SELMA

DEFENDING DEMOCRACY IN THE 50TH ANNIVERSARY YEAR OF THE VOTING RIGHTS ACT

THE VOTING RIGHTS ACT @ 50

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

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WE MARCH WITH
SELMA!


EDMUND PETTUS BRIDGE

LDF'S *SHELBY COUNTY* LEGAL TEAM

THE VOTING RIGHTS ACT AT 50

Fifty years ago, on what became known as "Bloody Sunday," state troopers in Selma, Alabama violently assaulted 600 unarmed men, women, and children, who peacefully attempted to march across the Edmund Pettus Bridge to draw national attention to their fight to participate in the political process. They were met with ruthless violence.

Legal Defense Fund (LDF) lawyers quickly crafted, filed, and executed a successful legal challenge that ultimately led a federal court to order that the march go forward. Just five months later, President Lyndon Johnson signed into law the Voting Rights Act of 1965, the crowning achievement of the civil rights movement.

As the Voting Rights Act reaches its 50th year, and as LDF celebrates its 75th anniversary, we reflect on the tremendous steps toward equality that have been made since the passage of the Voting Rights Act. At the same time, we are sober-minded about the reality that the march toward equality continues.

The work of advancing and protecting the right to vote is not self-executing. It requires our eternal vigilance. Indeed, the U.S. Supreme Court's devastating ruling in 2013 in *Shelby County, Alabama v. Holder*, which struck a core provision of the Voting Rights Act, and the recent assault on voting rights across our nation, are salient reminders of this reality.

In this important anniversary year, we urge you to join us in committing ourselves to safeguarding our right to vote and taking hold of Dr. Martin Luther King, Jr.'s fundamental belief that, "with the power of our votes, we can transform the land."

BLOODY SUNDAY 3.7.65

On Bloody Sunday, March 7, 1965, 600 peaceful marchers set out from Selma's Brown Chapel A.M.E. church. Dressed in their Sunday best, they had a plan: they were going to march the 54 miles from Selma to Montgomery to dramatize to the nation—indeed, the world—their demand for the right to vote.

The marchers—led by Hosea Williams, John Lewis, Amelia Boynton, and, in absentia, Martin Luther King, Jr.—marched through Selma toward the Edmund Pettus Bridge. That was where their journey was halted. Waiting for them were hundreds of state troopers, volunteers, and officers from the Dallas County Sheriff's office, armed with guns and tear gas. Governor George Wallace had entered an order earlier that day prohibiting the march. The troopers and their local counterparts were present to enforce that order at all costs.

The marchers stopped. Recognizing the imminent danger facing them, they decided to kneel and

AMELIA BOYNTON

pray. However, before the marchers could even get to their knees to pray, they were viciously attacked by Alabama state troopers, who tear-gassed, clubbed, spat on, whipped, and (for those on horses) trampled on these peaceful marchers with their horses. In the end, John Lewis's skull was fractured by a state trooper's nightstick, and nearly 20 other marchers were hospitalized.

The peaceful protestors never had the option of returning to safety.

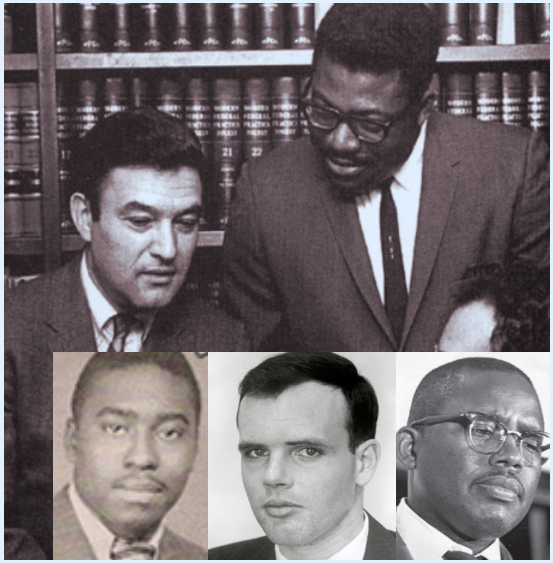
Video from the day's tragic and bloody events aired that same night, interrupting regular programming and horrifying Americans nationwide.

