A year into the coronavirus pandemic, so many of us are craving the freedom to gather with friends and community. That possibility, largely taken for granted before, is slowly returning.

The ability to gather safely has been threatened before, not by a virus but by legal attack on the First Amendment right to assemble – until a critical Supreme Court case set a key precedent protecting it.

As the civil rights movement was beginning to gain strength in the mid-1950s, several Southern states took legal action to restrict civil rights advocacy groups like the NAACP. In Louisiana, the state tried to require local NAACP groups to hand over their members' information. Those that did were immediately in danger. When other groups refused, the Louisiana NAACP was forced to shut down – and it looked like Alabama would be next.

The Lawsuit

In 1956, Alabama Attorney General John Patterson filed a lawsuit claiming the NAACP had violated a law requiring out-of-state corporations to register and file certain paperwork. The NAACP, based in New York, believed it was exempt.

The state told the NAACP it had to produce numerous types of records, including the names and addresses of members. The group agreed to submit some documents, including information about its leaders, but refused to turn over other members' personal information. The Alabama NAACP, like the Louisiana branch, could be shut down.

But disclosure of membership in the NAACP could have had dramatic consequences for Alabama residents at that time, as it had for those in Louisiana. "To do so would expose our members to the threats of lost jobs, physical violence, even possible loss of life, and would risk serious danger to their families," said NAACP lawyer Robert L. Carter in his memoir.

Carter also believed the issue was a First Amendment one.

"I was also certain that our activities, which involved only peaceful protests and activity against racial discrimination imposed and enforced by the state, were protected by the First Amendment." - NAACP lawyer Robert L. Carter in his memoir, *A Matter of Law: A Memoir of Struggle in the Cause of Civil Rights*

The Alabama state court didn't agree. Then, when the NAACP continued to refuse to hand over records, a judge issued an astronomical fine of $100,000. The Alabama Supreme Court twice refused to hear the case, but the NAACP kept advocating for the right to assemble.

The Case

Finally, the U.S. Supreme Court agreed to hear the case, with Robert Carter arguing for the NAACP. On the court at the time was Justice John Marshall Harlan II, grandson of

Justice John Marshall Harlan, who had been known as “the Great Dissenter” for his lone voice supporting the rights of civil rights activists in several cases during his time on the court.

This time, Justice Harlan was not to be the lone dissenter on the court.

Harlan wrote that the court agreed with Carter’s argument that being forced to reveal the identity of the NAACP’s rank-and-file members would put them at risk. In the court’s opinion, the state of Alabama had failed to prove that its justification for needing the member information outweighed the limitations on members’ right to freely associate the disclosure requirement would cause.

In a unanimous ruling on June 30, 1958, the high court issued its decision, written by Justice Harland, in *NAACP v. Alabama ex. rel. Patterson.* The state of Alabama could not force the NAACP to disclose its rank-and-file membership lists.

The Precedent

Certainly, the decision sent a message that the Supreme Court would scrutinize government practices that limited constitutional freedoms. The decision also proved important to First Amendment law, recognizing the importance of freedom of association and anonymous expression.

“Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs,” – Justice John Marshall Harlan II writing the majority opinion in NAACP v. Alabama.

First Amendment expert Robert M. O’Neil, president of the Thomas Jefferson Center for the Protection of Free Expression, said the decision also “marks the Court’s willingness to apply the First Amendment in non-literal contexts … something other than the spoken or printed word.”

The Work Continues

Carter, who went on to be a federal judge, wrote that the decision was a “great victory, but enforcement took years.” It took six more years of court battles to ensure that Alabama’s continued attempts to oust the civil rights group from the state would finally end. Those cases culminated in 1964 with *NAACP v. Alabama,* also written by Justice Harlan, which upheld the 1958 ruling and again warned Alabama against “unnecessarily broad” government control which “invade[s] the area of protected freedoms.” Since then, these rulings have been cited in dozens of First Amendment court cases.

When it’s finally safe to gather again, it will be possible, in part, thanks to Alabama First Amendment advocates like Robert Carter, Supreme Court justices like John Marshall Harlan (and his grandfather) and the ongoing work of upholding First Amendment freedoms.