

# Voting and Racial History

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Instead of ensuring that voting rights are extended to all Americans, many state legislatures are engaged in efforts to [shut out voters](#) in this election year, taking aim at young people, immigrants and minorities.

Last week, a panel of judges on the United States Court of Appeals for the District of Columbia heard a case that could eviscerate the ability of the federal government to prevent racial discrimination in voting. The issue in [Shelby County v. Holder](#) involves Section 5 of the 1965 Voting Rights Act, which requires that jurisdictions with flagrant histories of racial discrimination in voting must get permission from the Justice Department or a federal court before making any changes in their voting rules or laws.

Shelby County, Ala., one of those jurisdictions, [contends](#) that Section 5 intrudes unconstitutionally on the sovereign authority of states. It argues that while the preclearance rule was justified when the country, especially the South, was ending legal segregation, it is no longer needed. That argument was properly dismissed in a 151-page [opinion](#) by Judge John Bates of Federal District Court, who ruled that the discrimination that led to passage and extensions of the Voting Rights Act endures. The appeals court should uphold his decision.

The case is important because in 2009, by a 8-to-1 vote, the Supreme Court said there are “[serious constitutional questions](#)” about whether Section 5 meets a current need, although the justices did not answer those questions at that time. Chief Justice John Roberts Jr., writing for the majority, left some legal experts with the impression that the court had come close to striking down Section 5. Fortunately, it did not do so.

When Congress nearly unanimously reauthorized the Voting Rights Act in 2006, it relied on abundant evidence that there is still pervasive, persistent, even Jim Crow-style [voting discrimination](#) in the South and elsewhere — including in Shelby County and other parts of Alabama. Without Section 5’s preclearance requirement, Congress found, “racial and language

minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years.”

The provision remains an effective and essential check against widespread voting violations. Many jurisdictions still actively sabotage the interests of minority voters, as shown in new efforts to keep these voters from the polls. Discrimination would be even more widespread without the continuing and critical deterrence of the preclearance requirement.