

## **Redistricting -- Supreme Court Rules in the “Texas Case”**

On June 28<sup>th</sup>, the Supreme Court issued its highly anticipated decision in *League of United Latin American Citizens v. Perry*, (*LULAC v. Perry*), the so-called “Texas Redistricting Case.” Actually there were 4 associated cases growing out of the 2003 Texas congressional redistricting that was engineered by former House Majority Leader Tom DeLay. The Supreme Court issued a set of 6 opinions on basically 3 different issues: partisan political gerrymandering, racial discrimination under the Voting Rights Act, and mid-decade redistricting. The court was splintered, with the issues being decided by different majorities or coalitions in a complex and often contradictory series of opinions.

A plurality of justices refused to invalidate the admittedly partisan redistricting plan as being an unconstitutional political gerrymander. The Court noted that complainants did not “provide a reliable standard for identifying political gerrymanders,” or “show a burden, as measured by a reliable standard, on their representational rights.” In a 5 to 4 vote, however, the justices continued to agree that claims of partisan gerrymandering are subject to judicial review.\*

Two Congressional districts, the 23<sup>rd</sup> and 24<sup>th</sup>, were challenged under Section 2 of the Voting Rights Act (VRA). The ruling on the 23<sup>rd</sup> district provided the only solace for opponents of the “DeLay Plan.” In a 5 to 4 vote, the Court ruled that the formation of the 23<sup>rd</sup> district violated Section 2 of the VRA by diluting the votes of Latino voters. The plan was sent back to Texas, where a federal judge quickly set July 14<sup>th</sup> as the deadline for receipt of “remedial proposals,” with oral argument scheduled for August 3<sup>rd</sup>. The Court upheld the boundaries of the 24<sup>th</sup> district in the Dallas area.

The remaining issue addressed by the Court was the constitutionality of mid-decade redistricting. By a vote of 7 to 2, the Court ruled that state legislatures are free to redraw district lines more than once in a decade--unless prohibited by the state constitution or law. The Court ruled that neither the Constitution nor Congress has stated any prohibition of mid-decade redistricting to change districts drawn earlier in conformance with a decennial census. While some believe that this opens the door to the redrawing of political maps whenever there is a partisan power shift in state legislatures, others believe that frequent redistricting is not likely to occur. In some instances, it is not feasible because of divided state government; in others, the electoral map has already been politically gerrymandered to protect incumbents or their political party.

The League of Women Voters of the United States (LWVUS) and the LWV of Texas had filed an *amicus* brief in the case of *LULAC v. Perry*, claiming that the 2003 redistricting was carried out solely to achieve partisan political advantage and was thus unconstitutional. The League’s post-decision statement claimed that the Court had opened the floodgates to partisan gerrymandering. We will have to wait to see if this occurs – if it has not already happened. (See the LWVVA web site for a copy of the entire statement.)

\* For a discussion of this and other aspects of the case discussed in this report, see the LWVVA study publication, “*Does Your Vote Really Count (Part 1)*” and the soon to be issued Part 2.

LWVVA Redistricting Committee