The legal battle began immediately. That night, LDF attorneys Jack Greenberg, Norman Amaker, Steven Ralston, and Demetrius Newton drafted a motion for a preliminary injunction to dissolve Governor Wallace's order prohibiting the march.

The LDF attorneys wrote:

> *Plaintiffs here have at all times wished to conduct a peaceful, non-violent march to the Capitol of the State of Alabama in order to protest the deprivation of Negro citizens of their right to vote. They began such a march on Sunday, March 7 1965; the marchers were entirely peaceful, and the only violence that occurred was at the hands of State law enforcement officials. It is clear that such a demonstration is protected under the First Amendment to the Constitution…There is no showing here that the enjoining of plaintiffs was necessary. It is clear that the threat of violence or other public disturbance against persons seeking to exercise peacefully a constitutionally protected right is not a ground for interfering with them.*[1]

[1] *William v. Wallace,* Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction and Motion to Dissolve Temporary Restraining Order Against Plaintiffs.



LDF ATTORNEYS JACK GREENBERG, NORMAN AMAKER, DEMETRIOUS NEWTON, AND STEVE RALSTON with FRED GRAY

The very next day, on March 8, 1965, the LDF attorneys arrived in Montgomery to meet with Fred D. Gray, a fellow civil rights attorney and LDF cooperating counsel, and to file their motion in federal court.

Judge Frank Johnson, Jr. denied the motion. He held that the plaintiffs—march leaders Hosea Williams, John Lewis, and Amelia Boynton—would suffer no irreparable injury or harm "if they are ordered to refrain from attempting to exercise what they claim to be a constitutional right to march, until the matter can be judicially determined at an early hearing."[2]

[2] *Williams v. Wallace,* Order Denying Motion for Temporary Restraining Order, Temporary Restraining Order, and Setting Cause for Hearing on Motion for Preliminary Injunction.

In the very early hours of March 9, 1965, LDF Director-Counsel Jack Greenberg participated in a conference call with Dr. King and others to devise a plan. Dr. King, Lewis, and Williams were considering breaking the still-intact restraining order prohibiting the march from leaving Selma. They wanted to maintain their momentum and continue to build nationwide and global support for the movement for the right to vote. Greenberg advised Dr. King that, though crossing the bridge would certainly violate Wallace's order—and Judge Johnson's temporary order allowing that mandate to stand—the order also was legally invalid. After that call, it was clear to everyone that the march would go forward later that day. What remained unclear was how the march would end—in additional violence, arrests, or worse.

That day, March 9, Dr. King and 1,500 protesters again walked to the Edmund Pettus Bridge. They heard a federal marshal read out Judge Johnson's order that the march not go forward. They walked on. And then they stopped. Dr. King led the kneeling group in prayer. They then turned around and peacefully walked back. The marchers did not violate the court order, but they did extend the swell of national attention on Selma.

On March 11, 1965, the court hearing began. LDF attorneys challenged allegations that Dr. King violated the court order. They objected when opposing counsel treated witnesses, including Dr. King, with blatant disrespect. They offered testimony about the police violence that the marchers experienced.

On March 15, 1965, Judge Johnson requested a detailed logistical plan for the march. That was a positive sign.

As the LDF attorneys retreated to their hotel to devise a plan, President Johnson weighed in on the events in Selma from Washington, D.C. Seventy (70) million Americans watched the President speak to a joint session of Congress about the importance of the right to vote:

> *Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right...*
>
> *The Constitution says that no person shall be kept from voting because of his race or his color. We have all sworn an oath before God to support and to defend that Constitution. We must now act in obedience to that oath...*
>
> *Wednesday I will send to Congress a law designed to eliminate illegal barriers to the right to vote...*
>
> *What happened in Selma is part of a far larger movement which reaches into every section and State of America. It is the effort of American Negroes to secure for themselves the full blessings of American life. Their cause must be our cause too. Because it is not just Negroes, but really it is all of us, who must overcome the crippling legacy of bigotry and injustice. And we shall overcome.*

Later that week, Judge Johnson struck down Governor Wallace's temporary restraining order, thereby allowing the march to go forward. Judge Johnson also issued an injunction prohibiting Governor Wallace, the Alabama Director of Public Safety, and the Sheriff of Dallas County from "intimidating, threatening, coercing or interfering with the proposed march by these plaintiffs" and requiring Wallace to provide "adequate police protection" for the march.

