10-1981

Hathorn v. Lovorn

Lewis F. Powell, Jr.

A Response has been requested. David thinks summary reversal is indicated. But case seems of limited importance

I agree dl

Inclined to Deny

PRELIMINARY MEMORANDUM

October 30, 1981 Conference
List 3, Sheet 3

No. 81-451

HATHORN (Mayor), et al. Cert to Miss. S. Ct. (Broom for the court)

v.

LOVORN, et al. State/Civil Timely

SUMMARY: Petr contests decision of the court below that compliance with §5 of the Voting Rights Act of 1965, 42 U.S.C. §1973c, was unnecessary.

FACTS: Since 1960, the Board of Trustees of the Louisville Municipal Separate School District has been composed of five

CFR w/ eye to a summary reversal. has already been requested

According to page 5 a response

members, three of whom are appointed by the governing authorities of the City of Louisville and two of whom are elected by the qualified electors of the school district living outside the city. Resps brought this action, seeking to change the method and manner of election. They relied on Miss. Code Ann. §37-7-203, which provided in relevant part: " . . . in any county in which a municipal separate school district embraces the entire county in which Highways 14 and 15 intersect, one (1) trustee shall be elected from each supervisor's district." (Emphasis added.) It was undisputed that this section referred only to Winston County, the area covered by the Louisville Municipal Separate School District.

Resps sought to enforce this provision and the election of one trustee from each supervisor's district. They also contended that the method for selecting trustees violated the one-man, one-vote principle and unconstitutionally diluted the vote of individuals residing outside the Louisville city limits. Resps' complaint was dismissed in the Chancery Court of Winston County; the chancellor ruled that §37-7-203 violated the state constitution and that resps' equal protection rights were not being violated under the one-man, one-vote rule.

On appeal, the Miss. S. Ct. reversed. See *Lovorn* v. Hathorn, 365 So. 2d 947 (Miss. 1978)(Lee for the court), cert. denied, 441 U.S. 946 (1979). The court agreed that §37-7-203 was unconstitutional in part: the portion underscored above, which referred to Highways 14 and 15, established a classification that was not rationally related to electing school trustees and was a

local and private law in violation of the state constitution. But the court reversed the chancellor's holding that the section was impermissible in toto.

Although recognizing the one-man, one-vote problem, the court found no need to reach that issue. It reversed the chancellor's decree, rendered judgment for resps, and remanded to the Chancery Court for election of one school board trustee from each supervisor's district.

Pursuant to the S. Ct.'s mandate, the Chancery Court outlined election procedures and ordered that they be submitted to the U.S. Attorney General or the DC for the District of Columbia in accordance with §5 of the Voting Rights Act of 1965, 42 U.S.C. §1973c. That section provides that states or political subdivisions seeking to enact or administer any election practice different from that in effect on Nov. 1, 1972, may enforce that change only after acquiring a declaratory judgment from the D.D.C. that the change does not have the purpose or effect of impermissibly denying the right to vote on the basis of race, or after securing the approval of the Attorney General.

A response from the Assistant Attorney General of the Civil Rights Division indicated that the Dep't of Justice did object to the proposed change. Specifically, the AG criticized the requirement that candidates win a majority of votes, a unique feature among county-wide school board elections in the state. The AG noted that approximately 39% of the Winston County population was black, but that blacks did not constitute a majority in any of the five supervisor's districts. The AG could

not conclude that the new provisions would not have a discriminatory effect, and he advised the petrs that the changes in the election procedure were legally unenforceable.

After additional hearings, the chancellor decreed that the election would remain in force subject to compliance with the Voting Rights Act and postponed the election.

DECISION BELOW: Resps appealed to the Miss. S. Ct., which held that the chancellor had properly imposed a majority vote run-off requirement: §37-7-203 provides that the election at issue shall be held in the same manner as is provided in Miss. Code Ann. §37-7-217, which requires a majority vote.

But the court ruled that the lower court had erred in mandating compliance with §5 of the Voting Rights Act. The S. Ct. noted that its prior opinion, which was the law of the case and which this Court had declined to review, had remanded the case for further proceedings and had thereby directed the Chancery Court to call an election pursuant to §37-7-203, which incorporates by reference the majority vote requirement. The matter need not be submitted again to the AG or the D.D.C., the court concluded.

The court therefore affirmed the chancellor's order except for the portion relating to the Voting Rights Act, and it ordered that an election be held pursuant to §37-7-203.

CONTENTIONS: Petrs argue that the Miss. S. Ct. does not have the authority to order noncompliance with §1973c and to

ignore the objection of the AG. Petrs rely on this Court's opinion from last Term in McDaniel v. Sanchez, No. 80-180 (June 1, 1981), in which the Court required preclearance of a reapportionment plan even though a DC had ordered redistricting to remedy a constitutional violation. The Court held: "[W]henever a covered jurisdiction submits a proposal reflecting the policy choices of the elected representatives of the people--no matter what constraints have limited the choices available to them--the preclearance requirement of the Voting Rights Act is applicable." Slip op., at 22. Petrs point out that this Court's denial of cert may not be considered an adjudication on the merits of the §5 preclearance requirement or an approval of the Miss. S. Ct.'s prior opinion.

DISCUSSION: The court below did not explain its finding that compliance with the Voting Rights Act was not required, and petrs seem to have a valid complaint. Under McDaniel, supra, the only exception to the preclearance requirement appears to apply to changes in election procedures ordered by federal district courts. A response would be helpful, and one has been requested.

There is no response.

10/20/81 Kinports Opn in petn

I RECOMMEND A GRANT
Coldwell

Dennis - a Mess!

The Petrs (Mayor & S/Bd Trustees) want to stay the Dec 5 election of School Trustees.

Petr argue that the AG has ruled that the "majority" vote (rather than "plurality" vote) provision of Miss. law is violated under Voting Rts Act, & that election will be set aside.

November 25, 1981 Conference
Supplemental List

No. A-439 (81-459) 81-451

HATHORN, et al. (Mayor & School Trustees)

v.

LOVORN, et al.

Application for Stay Presented to Justice White and by him Referred to the Court.

Miss. S.Ct.

We denied an earlier cert., but a recnd one (81-451) is pending - asking us to reverse the subj. of Miss 5/Ct that allows "majority" vote requirement.

