

Statement of

# The Honorable Patrick Leahy

United States Senator  
Vermont  
May 17, 2006

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Ranking Member, Senate Judiciary Committee  
Hearing on the Costs and Benefits of Section Five Pre-clearance  
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Today marks the anniversary of the Supreme Court's landmark decision in *Brown v. Board of Education*. As we proceed with our fifth hearing before the Senate Judiciary Committee on reauthorizing the Voting Rights Act, it seems appropriate to recognize the great struggle for civil rights which led to the enactment of the Voting Rights Act in 1965. Like *Brown v. Board of Education*, which began to bring to an end America's sorry history of racial segregation, the Voting Rights Act is helping bring equal participation in voting to all Americans.

I am encouraged that we have moved forward with hearings and the introduction of our bipartisan, bicameral bill. I trust that we will keep to our plan of concluding hearings before we break for the Memorial Day recess. We have been working to report our bill before Memorial Day. Regrettably, now we must look to do so by mid-June. The House Judiciary Committee has been moving forward. After almost a dozen hearings, the House Judiciary Committee last week reported our bicameral, bipartisan bill to reauthorize the Voting Rights Act by a vote of 33 to one. If we are to fulfill our commitment to reauthorizing this important measure this year, we need to stay on schedule and push forward to make progress.

Today's hearing is our fourth focusing at least in part on Section 5, the provision of the Voting Rights Act that requires covered jurisdictions to "pre-clear" changes to voting before they go into effect. By preventing discriminatory laws from going into practice, Section 5 provides one of the most effective measures to fight certain kinds of pervasive and recurring discrimination. We have heard testimony from many witnesses about examples of discrimination continuing to this day in covered jurisdictions, and about how much harder it would be in those jurisdictions for minority citizens to protect their voting rights without Section 5. We have also heard from many witnesses, including the Assistant Attorney General for Civil Rights, that Section 5 serves as a great deterrent against discriminatory efforts cropping up anew.

At this hearing, we will hear more from witnesses about the benefits of Section 5. What greater benefit is there to our democracy than to ensure that no American citizens are prevented from participating fully in it? Like the rights guaranteed by the First Amendment, the right to vote is foundational because it secures the effective exercise of all other rights. As people are able to register, vote, and elect candidates of their choice, their interests and rights get attention. The chief benefit of Section 5 is that it furthers the very legitimacy of our government, which is dependent on the access all Americans have to the political process.

I helped amend the Act in 1982 to include the new bailout provision to give covered jurisdictions without recent violations the opportunity to get out of Section 5 coverage. Even though no jurisdiction that has tried to bail out has failed, fewer than a dozen jurisdictions have sought to remove themselves from Section 5 coverage. In fact, Section 5 is supported by many local officials in covered jurisdictions, like those on the Monterey County Board of Supervisors, who sent a letter to House Judiciary Chairman Sensenbrenner urging that it be reauthorized.

We have heard from many outstanding witnesses. Today we welcome a distinguished panel. Fred Gray is one of the Nation's pioneering civil rights lawyers, who has spent a lifetime fighting for those who were denied the rights to equal

protection and equal dignity under the law. After graduating law school, he immediately went to work defending Rosa Parks and Dr. Martin Luther King, Jr. in the Montgomery Bus Boycott. Starting in the late 1950's, he brought landmark voting rights cases like Gomillion v. Lightfoot to the Supreme Court, paving the way for the expansion of voting rights that culminated in the Voting Rights Act of 1965. Armand Derfner has had a distinguished career as a voting rights litigator and author. Mr. Derfner began his career in 1965 working with the first federal examiners under the Voting Rights Act to register citizens to vote in Greenwood, Mississippi, and working with Congress each time Section 5 has been extended, in 1970, 1975, and 1982. Drew Days, one of the country's top constitutional lawyers, was the Solicitor General of the United States from 1993 to 1996, and has argued 23 cases before the Supreme Court of the United States. Professor Days also formerly served as the Assistant Attorney General for Civil Rights. The Committee is honored that you are joining us today and I thank you for participating in these hearings.

I do regret that we have given short shrift to extension of Section 203 and the protection of language minorities. I wish we had moved ahead with witnesses on that matter this week and completed it on time. We may wish to supplement the record on that aspect of our bill before the Senate debate.

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