The marchers arrived in Montgomery on March 25, 1965. At the rally that greeted the marchers in Montgomery, Dr. King stood before tens of thousands of demonstrators. He proclaimed:

> *Last Sunday, more than eight thousand of us started on a mighty walk from Selma, Alabama. We have walked through desolate valleys and across the trying hills. We have walked on meandering highways and rested our bodies on rocky byways. Some of our faces are burned from the outpourings of the sweltering sun. Some have literally slept in the mud. We have been drenched by the rains. Our bodies are tired and our feet are somewhat sore.*
>
> *They told us we wouldn't get here. And there were those who said that we would get here only over their dead bodies, but all the world today knows that we are here and we are standing before the forces of power in the state of Alabama saying, "We ain't goin' let nobody turn us around."*

Dr. King promised that change and opportunity would come soon. And he was right.

On August 3, 1965, only four months later, the U.S. House of Representatives approved the Voting Rights Act in a 328-74 vote. On August 4, 1965, the Senate followed suit. Congress passed the Voting Rights Act of 1965.

On August 6, 1965, President Johnson signed the groundbreaking Act into law in the very same room that witnessed Abraham Lincoln's signing of the Emancipation Proclamation, abolishing slavery more than 100 years prior.

The promise of equal voting rights in the United States finally had a mandate. The Voting Rights Act instantly removed barriers, such as literacy tests, poll taxes, and voucher requirements that had long kept Black and other people of color from voting. More broadly, as a result of the Voting Rights Act, the number of Black elected officials in this country increased nearly fivefold within five years after its passage. As a result of the Act, today there are over 10,000 Black elected officials at all levels of government across the country. Most of these officials are elected from districts created or protected under the Votinig Rights Act where people of color form a majority of the voters.

The Voting Rights Act also twice helped lead to the election of a Black American to the highest office in the land—the U.S. Presidency. For nearly 50 years, the Voting Rights Act of 1965 has stood as the core protection against racial discrimination in voting.

LDF ATTORNEY
RYAN P. HAYGOOD and
LDF PRESIDENT AND DIRECTOR-COUNSEL
SHERRILYN A. IFILL

THE VOTING RIGHTS ACT TODAY: A CALL TO ACTION

Despite four subsequent reauthorizations of the Voting Rights Act in 1970, 1975, 1982, and 2006—all of which involved testimony from past LDF Director-Counsels—the voting rights of voters of color remain under assault.

In June 2013, a core provision of the Voting Rights Act was struck down. The U.S. Supreme Court held as unconstitutional Section 4(b) of the Act in *Shelby County, Alabama v. Holder*, a case out of the very state where the Selma to Montgomery march took place 50 years ago. This key provision identified 15 states and localities that—because of their long and virulent histories of racial discrimination in voting—were subject to Section 5 of the Voting Rights Act. Section 5 required those 15 "covered" states and localities to demonstrate to the U.S. Department of Justice or a federal court in Washington, D.C. that any proposed changes to their voting laws would not be harmful to voters of color *before* those laws could go into effect and spread their harm. By striking down Section 4(b), the Supreme Court immobilized Section 5. The decision was akin to letting you keep your car, but taking away your keys.

LDF represented Black community leaders from Shelby County, Alabama and argued the case in the Supreme Court. For almost 50 years, Section 5 served as our nation's discrimination checkpoint, providing critical protection for millions of voters of color—Black, Latino, Asian, American Indian, and Alaskan Native—in those places of our country where racial discrimination has been the most persistent and adaptive. In a devastating opinion, however, a narrow 5-4 majority of the Supreme Court made millions of voters vulnerable to voting discrimination.

LDF'S *SHELBY COUNTY* CLIENTS

ALABAMA SENATOR HANK SANDERS AND ROSE SANDERS, LEADING ALABAMA CIVIL RIGHTS LAWYERS

The Supreme Court debilitated the heart of the Voting Rights Act—Section 5—even though a bipartisan Congress in 2006 voted nearly unanimously to reauthorize the Voting Rights Act. After hearing from more than 90 witnesses with a diverse range of views, holding 20 hearings, and evaluating a 15,000-page record, 98 Senators and 390 House members voted to re-authorize Sections 4(b) and 5 of the Act. The Supreme Court's *Shelby County* decision disregards the will of Congress, and, more importantly, the will of the voters represented by Congress.

