Voting Rights Act Support Is Bipartisan, Even If Limbaugh Disagrees

By:Sergio Munoz – February 7, 2013

Rush Limbaugh promoted the accusation that Democrats were using *The New York Times* to pressure the Supreme Court into rejecting the current constitutional challenge to the Voting Rights Act in *Shelby County v. Holder*, which he claimed would fuel Democratic voter fraud. But Limbaugh ignored the fact that support for the Voting Rights Act has historically been, and currently is, bipartisan and the odds of in-person voter fraud are rarer than getting "struck by lightning."

During the February 5 edition of his show, Limbaugh aired a segment titled, "Democrats Move to Make Voter Fraud Easier," in which he declined to get into the "specifics" of the actual case, instead alleging a partisan conspiracy was underway to "facilitate Democrats winning elections" through "fraud." Among other inaccuracies, Limbaugh apparently was unaware of the accounts of voters unable to exercise the franchise, theeleven states that already permit election day voter registration, the "correlation-causation" fallacy of assuming greater turnout means voter suppression does not exist, and the fact that in-person voter fraud - the rationale behind requiring unnecessary and redundant photo ID - is a myth.

Instead, he attacked a *New York Times* article that reported a recent Massachusetts Institute of Technology analysis of the 2012 election that concluded "blacks and Hispanics waited nearly twice as long in line to vote on average than whites":

> RUSH: So what is this all about? Well, you have come to the right place. This article is motivated by three things. First, the Supreme Court is about to rule on the Voting Rights Act in a few weeks, so the New York Times is leaning on them. The New York Times knows that the justices of the Supreme Court value the opinion of reporters and editors at the New York Times. And so the Times is getting its marker down on what it wants the court to do in relationship to this Voting Rights Act case that's coming up. And without getting into specifics, what they want the justices to do is find it possible, make it possible for more Democrats to vote, make it easier for more Democrats to vote.
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> Notice there's nothing here about Republicans being in these long lines. The whole premise of the story, long lines equal long waits, equals people leaving the line and going home and not voting, which equals lost votes for the Democrats, which equals, "We can't have that." And so the Voting Rights Act case, without getting into specifics of it, the New York Times is putting down a marker for the justices so that they can keep in mind what's really important about the Voting Rights Act, and that is to do whatever is necessary in their ruling to make it

> possible for fraud to continue, to make it possible for registration and voting on the same day, same place, to take place, to happen, or whatever is necessary to facilitate Democrats winning elections.

But Rush's claim that a vast left-wing conspiracy is manipulating the Court to defend the Voting Rights Act ignores the fact that support for the provision being challenged - Section 5 - has past and present bipartisan support. Section 5, the "preclearance" component of the Voting Rights Act that requires jurisdictions with a history of race-based voter suppression to submit election changes for federal approval, was reauthorized for 25 years by former President Ronald Reagan in 1982 and for another 25 by former President George W. Bush in 2006. The latter reauthorization was overwhelmingly passed by bipartisan majorities in Congress, unanimously in the Senate. Currently, a group of senior Republican and Democratic members of the House Committee on the Judiciary - including key Congresspersons involved in the 2006 reauthorization - filed anamicus brief in *Shelby* in defense of Section 5. According to the Republican Congressmen involved in the brief:

> Rep. F. James Sensenbrenner, Jr. (R-Wis.): "The Voting Rights Act is the crown jewel of civil rights laws. It protects our most fundamental right--the right to vote. This law has empowered minorities to participate in the election process, but the threat of discrimination is not yet extinct. In 2006, the House compiled 12,000 pages of extensive testimony. This record shows Section 5 not only worked to correct past injustices, but is unmistakably central to the continued protection of minorities' right to vote in covered districts. I am proud of this law, and join my colleagues in ardently defending its constitutionality."
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> Rep. Steven Chabot (R-Ohio): "The Constitution expressly grants broad authority to Congress to both regulate the time, manner and place of elections and to enact legislation to ensure that no citizen's right to vote is unlawfully denied. As such, Congress was acting at the height of its constitutional powers both when it enacted Section 5 of the Voting Rights Act and when it reauthorized those provisions in 2006. During the reauthorization process, the House Judiciary Committee conducted 12 hearings, received testimony from 46 witnesses and compiled an extensive record to support its conclusion that Section 5 should be reauthorized. Consequently, I urge the Supreme Court to defer to the judgment of Congress and uphold this important provision in its entirety."

