

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
July 13, 2006

Statement of Senator Patrick Leahy  
Ranking Member, Committee on the Judiciary

"Renewing the Temporary Provisions of the Voting Rights Act: Legislative Options after  
LULAC v. Perry"

Hearing before the Subcommittee on the Constitution,  
Civil Rights and Property Rights  
July 13, 2006

As we convene this hearing today, the House of Representatives is, after some delay, debating the House bipartisan bill to reauthorize the Voting Rights Act, a companion bill to the bipartisan bill we have been considering in the Senate, S. 2707.

The efforts in the House today have finally received the strong endorsement of the White House. In its Statement of Administration Policy released today, the Administration stated that not only is it "strongly committed to renewing the Voting Rights Act and therefore supports House passage of H.R. 9," but also that it, "supports the legislative intent of H.R. 9 to overturn the U.S. Supreme Court's 2003 decision in *Georgia v. Ashcroft* and its 2000 decision in *Reno v. Bossier Parish School Board*."

This morning, we on the Senate Judiciary Committee sought to take up and report our bill. It has been on our agenda since June 22. It is time for us to act. I noted this morning that although the matter has been pending for several weeks, not a single amendment to the bill has been circulated or filed. I take that as a sign that our bipartisan bill, which 12 of the 18 Members of the Judiciary Committee have cosponsored, is ready for reporting by the Judiciary Committee.

I have been urging that the Voting Rights Act reauthorization bill be made a priority of the Judiciary Committee. I appreciate Chairman Specter's willingness to invoke Committee Rule V to limit last minute amendments. I appreciate his willingness to schedule a special session next

Wednesday devoted to Voting Rights Act reauthorization so that we can fulfill his commitment to report the bill to the Senate by July 20. We will work with the Republican and Democratic leaders of the Senate promptly to schedule this important matter for floor debate and get it done.

This afternoon's hearing reminds us of the continuing importance of the Voting Rights Act, as demonstrated most recently by the Supreme Court's decision in the Texas case. It is not strictly a hearing on the bill or even on reauthorizing the Voting Rights Act. When the Chairman agreed to this hearing two weeks ago, I understood that it would be a hearing about the recent Supreme Court decision in the LULAC v. Perry case. In that case the Supreme Court recognized the continued vitality of the Voting Rights Act and in accordance with the Voting Rights Act found that 100,000 Latino Americans had suffered illegal disenfranchised by the Tom Delay-led redistricting scheme in Texas.

I hope that no one is using this hearing to delay completing our important work on legislation to reauthorize the Voting Rights Act. The Supreme Court's decision in the LULAC case did not question the constitutionality of the Voting Rights Act or limit congressional power to reauthorize the Act. The Supreme Court's failure to raise any constitutional concerns about the Voting Rights Act while holding the disenfranchisement of 100,000 Latino voters illegal is a good sign, a sign that any doubt about constitutionality of protecting fundamental rights like voting from discrimination has long been settled. No justice took the opportunity to take a swipe at the reauthorization of the Voting Rights Act. No justice questioned congressional power to provide for fairness as we have in the Voting Rights Act.

I agree with Chairman Specter on the importance of establishing a robust record so that our reauthorization can pass constitutional muster. With the Chairman's leadership, the Committee has done that. We have compiled thousands of pages of documentary evidence and heard the testimony of dozens of witnesses. The Supreme Court's finding that the right to vote of 100,000 Latino's was abridged in Texas in violation of the Voting Rights Act only further demonstrates the continuing need for the Act. If this is to be considered a hearing on reauthorization of the Voting Rights Act, then it is the 21st hearing we have had on reauthorization in the House and the Senate.

But this is not a hearing on reauthorization legislation. The Supreme Court's decision in LULAC did not involve any of the Voting Right's Act expiring provisions. The Voting Rights Act reauthorization seeks to reauthorize three expiring provisions of the Voting Rights Act: Section 5, requiring preclearance of voting changes in certain states and jurisdictions; Section 203, which guarantees language assistance in certain jurisdictions; and Sections 6-9, which provide for federal examiners and observers to monitor elections. It also restores Congress' original intent

behind Section 5. The Supreme Court's determination that Texas' redistricting plan violated the Voting Rights Act was decided under Section 2.

The LULAC case did not address pre-clearance under Section 5, or the standards used in pre-clearing voting changes. Our reauthorization bill clarifies that, under Section 5, a district must afford the minority community an equal opportunity to elect a candidate of choice, which can be accomplished-- but does not have to be-- by using a majority-minority district. . It is not correct to claim, as some have done, that the Voting Rights Act reauthorization would require the creation of "majority-minority districts."

I want to thank our witnesses for testifying today. Professor Joaquin Avila is an Assistant Professor of Law at Seattle University School of Law and nationally recognized minority voting rights expert who served as President and General Counsel of MALDEF from 1982 to 1985 and has devoted his private practice exclusively to the protection of minority voting rights. Professor Sherrilyn Ifill is a civil rights lawyers and an Associate Professor of Law at the University of Maryland School of Law in Baltimore, Maryland, where she teaches civil procedure, constitutional law and an array of civil rights courses. Prior to teaching, she served as an Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc., where she litigated voting rights cases, in particular on behalf of African-American voters challenging the method of electing judicial officers in Texas, Louisiana and Oklahoma. Nina Perales is the Southwest Regional Counsel for MALDEF in San Antonio, Texas, directing MALDEF's litigation, advocacy and public education in Texas, New Mexico, Colorado and six additional southern and western states.

Ms. Perales, who specializes in voting rights litigation, including redistricting and vote dilution challenges, successfully argued the LULAC case before the United States Supreme Court. I commend each of them on their work and thank them for being with us today.

It is time to move forward with our bipartisan bill. Prior to the enactment of the Voting Rights Act, minorities faced major barriers to participation in the political process, through the use of such devices as poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, and systematic vote dilution. We have made significant progress toward a more inclusive democracy but the obstacles to full enjoyment of the franchise have not been eliminated. Fortunately, instances of blatant denials of the right to vote are far less common, but the abridgment of the right is still a problem in some parts of the country. We should not let this historic Act sunset or permit backsliding merely because the obstacles have becomes more subtle. We owe it those who struggled so long and hard to transform the landscape of political inclusion so that all Americans could enjoy its bounty by reauthorizing this historic act without further delay.

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