SUMMARY: Pending decision on cert, applicants (who are petrs on cert) seek to stay the December 5, 1981 election of the school trustees for the Louisville Municipal Separate School District. The Miss. S.Ct. denied an earlier request for a stay. On application to the Circuit Justice, Justice White referred the matter to the Conference.

FACTS: Applicants do not include in this application the essential facts upon which they base their request. Rather they incorporate by reference their cert petn, 1/ which contests the decision

1/See No. 81-451, List 3, Sheet 3, Oct. 30, 1981 Conf. On October 26, the Court called for a response to the cert petn. The response, due Nov. 25, has not yet been filed.

Deny the stay unless the other Justices seem inclined to try a summary reversal ultimately (NOT)

of the court below that compliance with §5 of the Voting Rights Act of 1965, 42 U.S.C. §1973c, is unnecessary.

The cert petn reveals that since 1960, the Board of Trustees of the Louisville Municipal Separate School District has been composed of five members, three of whom are appointed by the governing authorities of the City of Louisville and two of whom are elected by the qualified electors of the school district living outside the city. Resps brought this action, seeking to change the method and manner of election to allow for the election of one trustee from each supervisor's district. They contended that the method for selecting trustees violated the one-man, one-vote principle and unconstitutionally diluted the vote of individuals residing outside the Louisville city limits. Resps' complaint was dismissed in the Chancery Court of Winston County. However, the Miss. S.Ct. reversed, rendered judgment for resps and remanded to the Chancery Court for election of one school board trustee from each supervisor's district (365 So. 2d 947). Subsequently, this Court denied cert (441 U.S. 946 (1979)).

Pursuant to the Miss. S.Ct.'s mandate, the Chancery Court outlined election procedures and ordered that they be submitted to the U. S. Attorney General or the DC for the District of Columbia in accordance with §5 of the Voting Rights Act of 1965, 42 U.S.C. §1973c.[2/]

2/That section provides that states or political subdivisions seeking to enact or administer any election practice different from that in effect on Nov. 1, 1972, may enforce that change only after acquiring a declaratory judgment from the D.D.C. that the change does not have the purpose or effect of impermissibly denying the right to vote on the basis of race, or after securing the approval of the Attorney General.

A response from the Assistant Attorney General of the Civil Rights Division indicated that the Dept. of Justice did object to the proposed change. Specifically, the AG criticized the requirement that candidates win a majority of votes, a unique feature among county-wide school board elections in the state. The AG noted that approximately 39% of the Winston County population was black, but that blacks did not constitute a majority in any of the five supervisor's districts. The AG could not conclude that the new provisions would not have a discriminatory effect, and he advised the petrs that the changes in the election procedure were legally unenforceable.

After additional hearings, the chancellor decreed that the election would remain in force subject to compliance with the Voting Rights Act and postponed the election.

DECISION BELOW: Resps appealed to the Miss. S.Ct., it held that the chancellor had properly imposed a majority vote run-off requirement based on Miss. Code Ann. §37-7-203, which provides that the election at issue shall be held in the same manner as is provided in Miss. Code Ann. §37-7-217, which requires a majority vote.

But the court ruled that the lower court had erred in mandating compliance with §5 of the Voting Rights Act. The Miss. S.Ct. noted that its prior opinion, which was the law of the case and which this Court had declined to review on cert, had remanded the case for further proceedings and had thereby directed the Chancery Court to call an election pursuant to §37-7-203, which incorporates by reference the majority vote requirement. The matter need not be submitted again to the AG or the D.C.C., the court concluded.

The court therefore affirmed the chancellor's order except for the portion relating to the Voting Rights Act, and it ordered that an election be held pursuant to §37-7-203.

CONTENTIONS ON THE MERITS: Petrs contend that the Miss. S.Ct. does not have the authority to order noncompliance with §1973c and to ignore the objection of the AG. See McDaniel v. Sanchez, 68 L.Ed 2d 724 (1981), where this Court required preclearance of a reapportionment even though a DC had ordered redistricting to remedy a constitutional violation. Secondly, they contend that this Court's denial of cert may not be considered an adjudication on the merits of the §5 preclearance requirement, or an approval of the Miss. S.Ct.'s prior opinion.[3/]

PETRS' CONTENTIONS ON THE APPLICATION: Essentially petrs rely on their arguments advanced on the merits. However they advise that they cannot await a decision on cert if they are to avoid further expense of money and efforts in preparation for the Dec. 5 election. To this argument they simply add that the Dept. of Justice disapproved the change in election procedure. Accordingly they aver that a grant of cert followed by a reversal of the decision below is likely; and they maintain that irreparable harm will result absent a stay.

RESPS' CONTENTIONS ON THE MERITS: Resps make the following arguments: (1) that a grant of cert is unlikely because this Court previously denied cert in this case earlier on the same questions; (2) that regarding the merits, the AG's only objection to the election is the requirement that a candidate obtain a majority, rather than a plurality, of votes; the possibility that a candidate will receive a plurality and not a majority is speculative; (3) that any

3/Resps' brief in opposition is due November 25.

alleged harm noted by applicants is mitigated by the tardiness of their application since they could have sought a stay immediately after the June 3 Miss. S.Ct. decision; and (4) that the balance of equities favor denying a stay since substantial time and money have already been expended in preparation for the election.

DISCUSSION: Resps have presented a reasonable argument regarding the equities of this application. Substantial time and money no doubt have been expended in preparation for the election--and there is no apparent reason why applicants could not have aided in avoiding such expense by filing their stay application soon after the June 3 Miss. S.Ct. decision. However, neither party advises whether such expense would in fact be lost if the election were stayed; certainly, most would not.

Resps' argument on the merits, however, seems insubstantial. Resps acknowledge that the AG objects to the election change; but they argue that the objection is limited to a factor that is not likely to occur, i.e., that a candidate will receive a plurality, and not majority, of votes. This Court need not engage in such speculation since the fact remains that the AG did lodge an objection. As such, any election would be in violation of the Voting Rights Act.

Resps further contend that a grant of cert and reversal are unlikely because of this Court's previous denial of cert in this case. At first glance such an argument would seem to have some validity. However, it seems that the significant factual difference between the present petn and the earlier case is the intervening AG objection dated March 28, 1980.