Conversely, those advocating for the Supreme Court to strike down this crucial part of the Voting Rights Act appear uniformly conservative, either as a member of right-wing media, the Republican Party, or fueled by "dark money." And their arguments sound a lot like the ones coming from Limbaugh.

For example, a number of former disgruntled Bush-era officials have become vocal, if discredited, right-wing media voices in opposition to the Voting Rights Act while supporting the recent spike in Republican-fueled voter suppression as a response to "virtually non-existent" voter fraud. Some of the more prolific objectors, led by National Review Online writer Hans von Spakovsky, filed an amicus brief in *Shelby* and managed to receive a direct rebuke from former senior Republican Department of Justice officials - such as the Attorney General for both Reagan and the former President George H.W.

Bush - who informed the Supreme Court that "neither the facts nor the law support their argument."

Furthermore, the mastermind behind the challenge to Section 5's constitutionality is a former Republican candidate himself, who after losing to an African-American candidate, entered a life of advocacy against race-conscious civil rights law. First as a conservative writer at NRO and fellow at the American Enterprise Institute, Edward Blum utilized the right-wing media to further the litigation work of his defunct Campaign for a Color-Blind America. Although elimination of all consideration of race from policy and legislation has never been approved by the Supreme Court, Blum's new organization - the Project on Fair Representation - is now on the cusp of possibly achieving his ideological goals. Not only did Blum organize the challenge to the Voting Rights Act in *Shelby*, he's also behind the challenge to race-conscious higher education admissions -*Fisher v. University of Texas* - another case the Supreme Court will likely decide before *Shelby*. In two fell swoops, therefore, Blum could find himself responsible for eliminating two of the most effective civil rights policies of the past half-century, and undermining a slew of other antidiscrimination laws.

Blum's project, and decisions that gut the Voting Rights Act and eliminate affirmative action, also appear to be an underappreciated project of right-wing donors such as the Koch brothers and the Bradley Foundation. Blum's Project on Fair Representation is housed and fully-funded by a low-profile donor-advised fund called Donors Trust. As described in *Mother Jones*:

> Founded in 1999, Donors Trust (and an affiliated group, Donors Capital Fund) has raised north of $500 million and doled out $400 million to more than 1,000 conservative and libertarian groups, according to Whitney Ball, the group's CEO. Donors Trust allows wealthy contributors who want to donate millions to the most important causes on the right to do so anonymously, essentially scrubbing the identity of those underwriting conservative and libertarian organizations. Wisconsin's 2011 assault on collective bargaining rights? Donors Trust helped fund that. ALEC, the conservative bill mill? Donors Trust supports it. The climate deniers at the Heartland Institute? They get Donors Trust money, too.
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> Donors Trust is not the source of the money it hands out. Some 200 right-of-center funders who've given at least $10,000 fill the group's coffers. Charities bankrolled by Charles and David Koch, the DeVoses, and the Bradleys, among other conservative benefactors, have given to Donors Trust. And other recipients of Donors Trust money include the Heritage Foundation, Grover Norquist's Americans for Tax Reform, the NRA's Freedom Action Foundation, the Cato Institute, the American Enterprise Institute, the Federalist Society, and the Americans for Prosperity Foundation, chaired (PDF) by none other than David Koch.
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> The amount of cash passing through Donors Trust has skyrocketed. In 2002, Donors Trust and Donors Capital Fund took in $1.4 million and gave out $1.2 million. By 2010, $44 million was flowing in and $63 million heading out. Donors Trust's board of directors, which ultimately decides who gets funded, reads like a conservative who's-who directory: Arthur Brooks, president of

American Enterprise Institute; John Von Kannon, vice president of the Heritage Foundation; William Mellor, president of the Institute for Justice, a libertarian legal firm; and Kris Alan Mauren, director of the Acton Institute, a Michigan-based conservative think tank.

In his commentary on *Shelby*, Limbaugh was correct that there is concerted and one-dimensional synergy between ideological money, media, and one of the two major political parties in what may be one of the most important civil rights cases in a generation.

He's just looking in the wrong direction.