Notwithstanding the Supreme Court's ruling in *Shelby County*, the fight for equal electoral opportunity continues.

LDF and its partners across the country fought against immeasurably greater obstacles 50 years ago when the Act was first enacted. Our charge today is attainable. We will continue to aggressively use all available legal tools, including the remaining provisions of the Voting Rights Act, to challenge harmful discriminatory measures which, in the wake of the Supreme Court's decision in *Shelby County,* are newly arising throughout places formerly covered by Section 4(b).

But we need your help in two critical ways:

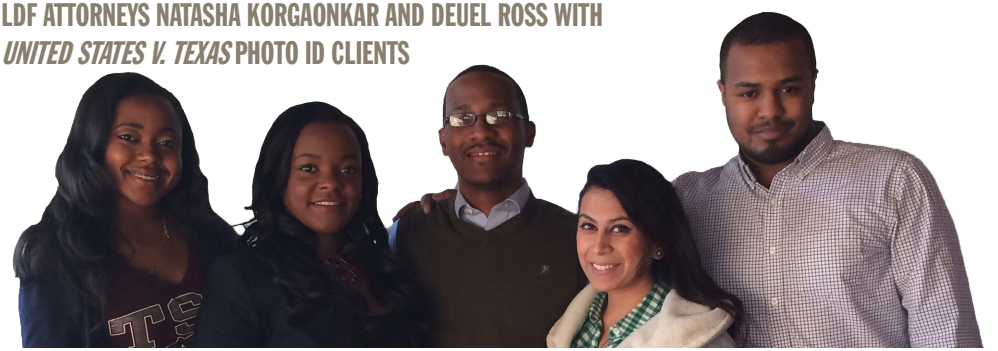
FIRST, without the key provision of the Voting Rights Act that required certain states to report all voting changes *before* their implementation, you, the public, now become our eyes and ears on the ground.

Within hours of the Supreme Court's *Shelby County* decision, the State of Texas—where, in 2012 alone, Section 5 of the Voting Rights Act blocked both the state's discriminatory photo ID law and intentionally discriminatory redistricting plans—announced that it would implement those measures immediately. This is only one of the many examples of formerly-covered states taking advantage of the gap in Section 5's protection by reverting back to laws that the Act previously blocked.

We encourage you to let us know of any voting changes that are planned in your community, which you believe may have a negative impact on your community.

These changes might include: moving polling places to locations that are difficult for your community to access; switching to at-large voting or appointing officials who were formerly elected; redrawing district lines in a manner that reduces the number of majority-Black or Latino (or other

LDF ATTORNEYS NATASHA KORGAONKAR AND DEUEL ROSS WITH *UNITED STATES V. TEXAS* PHOTO ID CLIENTS



majority-minority) districts; reducing the early voting period; curtailing opportunities to register to vote; or implementing new voter ID requirements—like photo ID or proof of citizenship.

We need you to collect stories about voting changes in your community, and to tell us about them at vote@naacpldf.org.

SECOND, fewer than seven months after the Supreme Court's devastating decision in *Shelby County*, members of Congress on January 16, 2014 introduced bipartisan legislation to restore the promise and protections provided by the Voting Rights Act. The bill, known as the Voting Rights Amendment Act of 2014 (VRAA), reflects Congress's recognition of the urgent need to protect the millions of voters of color made vulnerable by the *Shelby County* decision.

The VRAA, however, is just a first step. Now is the time for you to help us urge Congress to make strengthening and passing the VRAA a top priority. The Voting Rights Act had been reauthorized four times—always with bipartisan support, and even in times of great national division.

We can and must urge passage of bipartisan legislation like the VRAA. As the struggle to ensure that all Americans can participate equally in the political process continues, voting rights advocates and everyday citizens must remain vigilant and do all that they can to safeguard against efforts to constrict democracy in state, local, and federal elections and beyond. **Our democracy requires our vigilance. And our democracy also requires that, on this 50th anniversary celebration of the Voting Rights Act and the historic march that led to its passage, we urge Congress restore the Act to its full strength. Right away.**

STAND WITH US.

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