Since the response to the cert petn is due Nov. 25, the Court conceivably could reach a decison on the cert petn at the Dec. 4 Conference--one day before the election. However such action would certainly impose substantial hardship on the parties. I recommend that the application for stay be granted pending review of the cert petn.

There is a response.

11/24/81 Caldwell Ords. app'd.

PJC

Nuvemeber 25, 1981

Court ..... *Voted on*....., *19*...

Argued ....., *19*... *Assigned* ....., *19*... No. ~~A-439~~

Submitted ....., *19*... *Announced* ....., *19*... 81-451

Response Received
This is A Tempest in a Teapot – Deny the cert petition

HATHORN

vs.

MRS. BOBBY LOVORN

Still Deny 12/11

Application for stay presented to Justice White and by him referred to the Court.

Byron says "case of first impression" in a case where there will be a majority vote in every district. Also Reba wanted several months.

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
		G	D	N	POST	DIS	AFF	REV	AFF	G	D		
Burger, Ch. J.											✓		
Brennan, J.										✓			
White, J.											✓		
Marshall, J.										✓			
Blackmun, J.										✓			
Powell, J.											✓		
Rehnquist, J.											✓		
Stevens, J.										✓			
O'Connor, J.											✓		

December 11, 1981

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on ....., 19...
Assigned ....., 19...
Announced ....., 19...

No. 81-451

HATHORN

vs.

LOVORN

Response requested and received

Grant

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Burger, Ch. J.			✓										
Brennan, J.		✓											
White, J.			Summarily Rev or Grant										
Marshall, J.		✓											
Blackmun, J.			Summarily Rev										
Powell, J.			✓										
Rehnquist, J.			~~Summarily~~ Rev Dens										
Stevens, J.	Views SG or Grant												
O'Connor, J.			SG										
.....													

81-451 HATHORN v. LOVORN Argued 4/27/82

There in the "sport" from Miss. that should not have been granted.

The AG objected to the 1964 change in law w/r to this County, as it finally was interpreted by Miss. Ct in 1975. AG's objection is that it requires a majority (i.e. a run-off if first vote in only a plurality) because black have 39% of population & would have a better chance on a plurality basis

Mayo (Pets)

Supports reversal of S/Ct of Miss.

Reynolds (SG)

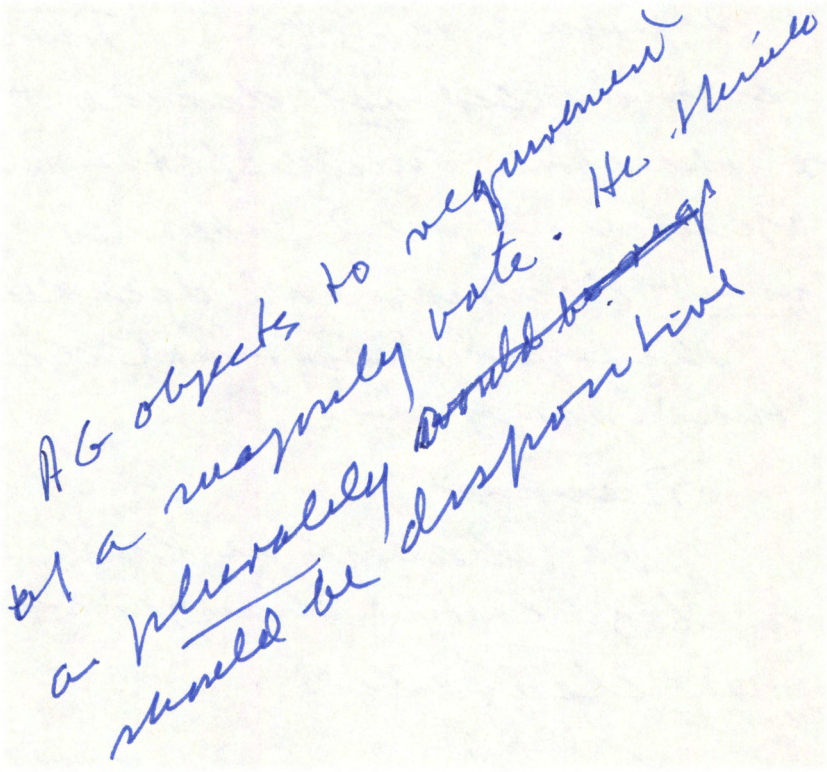
First Miss S/Ct decision did not address the §5 issue. It was not even ~~not~~ raised by Pets until ~~they~~ they E sought a rehearing. The S/Ct denied a rehearing w/o any further opinion or reference to §5. Thus, their first decision did not decide the §5 issue, & therefore Miss S/Ct – in its second opinion – erred when it held its first decision had decided V/Rts Act & therefor their final decision became the "law of case."

~~Pets~~

The change in law, in 1964, was a legislative change subject to pre-clearance.

What do we do about this? → A fed case is still pending.

SAG objects ~~to~~ only to the run-off provision. (Four of the five S/Bd members elected in Nov. were by "majority vote" – only one run-off)


AG objects to argument
of a majority vote. He thinks
a plurality should be
~~should be~~
should be sufficient

Weir (Resp) { The "thickest" deep So. accent I've ever heard.

Filed this suit to enforce the 1964 change in method of electing Bd members

No one in Hsn care objects to a run-off election. Resp counsel's position has been that all they want is election by each of 5 districts — makes no diff. to any of parties in the litig. ~~altogether~~

Aff - 6
DIG - 3

No. 81-451, Hathorn v. Lovorn Conf. 4/30/82

The Chief Justice DIG or join any 4 votes.

Justice Brennan Rev.

Reese controls

Justice White Rev.

The "law of case" on § 5 doesn't control. Cited one of Court's prior cases (Reese?)

Justice Marshall Rev.

Justice Blackmun Rev

Reese v Ga controls

§ 5 can't be waived

State Ct can't order an election contrary to § 5

Justice Powell DIG

I may not dissent, ~~but may not dissent~~. This is a "sport".

Can't tell exactly what Miss S/Ct did.

Fed. case is pending.

Negroes not involved. This is a local political fight.

Justice Rehnquist DIG. Otherwise Affirm

W+R make good argument & I may join them if he writes

Justice Stevens ~~Aff~~ Rev.

