

*Testimony by
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before the
Senate Committee on Judiciary
Subcommittee on the Constitution, Civil Rights and
Human Rights
on
"New State Voting Laws: Barriers to the Ballot?"
Thursday, September 8, 2011
226 Dirksen Senate Office Building
2:00 PM*

Good afternoon. Chairman Durbin, Ranking Member Graham, and Members of the Subcommittee, I am pleased to testify before you today on one of the most important civil rights issues of our time {in our lifetime}. I am pleased to be the Chairman of the Congressional Black Caucus (CBC) during the 112th Congress and during the 40th Anniversary of the CBC. On behalf of our membership, I can say that the issues surrounding voter suppression are particularly troubling to us. Many of us come from families who fought diligently to earn the right to vote, so it is a moral imperative for the members of the CBC to fight to protect the right to vote for all Americans.

Mission of the CBC

Forty years ago the Congressional Black Caucus was founded “to positively influence the course of events pertinent to African Americans and others of similar experience and situation.” In the years since, we have earned the moniker “the Conscience of the Congress” because of our unyielding commitment to our communities and our country. We know that our mission is to help our country become a more perfect union. Forty years after our founding, we boast the largest membership roster in the history of the CBC—we are 43 members strong, representing a strong contingent of over 9,000 African American elected officials all over the country. I can say with absolute certainty that our numbers have grown in large part because of the enforcement of the Voting Rights Act and the other laws that ensure election protection and parity at the polls for America’s electorate. In 2009, one of our members and one of your former colleagues, President Barack Obama, was sworn in as the first African American and 44th President of the United States of America.

Today, I am before you to express my steadfast commitment to protect the gains we have made throughout history. I am also here to express the deep and abiding concerns the CBC has with this year's onslaught of voter suppression laws, which have not so ironically arrived in time for the 2012 elections. It is also not ironic that early voting days have been cut short, stiffer identification requirements have been implemented, and proof of citizenship is required—all of these policies are statistically proven to impact people of color disproportionately.

I regret, that as the Martin Luther King Jr. Memorial was recently unveiled in our nation's capital, I am here today to put you on notice that we are still fighting the battle to protect the right to vote--one of the causes Dr. King died for and one that is reminiscent of the 1960s. Additionally, this is the same battle John Lewis fought. As you all know, Congressman Lewis is not only a proud member of the CBC, he is also a civil rights icon amongst us. My good friend Congressman Lewis nearly gave his life to protect our rights. He led a peaceful march across the Edmund Pettus Bridge so that you and I could cast our votes. In fact, that "Bloody Sunday" helped hasten the passage of the Voting Rights Act of 1965.

I would like to introduce Congressman Lewis's *New York Times* op-ed entitled "A Poll Tax By Another Name" for the record.

Given the disproportionate impact the voter suppression laws will have on African American voters, these laws are reminiscent of the poll taxes used in the Jim Crow South.

The laws are "solutions in search of problems", especially when it comes to Voter ID because there is basically no evidence of voter fraud.

Requiring voters to provide a *specific, narrowly defined*, piece of photo identification is unnecessary. The safeguards currently in place to verify voters' identity works. That much is clear because there has been no evidence of substantial voter impersonation fraud, the only type of fraud requiring voters to provide a specific type of government issued photo ID guards against.

- The behavior often relied upon by proponents of state ID laws is not really fraud at all--absentee ballot fraud and disenfranchised felons voting.
- In the 23 states and DC where voters are allowed to show both photo and non-photo IDs – such as a utility bill and bank statement – there is no evidence that voter impersonation fraud is occurring.

History of Jim Crow Voting Rights

After the Reconstruction era ended in 1877, African Americans ceased to hold significant political power in the South. In the 1890s, the Populist Party attempted to merge the common economic interests of poor African American and white

farmers. The elite party in the South—at the time, the Democratic Party—wanted to retain their power, so they worked diligently to disenfranchise African Americans to ensure their continuity of power.

The Fifteenth Amendment forbade racial restrictions on suffrage, but white supremacists used thinly disguised laws to purge African Americans from the voter rolls. These included poll taxes that poor blacks (and whites) could not pay and literacy tests. Racial violence, especially lynching, was used to discourage African Americans from voting as well as to maintain the unwritten racial and economic order that characterized the South.

In addition to disfranchisement, African Americans were also subject to racist laws, known as Jim Crow legislation, which spread throughout the South in the late 1890s. Jim Crow racially segregated all public facilities, including bathrooms, hospitals, schools, and streetcars. The U.S. Supreme Court upheld segregation in the 1896 *Plessy v. Ferguson* case. It would be more than 60 years before African Americans would regain the voting and civil rights that Jim Crow legislation violently took from them.

