serve as chairperson. This decision came on the heels of the county's decision to eliminate the position of vice-chairperson, long held by an African-American commissioner. The county's justification for the change—that the proposed system would avoid tie votes in the selection of a chairperson—was tenuous at best because under the new system, an even number of commissioners would invite tie votes to a greater extent than the existing system. This is Robert Kengle, "Voting Rights in Georgia: 1982-2006," RenewTheVRA.org at 9-10.

Ten years after a successful lawsuit that forced the adoption of single-member districts in the city of Freeport, TX, minority candidates had gained two seats on the city council. The City then sought to revert to at-large elections, garnering an objection from the Department of Justice. Similarly, the Haskill Consolidated Independent School District sought to revert to at-large voting after significant gains by minority populations.

After the Washington Parish, Louisiana, School Board finally added a second majority-African American district in 1993, bringing the total to 2 out of 8, representing an African American population of 32 percent, it immediately created a new at-large seat to ensure that no white incumbent would lose his or her seat and to reduce the impact of the two African American members, to 2 out of 9. The Department of Justice objected to this change. (See Letter from James P. Turner, Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Sherri Marcus Morris, Assistant Attorney General, State of Louisiana, and Jerald N. Jones, City of Shreveport, September 11, 1995, cited in Debo Adebile, Voting Rights in Louisiana: 1982-2006, February 2006, at 21.)

A Federal district court found that the at-large method of electing the nine member Charleston County Council in South Carolina violated section 2 of the Voting Rights Act. In particular, the court found evidence of white bloc voting and concluded that in 10 general elections involving African-American candidates, "white and minority voters were polarized 100 percent of the time." The court also noted that there was a history of discrimination that hindered the present ability of minority voters to participate in the political process; significant socio-economic disparities along racial lines; a negligible history of African-American electoral success; and significant evidence of intimidation and harassment of African-American voters at the polls. Following the court's decision, which was affirmed on appeal, a single-member district plan was put in place with four majority African-American districts that eventually led to the election of four African Americans to the County Council. This is Laughlin McDonald "The Case for Extending and Amending the Voting Rights Act," A Report of the Voting Rights Project of the American Civil Liberties Union at 591-592.

In 2005, a three-judge Federal court enjoined the city of McComb, MS, from enforcing a State court order it had obtained that removed an African-American member of that city's board of selectmen from his seat by changing the requirements for holding that office, holding that the order clearly altered the pre-existing practice. The court ordered the selectman restored to his office and enjoined the city from enforcing the change unless preclearance was obtained. This is Robert McDuff, "Voting Rights in

Mississippi: 1982-2006," RenewTheVRA.org at 8.

In 1991 the Concordia Parish Police Jury in Louisiana announced that it would reduce its size from 9 seats to 7, with the intended consequence of eliminating one African-American district, claiming the reduction was necessary as a cost-saving measure. However, DOJ noted in its objection that the parish had seen no need to save money by eliminating districts until an influx of African-American residents transformed the district in question from a majority-white district into a majority African-American district. This is Debo P. Adebile, "Voting Rights in Louisiana: 1982-2006," RenewTheVRA.org at 24.

ANNEXATIONS

The following are examples from the record where jurisdictions changed their boundaries in order to diminish the voting power of minorities by selectively changing the racial composition of a district. Numerous jurisdictions have annexed neighboring white suburbs in order to preserve white majorities or electoral power.

In 1990, the city of Monroe, LA attempted to annex white suburban wards to its city court jurisdiction. In its objection, DOJ noted that the wards in question had been eligible for annexation since 1970, but that there had been no interest in annexing them until just after the first-ever African-American candidate ran for Monroe city court. This is Debo P. Adebile, "Voting Rights in Louisiana: 1982-2006," RenewTheVRA.org at 24.

Pleasant Grove, Alabama was an all-white city with a long history of discrimination, located in an otherwise racially mixed part of Alabama. The city sought pre-clearance for two annexations, one for an area of white residents who wanted to attend the all-white Pleasant Grove school district instead of the desegregated Jefferson County school district, the other for a parcel of land that was uninhabited at the time but where the city planned to build upper income housing that would likely be inhabited by whites only. At the same time, the city refused to annex to two predominantly black areas. The United States Supreme Court upheld the District Court's denial of pre-clearance. This is from City of Pleasant Grove v. United States, 479 U.S. 462, 1987.

In 2003, the Department of Justice interposed an objection to a proposed annexation in the Town of North, SC, because the town had "been racially selective in its response to both formal and informal annexation requests." DOJ found that "white petitioners have no difficulty in annexing their property to the town" while "town officials provide little, if any, information or assistance to black petitioners and often fail to respond to their requests, whether formal or informal, with the result that the annexation efforts of black persons fail." Though the town argued that no formal attempts had been made by African-Americans to be annexed into the town, DOJ's investigation revealed that at least one petition had been signed by a significant number of African-American residents who sought annexation. The fact that the town ignored or was non-responsive to the requests of African-Americans, while accommodating the requests of whites, led DOJ to determine that race was "an overriding factor in how the town responds to annexation requests." This is a Letter from R. Alexander Acosta, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, to H. Bruce Buckheister, Mayor, North, SC, September 16, 2003.

THE CRISIS IN THE MIDDLE-EAST

Mr. FEINGOLD. Mr. President, I stand firmly with the people of Israel and their government as they defend themselves against these outrageous attacks. The kidnapping of Israeli soldiers and missile attacks against Israeli citizens are unacceptable and cannot be tolerated.

The first steps toward establishing peace must begin with the unconditional and immediate return of the kidnapped Israeli soldiers. Lebanon, Syria, Iran, and countries throughout the region must also condemn the actions of and cease all forms of support of Hezbollah, Hamas, and other groups committed to blocking or derailing the pursuit of peace. These countries must take strong actions immediately to return stability to the region.

Any sustainable peace depends on the cessation of support for terrorist organizations. U.N. resolutions have clearly articulated obligations and requirements of countries throughout the region. Iran and Syria must stop all support for Hezbollah and Hamas immediately.

That said, all sides to this conflict must show as much restraint as possible. It is in the long-term interest of peace that parties to this conflict find an end to this current crisis without damaging the prospects for a sustained and permanent solution to this conflict.

ADDITIONAL STATEMENTS

HONORING DR. PETER ALAN McDONALD

● Mr. BAYH. Mr. President, today I, along with Senator CANTWELL, pay tribute to the life of a talented physician and respected citizen, Dr. Peter Alan McDonald, who passed away on June 15. I know he will be greatly missed in both Washington and his native Indiana.

Peter has left a rich legacy through his efforts to better the lives of others. From his studies in mathematics and medicine at Indiana University to his well-known work as a gifted and efficient emergency physician at St. Joseph Hospital, he dedicated himself to ensuring the welfare of those around him.

Peter's boundless passion for life led him to excel in many fields beyond his profession. An active outdoorsman and athlete, he found great joy in hockey, windsurfing, boating, and fishing. Family and friends may best remember Peter for his wonderful stories and sense of humor. He is survived by his wife, Kelli McDonald; his father, Alan McDonald; his mother, Mary Mandeville; his two brothers, Tom McDonald and Jeff McDonald; and his sister, Linda Frank.

While it is a tragedy to have Peter taken from us at such an early age, we can find comfort in the full life he led. It is a rare man who can make such an