Clear violation of Voting Rights Act

Agree case is a "mess" - but we should make clear Fed statute must be enforced

Justice O'Connor Rev.

Voting Rts
Miss. §5 case that
we never should have
taken.

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

L.F.P

From: **Justice O'Connor**

Circulated: 5/29/82

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81–451

RALPH HATHORN, ET AL., PETITIONERS *v.*
MRS. BOBBY LOVORN, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI

[June ——, 1982]

JUSTICE O'CONNOR delivered the opinion of the Court.

We granted certiorari to decide whether a state court may order implementation of a change in election procedure over objections that the change is subject to preclearance under §5 of the Voting Rights Act of 1965.[1]

Renewed 5/30

I'll await dissent. At most, I'll only join the judgment. I see not join their opinion.

[1] Section 5 provides in relevant part:

"Whenever a [covered] State or political subdivision . . . shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, . . . such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not

I've written a note to WHR advising I'll probably join judg. only 5/31/82

I

Since 1960, the Louisville School District has been coextensive with Winston County, Mississippi. Until last December, the Louisville mayor and city aldermen appointed three of the five members of the District's Board of Trustees, and Winston County voters residing outside Louisville elected the other two members.

In 1964, the Mississippi legislature enacted a statute providing in part:

> "The boards of trustees of all municipal separate school districts created under the provisions of Article 1 of this chapter, either with or without added territory, shall consist of five (5) members, each to be chosen for a term of five (5) years, but so chosen that the term of office of one (1) member shall expire each year. . . . [I]n any county in which a municipal separate school district embraces the entire county in which Highways 14 and 15 intersect, one (1) trustee shall be elected from each supervisors district." Miss. Code Ann. § 37–7–203(1) (Supp. 1981).

Winston County is the only Mississippi county in which Highways 14 and 15 intersect. Officials in that county never implemented § 37–7–203(1) because they believed the statute's reference to Highways 14 and 15 violated a state constitutional prohibition against local, private, or special legislation.[2]

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be made. . . ." 79 Stat. 439, as amended, 42 U. S. C. § 1973c.
Section 4 of the Act, 79 Stat. 438, as amended, 42 U. S. C. § 1973b, defines covered jurisdictions.

[2] Miss. Const. Art. 4, § 90 provides:

"The legislature shall not pass local, private, or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz.

. . . . . .

"(*p*) Providing for the management or support of any private or common

In 1975, five Winston County voters filed an action in the Chancery Court of Winston County,[3] seeking to enforce the neglected 1964 state statute.[4] These plaintiffs, respondents here, named numerous Louisville and Winston County officials as defendants. The Chancery Court dismissed respondents' complaint, holding that the statute violated Mississippi's constitutional bar against local legislation. The Mississippi Supreme Court reversed, striking only the specific reference to Highways 14 and 15 and upholding the remaining requirement that, "in any county in which a municipal separate school district embraces the entire county," each supervisors district must elect one trustee. *Lovorn* v. *Hathorn*, 365 So. 2d 947 (Miss. 1979) (en banc). The court then "remanded to the chancery court for further proceedings not inconsistent with [its] opinion." *Id.*, at 952.

The local officials, petitioners here, filed a petition for rehearing, in which they argued for the first time that the Chancery Court could not implement the reformed statute until the change had been precleared under § 5 of the Voting Rights Act. The Mississippi Supreme Court denied the petition without comment, and this Court denied a petition for a writ of certiorari. 441 U. S. 946 (1979).

On remand, the Chancery Court ordered an election pursuant to the redacted statute. The court set out detailed procedures governing the election, including the requirement

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school, incorporating the same, or granting such school any privileges. . . ."

[3] The voters initially filed their suit in the United States District Court for the Northern District of Mississippi. That court stayed federal proceedings to give the Mississippi courts an opportunity to construe the state statute at issue. Record 320. In 1979, pursuant to a notice of voluntary dismissal by stipulation, the court dismissed the federal action without prejudice. Record 323.

[4] The voters also charged that the electoral system then in force violated the constitutional principle of one person/one vote. This issue is not before us.

that "[i]f no candidate receives a majority of the vote cast at any of said elections . . . , a runoff election shall be held . . . between the two candidates receiving the highest vote [in the first election.]" Record 143. The court derived the latter requirement from Miss. Code Ann. § 37–7–217 (Supp. 1981), which mandates runoffs in elections conducted under § 37–7–203(1). See Miss. Code Ann. § 37–7–209 (Supp. 1981). The Chancery Court also agreed with petitioners' claim that the changes in election procedures fell within § 5 of the Voting Rights Act, and directed petitioners to submit the election plan to the United States Attorney General for preclearance. Record 141, 146–147.[5]

Upon review of petitioners' submission, the Attorney General objected to the proposed change in election procedure "insofar as it incorporate[d] a majority vote requirement." App. to Pet. for Cert. A–8. Because of the substantial black population in Winston County,[6] an apparent pattern of racially polarized voting in the county, and the historical absence of blacks from various local governing boards, the Attorney General concluded that the runoff procedure could have a discriminatory effect. *Ibid.*[7]

Respondents attempted to overcome this obstacle by both joining the Attorney General as a defendant and persuading

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[5] As we have explained on numerous occasions, covered jurisdictions may satisfy § 5 by submitting proposed changes to the Attorney General. If the Attorney General objects to the proposal, the jurisdiction may either request reconsideration or seek a declaratory judgment from the United States District Court for the District of Columbia. A covered jurisdiction, of course, also may seek a declaratory judgment in the first instance, omitting submission to the Attorney General. See generally *Blanding* v. *DuBose*, 454 U. S. —— (1982); *Allen* v. *State Board of Elections*, 393 U. S. 544, 548–550 (1969).

[6] At that time, the Attorney General noted, blacks constituted approximately 39% of the Winston County population but were not a majority in any of the districts from which trustees were to be elected.

[7] The Attorney General also observed that the Winston County school district appears to be the only county-wide district in which Mississippi requires runoff elections.

the Chancery Court to hold the election without the runoff procedure. The court, however, refused to join the Attorney General and held that state law unambiguously required runoff elections. Buffeted by apparently conflicting state and federal statutes, the Chancery Court concluded that its decree calling for an election would "remain in force subject to compliance with the Federal Voters Right Act [*sic*] as previously ordered by this Court." Record 342.

