



Sean Higgins: If you like the current Congress, thank the Voting Rights Act

Sean Higgins February 26, 2013

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Wednesday morning, the Supreme Court will hear the case of Shelby County, Ala. v. Eric Holder. The case has liberals in a panic because it is a challenge to part of the Voting Rights Act. The Left worries that the current conservative-leaning court may roll back part of it.

The irony here is that the VRA is a huge part of the reason why conservatives now dominate the South and the U.S. Congress. In an effort to ensure minority voting rights, the law perversely created a system that made it much easier for Republicans to win.

VRA Sections 2 and 5 facilitated the creation of so-called "minority-majority districts" designed to ensure the election of black officials. These new districts were gerrymandered to pack blacks in, taking loyal Democratic voters away from other (white) candidates.

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Once upon a time the South was dominated by these white Democrats. So complete was the domination that they even had a phrase -- "yellow dog Democrat" -- to describe a district so partisan that even a yellow dog could win if he ran on the party ticket.

Granted, they were more conservative than today's Democrats, but not as much as is often claimed. These Democrats, for example, were the backbone of President Roosevelt's New Deal coalition.

The 1965 Voting Rights Act changed that. This is usually attributed to a simple racist backlash. President Johnson reportedly said as he signed the law that Democrats would lose the South "for a generation" because of it.

But that supposed backlash was extremely slow in coming. The change really occurred in the 1990s and was devastating for the once-dominant Democratic Party.

By 1981, Southern Democrats still outnumbered Southern Republicans in Congress almost 2 to 1. As recently as 1995, they still represented nearly half of Southern

delegations. Today, they represent less than a third. The 11 states of the old Confederacy -- Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas and Virginia -- now collectively have 160 senators and congressmen. Only 46 are Democrats. Remove fast-growing Texas and Florida, and the number of Democrats falls to 23. Of that total, 11 are in the Congressional Black Caucus.

So what happened to the white Southern Democrat? When the VRA was reauthorized by Congress in 1982, lawmakers included instructions for determining whether a jurisdiction was violating the law. One was "the extent to which members of the minority group have been elected to public office."

That created an incentive to draw heavily black districts, especially in the South. Because of its past history of discrimination, Section 5 of the law requires any change to an electoral map in most Southern states to get "pre-clearance" from the Justice Department. Whether that provision should still apply is the issue the Supreme Court is hearing Wednesday.

The effect of the 1982 reauthorization did not really kick in until after the next census in 1990, when congressional districts had to be redrawn to reflect population shifts. In 1990, only 27 of the 435 congressional districts were majority-minority. In 1992, the number went to 51.

Once these majority-minority districts are created, they cannot be legally undone. That would result in what is called "retrogression" in civil rights terminology -- a decline in power by minority groups. "Section 2 [of the VRA] guarantees that the ability of minority groups to elect candidates of their choice shall not diminish," notes Cato Institute lawyer Ilya Shapiro. That hurt white Democrats badly, especially in the South. Black voters were moved out of their districts, making the elections more competitive. Those Democrats began falling like flies.

It is not a coincidence that Republicans, led by Newt Gingrich, took over Congress in 1994.

Consider this: In the last election, Democratic House candidates collectively got more than 1 million more votes than GOP candidates and still couldn't retake the House. While the creation of majority-minority districts wasn't the only factor in the gerrymandering that made this Republican victory possible, it was certainly a major reason for it.

The creation of these districts has actually limited minority lawmakers, too. They lean so heavily Democratic that the members they elect have a harder time building a broader constituency base, and rarely win statewide elections.

Currently, the only black member of the U.S. Senate is Tim Scott, a Republican appointee who was first elected to the House by mostly white Republican voters. There have been only three black governors in modern times, and Massachusetts' Deval Patrick is the only one now in office.

The VRA has created another problem: Republican lawmakers have fewer black voters in their districts, which partly explains their difficulty reaching out to minorities.

Do liberals really think that the current Congress, a product of more than 50 years of the VRA's influence, reflects minority voters' best interests? If not, then maybe it is time to rethink the law.