The laws to prevent African Americans from voting were complex because they could not directly violate the Fifteenth Amendment. Among these restrictions was the poll tax, which required voters to pay an additional tax to vote. It was designed primarily to exclude African Americans, who were usually too poor to pay the tax, but also excluded many poor whites. The literacy test was also a common tactic used to prevent African Americans from voting.

During the early 1960s, African Americans in the South formed groups like the Southern Christian Leadership Conference (SCLC), Student Non-Violent Coordinating Committee (SNCC) and the Congress of Racial Equality (CORE) to demand equality and register African Americans to vote. The people who participated in this project routinely risked their jobs and their lives against the violence of groups of white supremacist groups like the Ku Klux Klan, which often worked hand in hand with local police and politicians.

Purpose of Voting Rights Act of 1965

After the Voting Rights Act (VRA) passed Congress in August of 1965, President Lyndon B. Johnson finally signed it into law. After a century of deliberate and violent denial of the vote to African Americans in the South and Latinos in the Southwest – as well as many years of entrenched electoral systems that shut out citizens with limited fluency in English – the VRA was a necessary step forward in civil rights. For good reason, the VRA is widely regarded as enabling the enfranchisement of millions of minority voters and diversifying the electorate and legislative bodies at all levels of American government.

Congress has reauthorized the VRA five times, most recently in 2006, when both the House and the Senate approved the measure overwhelmingly in a bipartisan

manner. Congress conducted over 20 hearings, heard from over 50 expert witnesses, and collected over 17,000 pages of testimony documenting the continued need for and constitutionality of the statute. We know the significance of the VRA because we have personally been impacted by the laws that protect our electorate.

MODERN DAY POLL TAX

Challenges with Photo Identification:

There is a cost for a state ID in every single state in the U.S. for some portion of the voting population

- A new requirement that has advanced in 35 states and passed Republican-led state legislatures in nine states is the mandate to provide an unexpired, government-issued photo identification at the polls.
- Certain groups – primarily poor, elderly, and minority citizens – are less likely to possess these forms of documentation than the general population.
- Approximately 11 percent of American citizens – more than 21 million individuals – do not have government-issued photo identification (driver's license, military ID, or passport).
- 25 percent of African-American voting-age citizens, or 5.5 million individuals, have no current government-issued photo ID, compared to 8 percent of white voting-age citizens.
- 18 percent of American citizens age 65 and above, or 6 million senior citizens, do not have current government-issued photo ID.
- 10 percent of voting-age citizens who have current photo ID do not have photo ID with both their current address and their current legal name.
- As many as 18 percent of citizens aged 18-24, 4.5 million individuals, do not have photo ID with current address and name.

At this time I would like to enter the NAACP's Issue Brief from July 11, 2011 into the record.

There is an attack on the right to vote by substantially limiting opportunities for early voting.

Several state legislatures have also implemented laws that severely hinder the ability for individuals to cast their votes. Early voting is disproportionately used by African Americans and other people of color. According to the Brennan Center for Justice, African Americans and Latinos were more than twice as likely as white voters to register through a voter registration drive.

CBC Action on Voter Suppression

The CBC was greatly alarmed by the targeting of minority communities, so we have taken swift action to address the problematic voter suppression laws adopted by several states throughout the country. The CBC remains vigilant about protecting the fundamental right to vote. To that end, we have made the following steps to quickly address the attacks on our right to vote.

Letter to Attorney General Holder: CBC Members accompanied by several other Members of the House of Representatives, including all Democrat leadership, sent a letter to Attorney General Holder urging him to protect the voting rights of Americans by using the full power of the Department of Justice to review the 47 pending or passed state voter identification bills and scrutinize their implementation.

Meeting with the Department of Justice: The CBC called an emergency meeting with the Department of Justice to voice concerns about redistricting and voter suppression legislation.

Press Conference: On July 12th, the CBC accompanied by national civil rights leaders, held a national press conference to discuss the 47 passed and pending state election reform bills that will disenfranchise millions of American voters.

Voter Protection Legislation: CBC Member, Rep. Marcia Fudge introduced the Voter Protection Hotline Act of 2011 – HR 2540 - establishing a congressionally mandated voter protection hotline. The purpose of this hotline is to provide an easily accessible and identifiable number for every American voter to use. If a state voter suppression bills become law, voters will have one national number to call to report intimidation and retaliation and access voter information.

Thank you for the opportunity to testify today. The Congressional Black Caucus will remain steadfast in the struggle to protect the voting rights for all Americans.