Failing to obtain an election from the Chancery Court, respondents once again appealed to the Mississippi Supreme Court. That court observed that its "prior decision, which the United States Supreme Court declined to reverse or alter in any respect, became and is the law of the case." *Carter* v. *Luke*, 399 So. 2d 1356, 1358 (Miss. 1981). The court explained that because the prior decision upheld a statute referring to the statute requiring runoffs, and because both parties had agreed during oral argument to abide by the runoff procedure, the Chancery Court properly enforced the law requiring runoffs and improperly conditioned the election on compliance with the Voting Rights Act. Accordingly, the Mississippi Supreme Court reversed the portion of the Chancery Court's decree referring to the Voting Rights Act and "remanded with directions for the lower court to call and require the holding of an election." 399 So. 2d, at 1358. We granted certiorari to decide whether the Mississippi Supreme Court properly ordered the election without insuring compliance with federal law. 454 U. S. —— (1981).*

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*Shortly before petitioners filed their petition for certiorari, the Chancery Court set an election for December 5, 1981. That court, the Mississippi Supreme Court, and this Court denied motions to stay the election. See 454 U. S. 1070 (1981). On December 1, the United States filed suit in the United States District Court for the Northern District of Mississippi, seeking to enjoin implementation of the voting change involved in this case. The District Court refused to issue a temporary restraining order and has not taken any other action.

The December 5 election was held as scheduled. Although the record does not reflect the results of the election, the United States has informed

I

Before addressing the federal question raised by the Mississippi Supreme Court's decision, we must consider respondents' assertion that the lower court decision rests upon two adequate and independent state grounds. First, respondents contend that the state court's reliance upon the law of the case bars review of the federal question. It has long been established, however, that "[w]e have jurisdiction to consider all of the substantial federal questions determined in the earlier stages of [state proceedings], . . . and our right to re-examine such questions is not affected by a ruling that the first decision of the state court became the law of the case. . . ." *Reece* v. *Georgia*, 350 U. S. 85, 87 (1955). See also *Davis* v. *O'Hara*, 266 U. S. 314, 321 (1924); *United States* v. *Denver & Rio Grande R. Co.*, 191 U. S. 84, 93 (1903). Because we cannot review a state court judgment until it is final,[9] a contrary rule would insulate interlocutory state court rulings on important federal questions from our consideration.

The same concerns, of course, do not apply when a prior state decision was subject to review here. Under those circumstances, a state court's subsequent reliance upon the law of the case may preclude our review.[10] In this case, however, the Mississippi Supreme Court's first decision plainly

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us that a runoff election was held in at least one district. Brief for the United States as Amicus Curiae 10, n. 12; Tr. of Oral Arg. 22.

[9] 28 U. S. C. § 1257; *O'Dell* v. *Espinoza*, 456 U. S. —— (1982); *Market Street R. Co.* v. *Railroad Commission of California*, 324 U. S. 548, 551 (1945).

[10] See *Rio Grande Western R. Co.* v. *Stringham*, 239 U. S. 44, 47 (1915). Some scholars have questioned the scope of *Rio Grande*, suggesting that the decision may have turned upon the peculiar circumstance that both the first and second state court judgments were before the Court at the same time. See R. Stern & E. Gressman, Supreme Court Practice 192 (5th ed. 1978). We need not explore this suggestion because we conclude that the Mississippi Supreme Court's first decision was not final.

was not final. The court's remand "for further proceedings not inconsistent with [its] opinion," *Lovorn* v. *Hathorn*, 365 So. 2d 947, 952 (Miss. 1979) (en banc), together with its failure to address expressly the Voting Rights Act issue, suggested that the Chancery Court could still consider the federal issue on remand. Indeed, the Chancery Court interpreted its mandate in precisely this manner.[11] Because the Mississippi Supreme Court's first decision did not, at the time it was rendered, appear to be subject to our review, the court's subsequent invocation of the law of the case does not prevent us from reviewing federal questions determined in the first appeal.

Respondents also argue that the Mississippi Supreme Court pretermitted consideration of the Voting Rights Act because petitioners' reliance upon the issue in a petition for rehearing was untimely. We have recognized that the failure to comply with a state procedural rule may constitute an independent and adequate state ground barring our review of a federal question.[12] Our decisions, however, stress that a state procedural ground is not "adequate" unless the procedural rule is "strictly or regularly followed." *Barr* v. *City of Columbia*, 378 U. S. 146, 149 (1964). State courts may not avoid deciding federal issues by invoking procedural rules that they do not apply evenhandedly to all similar claims. Even if we construe the Mississippi Supreme Court's denial of petitioners' petition for rehearing as the silent application of a procedural bar, we cannot conclude that the state court consistently relies upon this rule.

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[11] The Chancellor, in fact, noted that it "would have been impossible to have submitted to the Attorney General for approval until this Court had set up the mechanics of the election, for until that was done, the Attorney General would not have the data necessary to either approve or disapprove." Record 90–91.

[12] *E. g.*, *Michigan* v. *Tyler*, 436 U. S. 499, 512 n. 7 (1978); *New York Times Co.* v. *Sullivan*, 376 U. S. 254, 264 n. 4 (1964).

Respondents cite two cases indicating that the Mississippi Supreme Court will consider an issue raised for the first time in a petition for rehearing "[o]nly in exceptional cases." *New & Hughes Drilling Co.* v. *Smith*, 219 So. 2d 657, 661 (Miss. 1969); *Rigdon* v. *General Box Co.*, 249 Miss. 239, 246, 162 So. 2d 863, 864 (1964). Although these opinions may summarize the court's practice prior to 1969, we have been unable to find any more recent decisions repeating or applying the rule.[13] On the contrary, the Mississippi Supreme Court now regularly grants petitions for rehearing without mentioning any restrictions on its authority to consider issues raised for the first time in the petitions.[14]

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[13] In *New & Hughes Drilling Co.* itself, the Mississippi Supreme Court permitted an exception to the alleged rule barring review of questions raised for the first time on rehearing. A case decided the same year as *New & Hughes Drilling Co.* is the most recent decision we have found that might have actually applied the procedural rule described by respondents. See *Leake County Cooperative* v. *Dependents of Barrett*, 226 So. 2d 608, 614–616 (Miss. 1969). Even that decision, however, may have rested upon a special rule involving waiver of defects in venue.

