

Chairman Patrick Leahy
Senate Judiciary Committee
Hearing on the State of the Right to Vote After the 2012 Election
December 19, 2012

Our Nation has grown stronger since its Founding as more Americans have been able to exercise their right to vote. The actions taken by previous generations -- through a Civil War, through Constitutional amendments, and through the long struggles of the civil rights movement-- have worked to break down barriers that stood in the way of all Americans participating in our Democracy. Yet, as we saw in last month's election, our work is far from done. Barriers to voting continue to exist and evolve.

The right to vote and to have your vote count is a foundational right because it secures the effectiveness of the other protections of the law and the Constitution. Before the election, we held a hearing that focused on new barriers to the right to vote, building on the work done in field hearings held by Senator Durbin in Florida and Ohio. We heard testimony about the renewed effort in many states to deny millions of Americans access to the ballot box through voter purges and voter identification laws. I was concerned that these barriers would stand between millions of Americans and the ballot box.

What we saw during the election shows that we were right to be concerned. Purges of voter rolls, restrictions on voter registration and limitations on early voting -- which in previous elections enabled millions to vote-- led to unnecessary and avoidable problems on Election Day. In places like Florida and Virginia, voters including senior citizens were required to stand in line for hours before casting a vote. In Ohio, provisional ballots were used in place of regular ballots in far too many precincts, particularly those with heavier minority populations, and some voters were wrongly denied the ability to cast ballots at all. Onerous and confusing voter identification requirements led to complications in places like Pennsylvania, Arizona, Texas, and South Carolina. Throughout the country, misleading political advertising and robo calls worked to sow confusion and suppress the vote.

Some Republican officials behind these barriers have been remarkably honest that they enacted these laws to help their candidates win elections. A consultant to the campaign of the Republican presidential candidate said recently, "A lot of us are campaign officials -- or campaign professionals -- and we want to do everything we can to help our side. Sometimes we think that's voter ID, sometimes we think that's longer lines -- whatever it may be." Before the election, Pennsylvania's House Republican leader said they passed Pennsylvania's new voter ID law in order to "allow" Republican presidential nominee Mitt Romney to win the state. These are not good enough reasons to take away the right to vote and they are shameful.

Just because millions of Americans successfully overcame abusive practices in order to cast their ballot does not make those practices right. It does not justify the burdens that prevented millions more from being able to vote. Barriers that remind us of a time when discriminatory practices such as poll taxes, literacy tests, and grandfather clauses were commonplace have no place in 21st century America. Barriers that seem to fall heaviest on African-Americans, Hispanics, military veterans, college students, the poor, and senior citizens risk undermining our Constitution's core values.

Ensuring that all Americans are able to vote and have their vote counted should be an issue of concern to Democrats and Republicans, and a matter of conscience for all of us regardless of political party. That is how it was six years ago, when members of Congress, Republicans and Democrats, stood together on the Capitol steps to reaffirm our commitment to full democratic participation by reauthorizing the key expiring provisions of the Voting Rights Act of 1965.

The Voting Rights Act was the result of a historic struggle for civil rights, which reached a crucial turning point on March 7, 1965, on the Edmund Pettis Bridge in Selma, Alabama, when state troopers brutally attacked John Lewis and his fellow civil rights marchers who were trying to exercise their civil rights. The events of that day, now known as “Bloody Sunday,” were a catalyst to the passage of the landmark Voting Rights Act, which finally ensured 100 years after the enactment of the Civil War amendments that the Constitution’s guarantees of equal access to the political process, regardless of race, would not be undermined by discriminatory practices.

Our work in 2006 to reinvigorate and reauthorize the Voting Rights Act stood in stark contrast to the tremendous resistance and bitter politics which met the initial enactment of that landmark law. This Committee played a key role. After nearly 20 hearings in this Committee and the House Judiciary Committee, we found that Section 5 of the Voting Rights Act continues to be an effective and necessary tool for protecting voting rights against modern day barriers to voting. The legislation contained specific findings about the need for reauthorization and concluded that without reauthorization the gains we have made would be undermined. Our efforts reached completion when President Bush signed the bill into law after a unanimous vote in the Senate and nearly unanimous vote in the House.

The Supreme Court got it right three years ago when it upheld a challenge to the constitutional authority of Congress to reauthorize Section 5. Next year, the Supreme Court will hear a similar challenge. Neither the words of the Constitution nor the importance of these critical provisions for protecting the right to vote has changed in the last three years. Under the specific words of the 14th and 15th Amendments, Congress has the power to remedy discrimination and enforce these Amendments by enacting laws that address racial discrimination in connection with voting. That is what we did nearly unanimously just six years ago.

The events of this year’s election only serve to remind us anew of the continuing need for Section 5 of the Voting Rights Act. Despite the gains we have made in building a more inclusive democracy, the law’s work is not yet complete. Earlier this year, panels of judges appointed by presidents of both parties found that Texas intentionally discriminated against minority voters in redistricting, and that Texas failed to demonstrate that its voter ID law does not impose greater burdens on minority voters. A separate panel of three federal judges approved South Carolina’s voter identification law under Section 5 starting next year, with judges appointed by Republican and Democratic Presidents noting that South Carolina legislators passed a less restrictive law than they desired specifically in order to comply with the Voting Rights Act. Without Section 5 of the Voting Rights Act, worse laws would be in place and the fundamental rights of many Americans would be diminished.

Our witnesses today will help us better understand the impact of the new barriers being placed on voters across the country. I look forward to exploring at this hearing and in the months ahead how we can ensure that the abusive practices we saw in the recent election are never repeated.

The Voting Rights Act transformed America by ushering the nation out of a history of discrimination into an era of greater inclusion. We must not turn away from our commitment to the right to vote for all Americans. I thank the witnesses for being here today and look forward to their testimony.

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