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Voting Rights Act: After 40 Years, It's Time for Virginia to Move On . . .

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In a few days the nation will mark the 40th anniversary of the passage of the Voting Rights Act. It will rightly be a day of celebration; the statute accomplished what it was beautifully designed to do: ending black disfranchisement in Virginia and other parts of the Jim Crow South.

In 1965, only 38 percent of blacks were registered to vote in Virginia, while 61 percent of whites were. Today the gap has virtually disappeared; politics in this state and across the nation has been permanently changed. The era of redneck registrars, fraudulent literacy tests, violence, and intimidation at the polls is over. Today, African-American votes count in electing both blacks and whites to public office across the nation. Indeed, no one knows this better than Virginians, who in 1989 elected Douglas Wilder, the first African-American to serve as a Governor of a state.

Most of the provisions of the Voting Rights Act are permanent, but a few were envisioned by Congress to be short-term. These provisions were put in place to address a specific emergency: Southern contempt of the 15th Amendment rights of blacks to register to vote and participate in elections. It is obvious that this emergency has passed, but the emergency provisions are still in place. And in 2005 it's time to revisit whether they're still needed.

THE MOST important of these temporary, emergency provisions is Section 5 of the act, which requires that either the federal Justice Department or the D.C. district court "preclear" -- that is, approve -- every change involving elections in what are called the "covered" states and counties. Since Virginia is one of the states covered under Section 5, even a change in the location of a polling place anywhere in the Commonwealth must be approved by Washington.

For instance, in 2003 Richmond voters approved a plan to create the direct election of a Mayor, rather than the Mayor being appointed by the City Council. Even though voters passed this referendum by a 4-1 ratio, it could only go into effect when blessed by the U.S. Justice Department. And yet if Charleston, West Virginia, made a similar change no federal approval would be necessary, since that state is not covered by the preclearance provision.

What, in fact, do unelected, behind-closed-doors bureaucrats in Washington know about race and politics in Dinwiddie, Cumberland, and Northhampton Counties -- all of which have had redistricting plans turned down by Washington during the past few years?

This extraordinary power over state and local electoral affairs was justified in 1965. Southern officials could not be trusted to ensure the most basic of all rights -- that of every eligible citizen to participate in America's great democracy. But today?

In 1965, Congress wisely gave the emergency provisions a life of only five years. Any longer seemed constitutionally unacceptable -- and unnecessary. After repeated extensions they are now due to expire in 2007. But already, two years before the deadline, the congressional leadership, including Senator George Allen, is promising to extend them another quarter-century.

IF FEDERAL intrusion were benign it would be of little concern. It's not. Arguably, it's actually creating more harm than good by now. Under its preclearance powers, the Justice Department has long been demanding jurisdictions create wildly racially gerrymandered districts that protect minority candidates from white political competition. Virginia was sued in 1996 by a multiracial group of voters over the creation of one of these bug-splat districts -- Congressman Robert Scott's Third Congressional District. The court ruled that the district was an unconstitutional gerrymander and violated the Equal Protection Clause of the Constitution. In 1998, under court orders, the General Assembly redrew the district to make it more compact and reunite cities that had been split apart by race. It cost the state millions of dollars to defend what the Justice Department was improperly demanding it do.

Such racially gerrymandered districts result in a segregated -- and uncompetitive -- political map with safe minority and safe white districts, and no incentives to build biracial coalitions and bring Americans together across the lines of race and ethnicity. Everyone knows there is almost no turnover in Congress; incumbents keep winning. American politics is much less fluid than it should be. Almost no one points to the Voting Rights Act as one important reason this should be so.

Congress should let these emergency provisions expire: They're not needed, they've lost their logic, and they create mischief. It's time to let Virginia and all of America move on.

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