Neither the Mississippi Code nor the Rules of the Supreme Court of Mississippi embody the alleged prohibition against presentation of new issues in petitions for rehearing. Under these circumstances, it is difficult to know whether the Mississippi Supreme Court still adheres to the rule, applying it silently, or whether the court has abandoned the rule.

[14] See, *e. g.*, *Cortez* v. *Brown*, 408 So. 2d 464 (Miss. 1981) (en banc); *Cash* v. *Illinois Central Gulf R. Co.*, 388 So. 2d 871 (Miss. 1980) (en banc); *McKee* v. *McKee*, 382 So. 2d 287 (Miss. 1980) (en banc); *City of Jackson* v. *Capital Reporter Publishing Co.*, 373 So. 2d 802 (Miss. 1979) (en banc); *Realty Title Guaranty Co.* v. *Howard*, 355 So. 2d 657 (Miss. 1978) (en banc); *Couch* v. *Martinez*, 357 So. 2d 107 (Miss. 1978) (en banc); *Foster* v. *Foster*, 344 So. 2d 460 (Miss. 1977) (en banc); *McCrory* v. *State*, 342 So. 2d 897 (Miss. 1977) (en banc); *Daniels* v. *State*, 341 So. 2d 918 (Miss. 1977) (en banc); *Mississippi State Highway Commission* v. *Gresham*, 323 So. 2d 100, 103 (Miss. 1975) (en banc); *Powers* v. *Malley*, 302 So. 2d 262, 264 (Miss. 1974).

In *Mississippi State Highway Commission* v. *Gresham*, *supra*, the court expressly noted that its disposition depended upon a fact mentioned for the first time in the petition for rehearing. In several other decisions, the

One particular decision by the Mississippi Supreme Court, decided only last year, demonstrates that the court does not consistently preclude consideration of issues raised for the first time on rehearing. In *Quinn* v. *Branning*, 404 So. 2d 1018 (Miss. 1981), the court held that part of a criminal statute violated the state constitution's prohibition against local legislation. Striking the offensive language, the court approved the rest of the statute and affirmed the underlying conviction. The defendant then petitioned for rehearing, pointing out that the affidavit against him did not allege a crime under the reformed statute. The court agreed with this contention, granted the petition in part, and reversed the conviction, all without mentioning the rule against consideration of new issues on rehearing. The striking similarity between this case and *Quinn*, both involving issues that the parties could have foreseen but that arose with urgency only after the court upheld part of a challenged statute, persuades us that the Mississippi Supreme Court is not "strictly or regularly" following a procedural rule so as to preclude review of issues raised for the first time in a petition for rehearing. The denial of rehearing in this case, although not appearing sufficiently final to permit our immediate review, must have rested either upon a substantive rejection of petitioners' federal claim or upon a procedural rule that the state court applies only irregularly.[15] Thus, there are no independent and

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type of question considered on rehearing suggests that it was raised for the first time by the party petitioning for that relief. *E. g.*, *Cortez* v. *Brown*, *supra*; *City of Jackson* v. *Capital Reporter Publishing Co.*, *supra*; *Powers* v. *Malley*, *supra*. These decisions, however, do not expressly acknowledge the novelty of the points raised on rehearing.

[15] Respondents also contend that our decisions establish a general rule against review of questions presented for the first time in a petition for rehearing. We have recognized that, under many circumstances, "[q]uestions first presented to the highest State court on a petition for rehearing come too late for consideration here." *Radio Station WOW, Inc.* v. *Johnson*, 326 U. S. 120, 128 (1945). At the same time, however, we have ex-

adequate state grounds barring our review of the federal issue.

II

Respondents do not dispute that the change in election procedures ordered by the Mississippi courts is subject to preclearance under § 5.[16] They urge, however, that the Vot-

admit coverage

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plained that this bar does not apply if "the State court exerted its jurisdiction in such a way that the case could have been brought here had the questions been raised prior to the original disposition." *Ibid.* In this case we conclude that the Mississippi Supreme Court's first judgment on appeal either decided the federal question on the merits, although in a manner that did not appear final, or avoided the federal question by invoking an inconsistently applied procedural rule. If petitioners had made their claim prior to the court's original disposition, either of these circumstances would have permitted us to review the federal question.

[16] Mississippi plainly is one of the jurisdictions covered by the statute. *South Carolina* v. *Katzenbach*, 383 U. S. 301, 318 (1966); 30 Fed. Reg. 9897 (1965). The Louisville School District Board of Trustees, like all political entities within the State, accordingly must comply with § 5's strictures. See *Dougherty County Board of Education* v. *White*, 439 U. S. 32, 46 (1978); *United States* v. *Board of Commissioners of Sheffield*, 435 U. S. 110 (1978). It is immaterial that the change sought by respondents derives from a statute that predates the Voting Rights Act, because § 5 comes into play whenever a covered jurisdiction departs from an election procedure that was "*in fact* 'in force or effect' . . . on November 1, 1964." *Perkins* v. *Matthews*, 400 U. S. 379, 395 (1971) (emphasis original).

Finally, the presence of a court decree does not exempt the contested change from § 5. We held only last Term that § 5 applies to any change "reflecting the policy choices of the elected representatives of the people," even if a judicial decree constrains those choices. *McDaniel* v. *Sanchez*, 452 U. S. 130, 153 (1981). Although *McDaniel* involved a reapportionment plan drafted pursuant to a federal court's order, its interpretation of § 5 is equally instructive here. When state or local officials comply with a court order to enforce a state statute, there is no doubt that their actions "reflec[t] the policy choices of . . . elected representatives." Indeed, if § 5 did not encompass this situation, covered jurisdictions easily could evade the statute by declining to implement new state statutes until ordered to do so by state courts. Cf. *McDaniel* v. *Sanchez*, *supra*, at 151 (noting that "if covered jurisdictions could avoid the normal preclearance procedure by

ing Rights Act deprives state courts of the power even to decide whether § 5 applies to a proposed change in voting procedures.[17] Under their analysis of the Act, a state court asked to implement a change in the State's voting laws could not inquire whether the change was subject to § 5. Even if the change plainly fell within § 5, the court would have to ignore that circumstance and enter a decree violating federal law. Both the language and purposes of the Voting Rights Act refute this notion.

Only last Term we summarized the principles governing state court jurisdiction to decide federal issues. *Gulf Offshore Co.* v. *Mobil Oil Corp.*, 453 U. S. 473 (1981). We begin, in every case, "with the presumption that state courts enjoy concurrent jurisdiction" over those claims. *Id.*, at 478. Only "an explicit statutory directive, [an] unmistakable implication from legislative history, or . . . a clear incompatibility between state-court jurisdiction and federal interests" will rebut the presumption. *Ibid.* Most important for our purposes, even a finding of exclusive federal jurisdiction over claims arising under a federal statute usually "will not prevent a state court from deciding a federal question collaterally." *Id.*, at 483 n. 12.

Respondents rest their jurisdictional argument on three sections of the Act. Section 14(b) provides that "[n]o court other than the District Court for the District of Columbia . . . shall have jurisdiction to issue any declaratory judgment pursuant to . . . section 5. . . ." 79 Stat. 445, 42 U. S. C. § 1973*l*(b). We have already held, however, that this provi-

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awaiting litigation challenging a refusal to redistrict after a census is completed, [§ 5] might have the unintended effect of actually encouraging delay in making obviously needed changes in district boundaries"). In light of *McDaniel*, we conclude that a state court decree directing compliance with a state election statute contemplates "administ[ration]" of the state statute within the meaning of § 5.

[17] Respondents do not claim that Mississippi law restricts its courts' power to decide questions related to § 5.

sion governs only declaratory judgments approving proposed changes in voting procedure. Other courts may decide the distinct question of whether a proposed change is subject to the Act. See *Allen* v. *State Board of Elections*, 393 U. S. 544, 557–560 (1969); *McDaniel* v. *Sanchez*, 452 U. S. 130 (1981).

Sections 5 and 12(f) of the Act provide somewhat stronger support for respondents' claim. Section 5 provides that "[a]ny action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code," 79 Stat. 439, 42 U. S. C. § 1973c, while § 12(f) declares that "[t]he district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section." 79 Stat. 444, 42 U. S. C. § 1973j(f).[18] It is possible that these sections grant the federal courts exclusive jurisdiction over "action[s] under" § 5 or "proceedings instituted pursuant" to § 12.[19] We need not resolve that question in this case, however, because respondents' state suit fell within neither of these categories. Instead, respondents' initial suit was an action to compel compliance with a forgotten state law.[20] Nothing in § 5 or § 12 negates the presumption that, at least when the issue arises collaterally, state courts may decide whether a proposed change in election procedure requires preclearance under § 5.

The policies of the Act support the same result.[21] The

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[18] Section 12 authorizes preventive relief against persons "engaged or . . . about to engage in any act or practice prohibited by" designated sections of the Voting Rights Act. 79 Stat. 444, 42 U. S. C. § 1973j(d).

[19] At least one state court has ruled that it lacks jurisdiction over claims arising under the Voting Rights Act. *Ortiz* v. *Thompson*, 604 S. W. 2d 443 (Tex. Ct. Civ. App. 1980). See also *Beatty* v. *Esposito*, 411 F. Supp. 107 (EDNY 1976) (finding that state court lacked jurisdiction to decide § 5 issue, without explaining whether state suit arose under the Voting Rights Act).

[20] Respondents also based their suit on the Fourteenth Amendment. See n. 4 *supra*.

Voting Rights Act "implemented Congress' firm intention to rid the country of racial discrimination in voting." *Allen* v. *State Board of Elections*, 393 U. S. 544, 548 (1969). Fearing that covered jurisdictions would exercise their ingenuity to devise new and subtle forms of discrimination, Congress prohibited those jurisdictions from implementing any change in voting procedure without obtaining preclearance under § 5. Granting state courts the power to decide, as a collateral matter, whether § 5 applies to contemplated changes in election procedures will help insure compliance with the preclearance scheme.[22] Approval of this limited jurisdiction also avoids placing state courts in the uncomfortable position of ordering voting changes that they suspect, but cannot determine, should be precleared under § 5. Accordingly, we hold that the Mississippi courts had the power to decide whether § 5 applied to the change sought by respondents.

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[21] Neither the parties nor the United States, appearing as amicus curiae, has cited any legislative history bearing upon state court jurisdiction to decide issues arising under the Voting Rights Act.

[22] As respondents point out, state court jurisdiction to decide these collateral issues is not absolutely necessary to effectuate the Act's scheme, because interested parties have the ability to seek relief from a federal district court. Recognition of a limited state power to address § 5 issues, however, furthers the Act's ameliorative purposes by permitting additional tribunals to enforce its commands. It also ensures that the question of coverage will be addressed at the earliest possible time, without requiring duplicative lawsuits.

We find little force in respondents' claim that, if the state courts possess jurisdiction to decide § 5 issues arising in disputes between private parties, they will frustrate the Attorney General's enforcement of the Act by interpreting the preclearance requirement conservatively. The Attorney General is not bound by the resolution of § 5 issues in cases to which he was not a party. *City of Richmond* v. *United States*, 422 U. S. 358, 373–374 n. 6 (1975). Common notions of collateral estoppel suggest that the state proceedings similarly would not bind other interested persons who did not participate in them. See Restatement (Second) of Judgments § 68 (Tent. Draft No. 4, Apr. 15, 1977). Persons dissatisfied with a state court's collateral resolution of a § 5 issue in proceedings involving other parties, therefore, are likely to be able to litigate the issue anew in federal court.

If the Mississippi courts had the power to make this determination, then it is clear that they also had the duty to do so. "State courts, like federal courts, have a constitutional obligation . . . to uphold federal law." *Stone* v. *Powell*, 428 U. S. 465, 494 n. 35 (1976) (citing *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 341–344 (1816)). Section 5 declares that whenever a covered jurisdiction shall "enact or seek to administer any . . . standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964," see n. 1, *supra*, it must obtain either preclearance from the Attorney General or a declaratory judgment from the United States District Court for the District of Columbia. Our opinions repeatedly note that failure to follow either of these routes renders the change unenforceable. See, *e. g.*, *Dougherty County Board of Education* v. *White*, 439 U. S. 32, 46 (1978); *United States* v. *Board of Supervisors*, 429 U. S. 642, 645 (1977) (per curiam). When a party to a state proceeding asserts that § 5 renders the contemplated relief unenforceable, therefore, the state court must examine the claim and refrain from ordering relief that would violate federal law.[23]

V

Our holding mandates reversal of the lower court judgment. Under our analysis, the change in election procedure is subject to § 5, see n. 16 *supra*, and the Mississippi courts may not further implement that change until the parties comply with § 5. At this time, however, we need not decide whether petitioners are entitled to any additional relief.

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[23] Our holding does not prevent state courts from attempting to accomodate both state and federal interests. A state court, for example, might adopt the approach followed by the Chancery Court in this case, and order the parties to submit the proposed relief to the Attorney General. If the Attorney General registers an objection, the court might then order the parties to seek a declaratory judgment from the District Court for the District of Columbia.

The United States has initiated a federal suit challenging the change at issue here, see n. 8 *supra*, and we agree with the Solicitor General that the District Court entertaining that suit should address the problem of relief in the first instance. As we noted in *Perkins* v. *Matthews*, 400 U. S. 379, 395–397 (1971), a local District Court is in a better position than this Court to fashion relief, because the District Court "is more familiar with the nuances of the local situation" and has the opportunity to hear evidence. *Id.*, at 397. In this case, the District Court for the Northern District of Mississippi will be better able to decide whether a special election is necessary, whether a more moderate form of interim relief will satisfy § 5,[24] or whether new elections are so imminent that special relief is inappropriate. We hold only that the Mississippi courts must withhold further implementation of the disputed change in election procedures until the parties demonstrate compliance with § 5.

Reversed and remanded for proceedings not inconsistent with this opinion.

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[24] For example, since the Attorney General objected only to the runoff procedure, the District Court simply might void the results of any runoff elections, permitting the candidates who gathered a plurality of votes in the general election to take those seats. We, of course, intimate no view on the best form of relief, leaving that matter to the District Court's discretion.

May 31, 1982

81-451 Hathorn v. Lovorn

Dear Bill:

You and I were alone in this case. There were six votes to reverse, and the Chief said he would "join any four votes". We voted to DIG, with your alternate vote to affirm. I had no firm alternate vote.

I have read Sandra's opinion. My disposition is simply to join in the judgment. The case is a "sport" that should never have been granted. I see no purpose, however, in dissenting - especially at this season of the year.

Sincerely,

Justice Rehnquist

lfp/ss

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 31, 1982

81-451 - Hathorn v. Lovorn

Dear Sandra,

I agree.

Sincerely yours,

Byron

Justice O'Connor

Copies to the Conference

cpm

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 2, 1982

Re: 81-451 - Hathorn v. Lovorn

Dear Sandra:

Please join me. If I have any problem with your revision, I'll let you know.

Respectfully,

JPS

Justice O'Connor

Copies to the Conference

Please add that Justice Powell joins the judgment.

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: **Justice Rehnquist**

Circulated: JUN 3 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81–451

RALPH HATHORN, ET AL., PETITIONERS *v.*
MRS. BOBBY LOVORN ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI

[June ——, 1982]

JUSTICE REHNQUIST, dissenting.

The provisions of §§ 5, 12(f), and 14(b) of the Voting Rights Act, referred to in the opinion of the Court, *ante*, at 11–12, convince me that Congress did not intend the state courts to play a role in the enforcement of that Act. In *Gulf Offshore Co.* v. *Mobile Oil Corp.*, 453 U. S. 473 (1981), upon which the Court heavily relies for its contrary conclusion, we said:

> "The factors generally recommending exclusive federal-court jurisdiction over an area of federal law include the desirability of uniform interpretation, the expertise of federal judges in federal law, and the assumed greater hospitality of federal courts to peculiarly federal claims." *Id.*, at 483–484 (footnotes omitted).

It seems to me that each of these factors counsels in favor of exclusive federal-court jurisdiction, and I do not understand the Court to contend otherwise.

From a practical point of view, I think the Court's decision is bound to breed conflicts between the state courts and the federal District Courts sitting within the states, each of which may now determine whether or not a particular voting change must be pre-cleared with the Attorney General before being enforced in a covered jurisdiction. Indeed, the precursor of such conflict may well be found in the Court's conclud-

You might wish to join this dissent

SL

ing observations that the District Court for the Northern District of Mississippi, in which the United States has pending a suit pertaining to the change involved in this case, should proceed to make determinations under the Voting Rights Act before the state court whose judgment we are reviewing renders further remedy in this case. Exactly what is to be left to the States, under this construction, is more than a little problematical.

I do not think that the goals of the Voting Rights Act will be materially advanced by the Court's somewhat tortured effort to make the state courts a third line of enforcement for the Act, after the District of Columbia courts and other federal District Courts. The principal effect of today's decision will be to enable one or the other of parties such as those involved in this case, neither of whom were intended to be primary beneficiaries of the Voting Rights Act, to employ the Act as another weapon in their arsenal of litigation strategies.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 4, 1982

RE: No. 81-451 Hathorn v. Lovorn

Dear Sandra:

Please join me in your circulation of June 3.

Sincerely,

Bill

Justice O'Connor

cc: The Conference

June 4, 1982

81-451 Hathorn v. Lovorn

Dear Sandra:

I would appreciate your simply adding at the end of your opinion that I join the judgment.

Sincerely,

Justice O'Connor

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 9, 1982

Re: No. 81-451 - Hathorn v. Lovorn

Dear Sandra:

Please join me.

Sincerely,

T.M.
T.M.

Justice O'Connor

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 10, 1982

Re: 81-451 - Hathorn v. Lovorn

Dear Sandra:

I join.

Regards,

WES

Justice O'Connor

Copies to the Conference

THE C. J.	W. J. B.	B. R. W.	T. M.	H. A. B.	L. F. P.	W. H. R.	J. P. S.	S. D. O'C.
								5/3/82
Join SOC 6/10/82	Join SOC 6/4/82	agree 5/31/82	Join SOC 6/9/82	Join SOC 6/8/82	Join the Judgment 6/4/82	1st draft 6/3/82	Join SOC 6/2/82	1st draft 5/29/82 2nd draft 6/3/82 3rd draft 6/8/82 4th draft 6/9/82

81-451 Hathorn v. Lovorn